County of Los Angeles
CHIEF EXECUTIVE OFFICE
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WILLIAM T FUJIOKA
Chief Executive Officer

Board of Supervisors
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First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

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Fourth District

MICHAEL D. ANTONOVICH
Fifth District

January 29, 2008

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

DEPARTMENT OF MENTAL HEALTH: APPROVAL OF TERMINATION OF THE AGREEMENT WITH EDUCATIONAL RESOURCE AND SERVICES CENTER, INC.
AND
APPROVAL OF NEW AGREEMENT WITH THE EXCEPTIONAL CHILDREN'S FOUNDATION
(SUPERVISORIAL DISTRICT 2)
(3 VOTES)

IT IS RECOMMENDED THAT YOUR BOARD:

1. Authorize the Director of Mental Health or his designee to terminate the Department of Mental Health's (DMH) Legal Entity Agreement (LE Agreement) No. MH120214 with Educational Resource and Services Center, Inc., dba Kayne-Eras Center, contingent upon implementation of a mutually agreed merger by and between Educational Resource and Services Center, Inc. and Exceptional Children's Foundation (Attachment I), anticipated by February 1, 2008.

2. Approve and instruct the Director of Mental Health or his designee to prepare, sign, and execute a new DMH LE Agreement, substantially similar to Attachment II, with Exceptional Children's Foundation for the provision of outpatient mental health services to children, attending the Kayne-Eras Center's non-public school, grades K-12, located in Supervisorial District 2, effective contingent upon the merger, but no sooner than February 1, 2008. The term will include two automatic one-year renewal periods for Fiscal Years (FYs) 2008-09 and 2009-10. The Maximum Contract Amount (MCA) for FY 2007-08 will be pro-rated for five months at $337,917, based on the annualized MCA of $811,000 for FYs 2008-09 and 2009-10.

3. Delegate authority to the Director of Mental Health or his designee to prepare, sign, and execute future amendments to the LE Agreement with Exceptional Children's Foundation and establish a new MCA, consisting of the aggregate of the original Agreement and all amendments, provided that: 1) the County's total payments to the Contractor under the Agreement for each fiscal year shall not exceed an increase of 20 percent from the applicable revised MCA; 2) any such increase shall be used to provide additional services or to reflect program and/or policy changes; 3) the Board of Supervisors has appropriated sufficient funds for all changes; 4) approval of County Counsel and the Chief Executive Officer (CEO) or their designee is obtained prior to any such Amendment; 5) the parties may, by written Amendment, reduce programs or services without reference to the 20 percent limitation; and 6) the Director of Mental Health shall notify the CEO's office after execution of the Amendment.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTIONS

The recommended actions will terminate the Educational Resource and Services Center, Inc.'s DMH LE Agreement No. MH120214 and establish a new LE Agreement with the new entity Exceptional Children's Foundation.

Educational Resource and Services Center, Inc. will cease to exist as a separate entity and will be merged into the new entity Exceptional Children's Foundation. It is understood that the merger will not diminish the quantity and quality of services provided by Educational Resource and Services Center, Inc. and that Exceptional Children's Foundation will be fiscally responsible for all of Educational Resource and Services Center, Inc.'s obligations, past, present, and future. In particular, and without limiting the scope of the financial obligations assumed, Exceptional Children's Foundation understands and agrees: (1) that it will be entirely responsible for any and all audit exceptions applied at any time against the previous entity, Educational Resource and Services Center, Inc., through any of its agreements with County or any Department thereof, whether assessed by Federal, State, or County audit(s); and (2) that these audit exceptions may arise and become payable before and/or after the effective date of the merger and the cessation of existence of Educational Resource and Services Center, Inc. The parties agree that all applicable review and dispute resolution procedures under the existing contract at issue shall apply.

Implementation of Strategic Plan Goals

The recommended Board actions are consistent with the principles of the Countywide Strategic Plan Organizational Goal No. 1, "Service Excellence," Goal No. 6, "Community Services," and Programmatic Goal No. 7, "Health and Mental Health." Board approval of these actions will allow for continuity of services currently provided by Educational Resource and Services Center, Inc. LE Agreement.

FISCAL IMPACT/FINANCING

There is no increase in net County cost.

The MCA for FY 2007-08 will be pro-rated for five months at $337,917, based on the FY 2007-08 annualized MCA of $811,000 for Educational Resource and Services Center, Inc. The annualized MCA in the amount of $811,000 for FYs 2008-09 and 2009-10 will be requested during DMH's annual budget process.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Educational Resource and Services Center, Inc., through its current contract with DMH, provides an array of mental health care to children attending the Kayne-Eras Center's non-public school, grades K-12, located at 5350 Machado Road, Culver City, CA 90230 in Supervisorial District 2 since 1980. After the merger, the services will continue to be delivered at this site.

The treatment components offered by Educational Resource and Services Center, Inc. under the DMH contract include:

- targeted case management services
- outpatient mental health services
- medication support

Exceptional Children's Foundation headquarters is located at 8740 Washington Boulevard, Culver City, CA 90232 in Supervisorial District 2. Exceptional Children's Foundation is one of the largest charities in California serving children and adults with developmental disabilities dating back to 1946. Clients include people with mental retardation, cerebral palsy, autism, epilepsy, acquired brain injuries and global delays. Exceptional Children's Foundation provides a broad range of services in 12 different program sites. These services include:

- family support services
- crisis intervention
- individual and family counseling
- medication consultation
- on-site family emergency pantries
- family resource centers
- vocational training
- work activity programs
- job placement
- on the job training

- art instruction
- academics instructional
- independent living skills

In addition to the programs and services noted above Exceptional Children's Foundation also has a residential services program which offers group home, independent living and intermediate care services.

The proposed merger of Educational Resource and Services Center, Inc. with Exceptional Children's Foundation will result in administrative and service delivery efficiencies that will benefit the communities and clients currently being served by Educational Resource and Services Center, Inc. Educational Resource and Services Center, Inc. will benefit from Exceptional Children's Foundation substantial investment in systems and infrastructure and from economies of scale. The consolidation of administrative functions will include streamlining of tasks and elimination of redundant administrative positions that result from this proposed merger. Finally, the proposed merger creates the opportunity to bring Exceptional Children's Foundation's expertise in a wide range of innovative support services designed to meet the needs of a diverse clientele in Los Angeles County.

The new LE Agreement with Exceptional Children's Foundation will be effective upon the merger, but no sooner than February 1, 2008, with two automatic one-year renewal periods for FYs 2008-09 and 2009-10. After the proposed merger, Exceptional Children's Foundation will continue to deliver the same array of services at the Medi-Cal certified site currently used by Educational Resource and Services Center, Inc. This will minimize any unintended consequences related to continuity of care for clients and service delivery staff.

The proposed actions have been approved by the CEO and County Counsel.

CONTRACTING PROCESS

To comply with your Board's policy on Contractor Mergers/Acquisitions adopted on December 13, 2005, DMH worked closely with: 1) Educational Resource and Services Center, Inc., 2) Exceptional Children's Foundation, 3) County Counsel, and 4) CEO to utilize the criteria established in the policy in the review and analysis of the proposed merger between Educational Resource and Services Center, Inc. and Exceptional Children's Foundation and its impact upon the contractual relationship with the County of Los Angeles.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Board approval of the recommended actions will allow for a smooth transition in service provision, with Educational Resource and Services Center, Inc.'s clients being able to continue to receive services at the same location and from their same clinicians. It is anticipated that service levels and quality will be maintained so that there will be no negative impact on current services.

CONCLUSION

The Department of Mental Health requests one copy of the adopted Board actions. It is requested that the Executive Officer, Board of Supervisors, notify the Department of Mental Health, Contracts Development and Administration Division, at (213) 738-4684 when this document is available.

Respectfully submitted,

WILLIAM T FUJIOKA
Chief Executive Officer

WTF:SRH
SAS:DS:bjs

Attachments (2)

c: County Counsel
Director, Department of Mental Health
Chairperson, Mental Health Commission

012908_DMH_Exceptional

ATTACHMENT I

DEFINITIVE AGREEMENT

and

PLAN of MERGER

by and between

EXCEPTIONAL CHILDREN'S FOUNDATION

and

EDUCATIONAL RESOURCE AND SERVICES CENTER, INC.

Executed: August 31, 2007

Merger Effective: February 1, 2008

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DEFINITIVE AGREEMENT AND PLAN OF MERGER

This Definitive Agreement and Plan of Merger (this "**Agreement**") is made this 31st day of August, 2007, by and between Exceptional Children's Foundation, a California nonprofit public benefit corporation ("**ECF**"), and Educational Resource and Services Center, Inc., a California nonprofit public benefit corporation ("**KEC**"). ECF and KEC are each referred to as a "**Party**" and collectively as the "**Parties.**"

RECITALS

A. ECF, headquartered in Culver City, California, is one of the oldest and largest charities in California serving children and adults with developmental disabilities and acquired brain injuries. ECF and the ECF Affiliate (defined below) together, among other things, are engaged in offering a continuum of program services and currently offer early start, developmental activity, residential services, work training, and supported employment to about 1,650 individuals and their families at 12 program sites located in the cities of Arleta, Culver City, Los Angeles, Lomita, Reseda, Santa Fe Springs, San Pedro and Whittier, California (the "**ECF System**").

B. KEC, headquartered in Culver City, California, is a large multiservice center now serving over 550 children, adults and families through its special education programs and therapeutic services. KEC and the KEC Affiliate (defined below) together, among other things, are engaged in providing high quality educational programs and therapeutic services at the KEC Center, ERAS Home No. 1, ERAS Home No. 2 and other sites to meet the needs, goals and hopes of individuals with special learning, emotional and developmental challenges (the "**KEC System**").

C. ECF conducts certain services and activities in tandem with Valverde, Inc., a California non-profit public benefit corporation (the "**ECF Affiliate**").

D. KEC conducts certain services and activities in tandem with ERAS Home #2, a California non-profit public benefit corporation (the "**KEC Affiliate**").

E. Neither ECF nor KEC has any "members" within the meaning of Section 5056 of the California Corporations Code.

F. In order to augment and preserve the availability of special education programs and services to the communities served by the KEC System, preserve a continuum of such programs and services, and enhance the long-term viability of the KEC System, KEC and ECF desire to merge KEC into ECF so that the KEC System will become part of the ECF System.

G. Each of the board of directors of ECF (the "**ECF Board**") and the board of directors of KEC (the "**KEC Board**") has determined that the Merger of KEC with and into ECF is in ECF's and KEC's best interests, respectively, and has approved the Merger and this Agreement.

H. The Parties acknowledge that the KEC System is a valuable resource to the community of Los Angeles, California and that the continuation and improvement of special education programs and related services to the Los Angeles community is the primary charitable purpose of KEC.

I. The Parties intend that as a result of the Merger, the KEC System will be operated as an integrated part of the ECF System. KEC will cease to exist as a separate legal entity and its assets will be integrated into ECF for purposes of governance, management, finance, planning, support and operations. KEC's assets, revenue and income will be the assets, revenue and income of ECF and KEC's liabilities, duties, debts and obligations will become the liabilities, duties, debts and obligations of ECF, subject to any donor restrictions. The KEC System will be operated by ECF as part of the ECF System. The assets of the KEC System will be used, along with the assets of the other program sites in the ECF System, to support the needs of the communities served by such program sites and the overall needs of the ECF System, subject to any donor restrictions.

J. The Parties intend by this Agreement to set out the terms and conditions of the merger of KEC into ECF.

For and in consideration of the mutual promises, agreements and covenants set forth, the Parties, intending to be legally bound, hereby agree as follows:

ARTICLE I.

DEFINITIONS AND INTERPRETATIONS

1.1 Definitions.

(a) *Defined Terms.* In this Agreement:

"**Business Day**" means a day other than Saturday, Sunday or any day on which banks located in Los Angeles, California are authorized or obligated to close.

"**Consent**" means, with respect to any Person, any authorization, license, permit, waiver, certificate, right, approval, clearance, or consent from, including any filing with, any other Person (including any Governmental Authority).

"**Contract**" means any written or oral agreement, arrangement, bond, binding understanding, commitment, contract, grant, franchise, indemnity, indenture, mortgage, deed of trust, instrument, insurance policy, lease, license, permit, note, option, purchase order, subcontract, sublicense, undertaking or warranty of any nature, including all amendments, modifications, assignments or instruments of any kind or character related thereto, but shall not include any KEC Employee Plan.

"**ECF Schedule**" means the disclosure schedule signed for identification purposes by the President and Chief Executive Officer of ECF, which ECF has delivered to KEC

on or before the date of this Agreement, and which contains information relevant to the representations and warranties made by ECF in ***Article VI***.

"**Environmental Laws**" means any federal, state, county, district or local Legal Requirement, regulation, guideline, policy code, ordinance, rule-resolution, order or decree regulating the presence, use, generation, handling, storage, treatment, transport, recycling, manufacture, maintaining, deposit, spill, discharge, release, decontamination, cleanup, remediation, removal, encapsulation, enclosure, abatement or disposal of or response to any Hazardous Substances or imposing liability or standards of conduct concerning any Hazardous Substances.

"**ERAS Home No. 1**" means that certain land owned by KEC, and all improvements, buildings, structures, construction in progress, and fixtures thereon, including that certain group home facility, located at 11124 Fairbanks Way, Culver City, CA 90230-4945, and all privileges, easements, tenements, hereditaments and appurtenances thereto.

"**ERAS Home No. 2**" means that certain land owned by the KEC Affiliate, and all improvements, buildings, structures, construction in progress, and fixtures thereon, including that certain group home facility, located at 4215 Keystone Avenue, Culver City, CA 90232-3434, and all privileges, easements, tenements, hereditaments and appurtenances thereto.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations promulgated thereunder, all as the same shall be in effect from time to time.

"**Excluded Matter**" means any one or more of the following: (i) the effect of any change in the United States or foreign economies or securities or financial markets in general; (ii) the effect of any change that generally affects any industry in which ECF and KEC operates, except to the extent such change disproportionately affects ECF and KEC, as applicable; or (iii) any effect resulting from compliance with terms of this Agreement or the consummation of the transactions contemplated by this Agreement.

"**GAAP**" means generally accepted accounting principles in the United States.

"**Governmental Authority**" means any of the following: (a) any nation or any state, commonwealth, territory or possession of any nation and any political subdivision thereof (including, without limitation, counties, cities and other municipalities); and (b) any agency, authority, body, or instrumentality of any of the foregoing, including, without limitation, any court, arbitrator, tribunal, department, bureau, commission or board (public or private).

"**Hazardous Substances**" means (i) all of those substances included within the definitions of "hazardous substances," "hazardous materials, "toxic substances" or "solid waste" in (A) the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq., as amended, (B) the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., as amended, and (C) the Hazardous Materials Transportation Act, 49 U.S.C. Appx. Section 1801, et seq., and in the regulations promulgated

pursuant to said laws or any amendment thereto or replacement thereof; (ii) all of those substances listed in the United States Department of Transportation Table (49 C.F.R. 172.101 and amendments thereto) or by the Environmental Protection Agency (40 C.F.R. Part 302 and amendments thereto) as hazardous substances; and (iii) all other substances, materials and wastes which are regulated under applicable Environmental Laws, or which are classified as hazardous or toxic under federal, state or local Legal Requirements or regulations, or classified or identified as posing a threat to human health or the environment, including without limitation federal laws and regulations and California laws, and any petroleum products, asbestos, any radioactive wastes or substances.

"**Indebtedness**" means, with respect to any Person, (A) all indebtedness of such Person, whether or not contingent, for borrowed money, (B) all obligations of such Person for the deferred purchase price of property or services other than those incurred in the ordinary course of business, (C) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (D) all obligations of such Person as lessee under leases that have been or should be recorded as capital leases consistent with past practice, (E) all obligations, contingent or otherwise, of such Person under acceptance, letter of credit or similar facilities, (F) all Indebtedness of the type referred to in clauses (A) through (E) above of other Persons for the payment of which such Person is responsible or liable, directly or indirectly, as obligor, guarantor, surety or otherwise, including guarantees of such obligations.

"**Intellectual Property Rights**" means any of the following statutory and/or common law rights in, arising out of, or associated therewith: (i) all patents and applications therefor and all reissues, divisions, extensions, provisionals, continuations and continuations in part thereof; (ii) all inventions (whether patentable or not), invention disclosures and improvements, all trade secrets, proprietary information, know-how and technology; (iii) all works of authorship, copyrights, copyright registrations and applications; (iv) all industrial designs and registered designs and any registrations and applications therefor; (v) all trade names, logos, trademarks and service marks; trademark and service mark registrations and applications; (vi) all databases and data collections (including knowledge databases, customer lists and customer databases); (vii) all rights in software; (viii) rights to uniform resource locations, web site address and domain names; (ix) any similar, corresponding or equivalent rights to any of the foregoing; and (x) any goodwill associated with any of the foregoing.

"**IRS**" means the U.S. Internal Revenue Service.

"**KEC Affiliate Power of Attorney**" means that certain Power of Attorney, dated as of the date hereof, executed by the KEC Affiliate in favor of ECF with respect to actions concerning the KEC Affiliate.

"**KEC Center**" means that certain land owned by KEC, and all improvements, buildings, structures, construction in progress, and fixtures thereon, including that certain 38,500-square-foot facility, located at 5350 Machado Road, Culver City, CA 90230-8800, and all privileges, easements, tenements, hereditaments and appurtenances thereto.

"**KEC Intellectual Property**" shall mean those Intellectual Property Rights owned by KEC or the KEC Affiliate or which KEC or the KEC Affiliate is otherwise lawfully entitled to use or employ, or which is required, or licensed to others, in the conduct of the KEC System.

"**KEC Schedule**" means the disclosure schedule signed for identification purposes by the Interim Executive Director of KEC, which KEC has delivered to ECF on or before the date of this Agreement, and which contains information relevant to the representations and warranties made by KEC in ***Article V***.

"**Knowledge**" means, with respect to KEC or the KEC Affiliate, the actual knowledge after an inquiry reasonable under the circumstances of Ralph Walter, Gloria Gerber and Mishelle Ross, and with respect to ECF, the actual knowledge after an inquiry reasonable under the circumstances of Scott Bowling, Karen Kato and Sonhui Robilotta.

"**Labor Laws**" means all Legal Requirements governing or concerning labor relations, unions and collective bargaining, conditions of employment, employee classification, employment discrimination and harassment, wages, hours or occupational safety and health, disability rights or benefits, equal opportunity, plant closure or mass layoff issues, affirmative action, employee benefits, leaves of absence, unemployment insurance, workers' compensation insurance or, if applicable, all requirements relating to obtaining "non-subscriber status" thereunder, employment of illegal aliens or undocumented or ineligible workers, and the collection or payment of social security and withholding Taxes, or both, and similar Taxes, including ERISA, the United States Immigration Reform and Control Act of 1986, the United States National Labor Relations Act, the United States Civil Rights Acts of 1866 and 1964, the United States Equal Pay Act, the United States Age Discrimination in Employment Act, the United States Americans with Disabilities Act, the United States Family and Medical Leave Act, the United States Worker Adjustment and Retraining Notification Act, rules and regulations of the United States Occupational Safety and Health Administration, the United States Davis-Bacon Act, the United States Walsh-Healey Act, the United States Service Contract Act, United States Executive Order 11246, the United States Fair Labor Standards Act, the United States Rehabilitation Act of 1973, and the Code, as such Legal Requirements may be amended from time to time, and all rules and regulations promulgated under such Legal Requirements, including all such Legal Requirements that apply to federal and/or state contractors.

"**Legal Requirement**" means any Order, statute, ordinance, code, law, rule, regulation, or other requirement, standard, instruction, procedure, other legally binding guideline or policy enacted, imposed, adopted, issued, administered, rendered or applied by any Governmental Authority, including judicial decisions applying common law or interpreting any other Legal Requirement.

"**Lien**" means a lien, mortgage, deed of trust, deed to secure debt, pledge, hypothecation, assignment, deposit arrangement, easement, option, encumbrance, preference, priority, assessment, security interest, lease, sublease, charge, claim, right of first refusal, adverse claim, levy, servitude or transfer restriction (other than a transfer restriction imposed by applicable Legal Requirements), interest of other Persons, or any other restriction or limitation of any kind.

"**Letter of Intent**" means that certain non-binding letter of intent dated as of March 30, 2007 between ECF and KEC, as amended by that certain letter of extension dated as of July 3, 2007, as amended by that certain letter of extension dated as of August 15, 2007.

"**Material Adverse Effect**" means, with respect to any Person, any change, event, circumstance or development that is, or would be reasonably expected to be, individually or in the aggregate, materially adverse to such Person's condition (financial or otherwise), liabilities, assets, properties, business, operations or prospects, or upon its ability to consummate the Merger or perform its obligations hereunder, each in accordance with this Agreement other than an effect resulting from an Excluded Matter. For the avoidance of doubt, the terms "material," "materially" and "materiality" as used in this Agreement with an initial lower case "m" shall have their respective customary and ordinary meanings, without regard to the meaning ascribed to Material Adverse Effect.

"**Merger**" means the merger of KEC with and into ECF in accordance with the provisions of Section 6010 et seq. of the California Corporations Code, as described in ***Section 2.2*** of this Agreement, with the effect described in ***Section 2.4***.

"**Order**" means order, writ, injunction, judgment, decree, ruling, directive, stipulation, assessment, arbitration enacted, adopted, issued, rendered or applied by any Governmental Authority.

"**Permit**" means, with respect to any Person, any authorization, license, permit, certificate, franchise, right, approval or clearance with any Governmental Authority required by any applicable Legal Requirement for the operation of such Person's business as conducted as of the date of this Agreement.

"**Person**" means any individual, corporation, partnership, limited liability company, limited liability partnership, firm, joint venture, association, joint-stock company, trust, unincorporated organization, Governmental Authority or other legal enterprise or entity.

"**Relative**" means a Person's parents, current spouse, parents-in-law, children, siblings and grandchildren, whether in any case by birth, adoption or by marriage.

"**Tax**" or "**Taxes**" means all taxes of any kind, however denominated, including any interest, penalties or other additions to tax that may become payable in respect thereof or in respect of a failure to comply with any requirement relating to any Tax Return, imposed by any federal, state or local Governmental Authority, including all income, gross income, gross receipts, profits, goods and services, social security, sales and use, ad valorem, excise, franchise, business license, value added, occupation, real property gains, payroll and employee withholding, unemployment insurance taxes and premiums, real and personal property, stamp, environmental, transfer, workers' compensation, payroll, severance, Pension Benefit Guaranty Corporation premiums, alternative minimum, windfall and capital taxes, and other obligations of the same or similar nature to any of the foregoing.

"**Tax Return**" shall mean any return, declaration, report, claim for refund, or information return or statement relating to Taxes, including any such document prepared on a

consolidated, combined or unitary basis and also including any schedule or attachment thereto, and including any amendment thereof.

(b) *Section References.* The following capitalized terms are defined in the following Sections of this Agreement:

Term	Section
Agreement	Preamble
Agreement of Merger	2.3(a)
Business Day	1.1(a)
Certificates of Approval	2.3(a)
Charitable Standards	7.4(b)(i)
Closing	9.1
Closing Date	9.1
COBRA	5.16(g)
Code	5.3
Consent	1.1(a)
Continuing Employees	7.4(a)(i)
Contract	1.1(a)
ECF	Preamble
ECF Affiliate	Recital C
ECF Ancillary Documents	6.4
ECF Audited Financial Statements	6.8
ECF Board	Recital G
ECF Consents	6.6
ECF Financial Statements	6.8
ECF Plans	7.4(a)(ii)
ECF Schedule	1.1(a)
ECF System	Recital A
Effective Time	3.1
Environmental Laws	1.1(a)
Equipment	5.14(b)
ERAS Home No. 1	1.1(a)
ERAS Home No. 2	1.1(a)
ERISA	1.1(a)
ERISA Affiliate	5.16(a)
Excluded Matter	1.1(a)
Form 990	5.6(a)(iii)
GAAP	1.1(a)
Governmental Authority	1.1(a)
Hazardous Substances	1.1(a)
Improvements	5.12
Inbound Licenses	5.14(d)(i)
Indebtedness	1.1(a)
Intellectual Property Rights	1.1(a)
IRS	1.1(a)
KE School Advisory Board	7.4(c)

Term	Section
KEC	Preamble
KEC Affiliate	Recital D
KEC Affiliate Power of Attorney	1.1(a)
KEC Affiliate Board	2.4(f)(i)
KEC Ancillary Documents	5.4
KEC Audited Financial Statement Date	5.8
KEC Audited Financial Statements	5.8
KEC Board	Recital G
KEC Consents	5.6(a)
KEC Center	1.1(a)
KEC Employee Plans	5.16(a)
KEC Financial Statements	5.8
KEC Interim Financial Statement Date	5.8
KEC Intellectual Property	1.1(a)
KEC Personal Property	5.14
KEC Schedule	1.1(a)
KEC System	Recital B
Knowledge	1.1(a)
Labor Laws	1.1(a)
Legal Requirement	1.1(a)
Lien	1.1(a)
License Agreements	5.14(d)(ii)
Letter of Intent	1.1(a)
Material Adverse Effect	1.1(a)
Merger	1.1(a)
Material Contracts	5.14(e)
Order	1.1(a)
Outbound Licenses	5.14(d)(ii)
Party	Preamble
Parties	Preamble
Personal Property Leases	5.14(c)
Post-Signing ECF Ancillary Documents	6.5
Post-Signing KEC Ancillary Documents	5.5
Real Property	5.12
Relative	1.1(a)
Tax (or Taxes)	1.1(a)
Tax Return	1.1(a)

1.2 Other Definitional and Interpretive Matters. Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation shall apply:

(a) *Calculation of Time Period.* When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day.

(b) *Gender and Number*. Any reference in this Agreement to gender shall include all genders, and words imparting the singular only shall include the plural and vice versa; the part includes the whole; and the term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or."

(c) *Headings*. The provision of a Table of Contents, the division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect or be utilized in construing or interpreting this Agreement. All references in this Agreement to any "Section" or "Article" are to the corresponding Article or Section of this Agreement unless otherwise specified.

(d) *Herein*. The words such as "herein," "hereof" and "hereunder" refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires.

(e) *Including*. The word "including" or any variation thereof means "including, without limitation" and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

ARTICLE II.

MERGER

2.1 Agreement to Merge. On the terms and subject to the conditions set forth in this Agreement, KEC and ECF hereby agree to merge into a single corporation in accordance with Chapter 10 of the California Nonprofit Corporation Law, commencing with Section 6010 of the California Corporations Code.

2.2 Merger. As of the Effective Time (defined below), KEC shall merge with and into ECF, and the corporate existence of KEC shall cease. ECF shall remain as the "surviving corporation," as that term is defined by Section 5074 of the California Corporations Code, and KEC shall be the "disappearing corporation" as that term is defined by Section 5048 of the California Corporations Code.

2.3 Statutory Agreements. In order to effect the Merger:

(a) on the Closing Date, each of ECF and KEC will execute and deliver a certificate of approval of agreement and plan of merger substantially in the forms attached hereto as ***Exhibit 2.3(a)(i)*** (the "**Certificates of Approval**") and a short-form agreement of merger substantially in the form attached hereto as ***Exhibit 2.3(a)(ii)*** (the "**Agreement of Merger**"); and

(b) on the Closing Date, ECF shall file or cause to be filed with the Secretary of State of the State of California (i) an executed copy of this Agreement or the Agreement of Merger, and (ii) an executed copy of each Certificate of Approval.

2.4 Effect of Merger. Upon the Merger, and beginning as of the Effective Time, ECF shall succeed, without other transfer, to all the rights and property of KEC and shall be subject to all the debts and liabilities of KEC in the same manner as if incurred by ECF, and shall have the following effects, including, but expressly not limited to the following:

(a) *Corporate Existence.* The corporate identity, existence, purposes, powers, rights, immunities, duties and obligations of KEC shall be merged into and vested in ECF, and, except as otherwise expressly provided by this Agreement, the corporate identity, existence, name, purposes, powers, rights and immunities of ECF shall continue unaffected and unimpaired by the Merger.

(b) *ECF System Integration.* The KEC System (which includes the KEC Affiliate) shall automatically become part of the ECF System.

(c) *Assets, Rights, Liabilities and Duties.* All of the tangible and intangible assets, real and personal properties, cash and investments, rights to payment or performance, licenses and Permits, and contractual rights and benefits of KEC shall vest in ECF without further action or transfer, and all of the known and unknown liabilities, and all contract duties and obligations of KEC shall vest in ECF without further action or transfer.

(d) *Debts and Liens.* ECF shall be subject to all of KEC's debts, liabilities and obligations in the same manner as if ECF had itself incurred them, and all rights of creditors and all liens and trust obligations on, or arising from, the property of each Party shall be preserved unimpaired, as long as such liens and trust obligations on the property of KEC, if any, shall be limited to the property affected by such liens and obligations immediately prior to the Effective Time.

(e) *Litigation Proceedings.* Any action or proceeding pending by or against any Party may be prosecuted to judgment, which shall bind ECF, or ECF may be proceeded against or substituted in KEC's place.

(f) *Governing Boards.*

(i) The KEC Board shall cease to exist as a fiduciary board. Six of the members of the KEC Board and all of the members of the ECF Board immediately prior to the Effective Time shall be the members of the ECF Board from and after the Effective Time until changed in accordance with any applicable Legal Requirement and ECF's Articles of Incorporation and Bylaws, each as amended and restated as provided herein. The initial members of the ECF Board effective as of the Effective Time are set forth on ***Exhibit 2.4(f)(i)*** to this Agreement, subject to any resignations of any members of the KEC Board or the ECF Board between the date hereof and the Effective Time, and such members shall serve in accordance with, and in such capacities, as provided by resolution of the ECF Board until changed in accordance with any resolution of the ECF Board.

(ii) The members of the board of directors of the KEC Affiliate (the "**KEC Affiliate Board**") effective as of the Effective Time are set forth on ***Exhibit 2.4(f)(ii)*** to this Agreement and shall be the members of the KEC Affiliate Board from and after the Effective Time until changed in accordance with any applicable Legal Requirement and the KEC

Affiliate's Articles of Incorporation and Bylaws, each as amended and restated as provided herein, and such members shall serve in accordance with, and in such capacities, as provided by resolution of ECF until changed in accordance with any resolution of ECF (as the KEC Affiliate's sole member).

(g) *Officers*. The officers of ECF as serving ECF immediately prior to the Effective Time shall be the officers of ECF from and after the Effective Time until changed in accordance with any applicable Legal Requirement and ECF's Articles of Incorporation and Bylaws, each as amended and restated as provided herein.

(h) *ECF President and Chief Executive Officer*. The President and Chief Executive Officer of ECF as of the date hereof, Scott D. Bowling, Psy.D., shall continue as the President and Chief Executive Officer of ECF from and after the Effective Time in accordance with that certain employment agreement between ECF and Scott D. Bowling, Psy.D., dated as of March 26, 1999, as amended on March 26, 1999, May 21, 2004, May 31, 2007, and July 16, 2007. If Scott D. Bowling, Psy.D. resigns from his position as the President and Chief Executive Officer of ECF after the Effective Time and prior to ten (10) years after the Effective Time, at least one of those persons set forth on ***Exhibit 2.4(h)*** hereto, or one of their successors, shall serve on the committee to find his replacement.

(i) *ECF Articles of Incorporation*. The Articles of Incorporation of ECF as in effect immediately prior to the Effective Time shall be amended and restated in their entirety to read substantially as set forth on ***Exhibit 2.4(i)*** hereto as of the Effective Time.

(j) *ECF Bylaws*. The Bylaws of ECF as in effect immediately prior to the Effective Time shall be amended and restated in their entirety to read substantially as set forth on ***Exhibit 2.4(j)*** hereto as of the Effective Time.

(k) *KEC Affiliate Articles of Incorporation*. The Articles of Incorporation of the KEC Affiliate as in effect immediately prior to the Effective Time shall be amended and restated in their entirety to read in form and substance reasonably satisfactory to ECF and KEC and shall designate ECF as the KEC Affiliate's sole member as of the Effective Time.

(l) *KEC Affiliate Bylaws*. The Bylaws of the KEC Affiliate as in effect immediately prior to the Effective Time shall be amended and restated in their entirety to read in form and substance reasonably satisfactory to ECF and KEC and shall designate ECF as the KEC Affiliate's sole member as of the Effective Time.

(m) *Investment Policy*. The investment policy of ECF as in effect immediately prior to the Effective Time shall be the investment policy of ECF from and after the Effective Time until changed in accordance with ECF's Articles of Incorporation and Bylaws, each as amended and restated as provided herein.

Statements in this ***Section 2.4*** describe the effect of the Merger as of the Effective Time. They do not represent post-Merger duties of the Parties.

2.5 Operations as an Integrated System. The Parties acknowledge that after, and as a result of, the Merger, the assets of KEC shall be operated as an integrated part of ECF. The KEC System shall be integrated into ECF for purposes of governance, management, finance, planning, support and operations. The KEC System assets, revenue and income shall be the assets, revenue and income of ECF and the KEC System liabilities, duties, debts and obligations shall become the liabilities, duties, debts and obligations of ECF.

2.6 Board Action. As of the Effective Time, and contingent thereupon, each member of the KEC Board shall, by operation of this Agreement, have no remaining membership rights or privileges in ECF except as otherwise expressly provided herein.

ARTICLE III.

MERGER TIMING

3.1 Merger Date. Subject to the conditions set out in ***Article VIII***, and in accordance with the Closing (defined below), the Merger shall be effective upon the filing by ECF of fully executed copies with the Secretary of State of the State of California pursuant to Section 6014 of the California Corporations Code of (i) each Certificate of Approval and (ii) this Agreement or the Agreement of Merger (the "**Effective Time**").

ARTICLE IV.

CONVEYANCE OF TITLE AND ASSETS; ASSUMPTION OF DEBT; CONSIDERATION

4.1 Transfer. In conformity with the Merger, ECF will acquire all of KEC's assets and title thereto, and shall assume all of KEC's debts and liabilities. No cash consideration shall be paid in connection with the Merger.

ARTICLE V.

REPRESENTATIONS AND WARRANTIES OF KEC AS TO KEC AND THE KEC AFFILIATE

The truth, accuracy and completeness of KEC's representations and warranties contained in this Agreement shall be conditions precedent to ECF's obligation to close under this Agreement in accordance with and to the extent provided in ***Section 8.2(a)***; provided, however, that ECF shall have no obligation to investigate the truth, accuracy or completeness of said representations, warranties and covenants. As an inducement to ECF to enter into this Agreement and to consummate the transactions contemplated hereby, subject to the exceptions disclosed on the KEC Schedule, KEC hereby represents and warrants to ECF as to the following matters, and, except as otherwise provided herein, shall be deemed to remake all of the following representations, warranties and covenants as of the Effective Time:

5.1 Organization and Good Standing. Each of KEC and the KEC Affiliate is a California nonprofit public benefit corporation, duly organized, validly existing and in good standing under the laws of the State of California. Each of KEC and the KEC Affiliate has the full corporate power and authority to own, lease and operate its properties, to carry on its business as it is now being conducted, and to enter into and perform its obligations under this Agreement. KEC has delivered to ECF true and complete copies of KEC's, and the KEC Affiliate's, Articles of Incorporation and Bylaws, in each case as amended to date and in effect on the date hereof. Neither KEC nor the KEC Affiliate is in violation of its respective Articles of Incorporation or Bylaws, in each case as amended to date and in effect on the date hereof. Each of KEC's and the KEC Affiliate's respective Articles of Incorporation irrevocably dedicate KEC's and the KEC Affiliate's assets and properties, respectively, to a charitable purpose as required by Section 6010 of the California Corporations Code.

5.2 No Subsidiaries. Except as disclosed on ***KEC Schedule 5.2***, neither KEC nor the KEC Affiliate has, directly or indirectly, any subsidiaries nor does it own, of record or beneficially, directly or indirectly, any stock of, or any other equity or debt interest or investment in or any right (contingent or otherwise) to acquire, any Person. Neither KEC nor the KEC Affiliate is obligated to make, nor bound by any Contract or other obligation to make, any investment in or capital contribution to or on behalf of any other Person, and neither KEC nor the KEC Affiliate is a party to any joint venture.

5.3 Tax-Exempt Status. Each of KEC and the KEC Affiliate is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder (the "**Code**"), exempt from federal income tax under Section 501(a) of the Code, except with respect to unrelated business taxable income, and, except as disclosed in writing to ECF, is not a private foundation under Section 509(a) of the Code and has taken all necessary steps to maintain such status. Neither KEC nor the KEC Affiliate has received any notice from representatives of the IRS to the effect that its exemption under Section 501(c)(3) of the Code has been revoked or modified, or that the IRS is considering revoking or modifying such exemption.

5.4 Authority. Each of KEC and the KEC Affiliate has the full corporate right, power, legal capacity and authority to enter into, execute, deliver, and perform its obligations under the terms of this Agreement and all documents and agreements necessary to give effect to the provisions of this Agreement to which each of KEC or the KEC Affiliate is a party (the "**KEC Ancillary Documents**") and to consummate the transactions contemplated hereby. All corporate and other actions required to be taken by each of KEC and the KEC Affiliate to authorize the execution, delivery and performance of this Agreement, the KEC Ancillary Documents and all transactions contemplated hereby have been duly and properly taken or obtained.

5.5 Validity. This Agreement and the KEC Ancillary Documents have been duly executed and delivered (except for such KEC Ancillary Documents which, pursuant to a reasonable interpretation of this Agreement, may be executed and delivered after the date hereof, which shall have been executed and delivered at or prior to the Closing Date or prior to the Effective Time, as applicable and in accordance with the terms of this Agreement (the "**Post-Signing KEC Ancillary Documents**")) by KEC to ECF and (assuming due authorization,

execution and delivery by ECF), this Agreement and the KEC Ancillary Documents constitute, and upon its execution of the Post-Signing KEC Ancillary Documents shall constitute, the lawful, valid and legally binding obligations of each of KEC and the KEC Affiliate, enforceable in accordance with their respective terms except as limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and (ii) the effect of rules of law and general principles of equity, including rules of law and general principles of equity governing specific performance, injunctive relief and other equitable remedies (regardless of whether such enforceability is considered in a proceeding in equity or at law).

5.6 Consents and Approvals.

(a) Except as disclosed on ***KEC Schedule 5.6***, no Consent, or other action of or by any Governmental Authority or other Person is required to be obtained by KEC or the KEC Affiliate in connection with the execution, delivery or performance of this Agreement, the KEC Ancillary Documents, the Post-Signing KEC Ancillary Documents, or the consummation of the Merger (the "**KEC Consents**"). KEC shall be responsible for and shall take any and all steps necessary, at its sole expense, to obtain all KEC Consents prior to the Closing Date, and with respect to the following Consents, work jointly with ECF to obtain such Consents as soon as practicable on or after the Closing Date:

(i) such filings with the Attorney General of the State of California as required by Sections 6010(a) and (b) of the California Corporations Code, including the Certificates of Approval and Agreement of Merger; and

(ii) any filing with the IRS as required by the Code, including filing a final IRS Return of Organization Exempt from Income Tax, Form 990 disclosing this Agreement (the "**Form 990**") no later than the date due.

5.7 No Conflict. Except as disclosed on ***KEC Schedule 5.7***, the execution and delivery of this Agreement, the KEC Ancillary Documents and the Post-Signing KEC Ancillary Documents by each of KEC and the KEC Affiliate, as applicable, and the consummation of the transactions contemplated hereby will not, with or without the giving of notice and/or the passage of time:

(a) violate or conflict with the respective Articles of Incorporation or Bylaws, each as amended to date and in effect on the date hereof, of each of KEC and the KEC Affiliate;

(b) violate or conflict with any Legal Requirement to which KEC or the KEC Affiliate is subject; or

(c) result in the breach or termination of any provision of, or create rights of acceleration, amendment, suspension, revocation, or constitute a default under, or result in the creation of a Lien on any of the properties or assets of KEC or the KEC Affiliate, as applicable, pursuant to, any provision of any KEC Employee Plan, Contract binding upon, or Permit held by KEC or the KEC Affiliate, as applicable, which would reasonably be expected to have a Material Adverse Effect with respect to KEC, the KEC Affiliate or the KEC System.

5.8 Financial Statements. KEC has previously provided to ECF true and complete copies of (i) the audited combined statement of financial position of KEC and the KEC Affiliate for the years ended June 30, 2006 (the "**KEC Audited Financial Statement Date**") and June 30, 2005, and the related combined statements of activities, functional expenses and cash flows for such years then ended (together, the "**KEC Audited Financial Statements**") and (ii) the preliminary unaudited statement of financial position of KEC and the KEC Affiliate for the year ended June 30, 2007, and the related statement of activities for such period then ended (the "**KEC Interim Financial Statement Date**") (together with the KEC Audited Financial Statements, the "**KEC Financial Statements**"). The KEC Audited Financial Statements were audited by KEC's independent certified public accountant. The KEC Financial Statements are true, complete and correct in all material respects, were prepared in accordance with GAAP and fairly present the financial position and results of operations of KEC and the KEC Affiliate as of and for the dates and periods shown thereon.

5.9 Indebtedness.

(a) ***KEC Schedule 5.9(a)*** sets forth a list of all Contracts evidencing, creating, securing or otherwise relating to any Indebtedness of KEC or the KEC Affiliate, including the outstanding principal amount, interest rates as in effect between the KEC Interim Financial Statement Date and the Closing Date, and payment schedule of principal and interest thereon. Neither KEC nor the KEC Affiliate has any liability or obligation for Indebtedness of any nature, whether accrued, absolute, contingent or otherwise, and whether due or to become due, that is not reflected or reserved against it in the balance sheet of the KEC Audited Financial Statements as of the KEC Audited Financial Statement Date, except for (i) accounts payable, accrued operating expenses and other current liabilities arising after the KEC Audited Financial Statement Date in the ordinary course of the business of KEC and the KEC Affiliate, and (ii) liabilities and obligations disclosed on ***KEC Schedule 5.9(a)***. True and complete copies of all Contracts evidencing, creating, securing or otherwise relating to any Indebtedness of KEC or the KEC Affiliate have been delivered to ECF.

(b) Other than as disclosed on ***KEC Schedule 5.9(b)***, to KEC's Knowledge, no event has occurred and no condition has arisen (including the transactions contemplated hereby) that constitutes or, with notice or passage of time, or both, would constitute a default, breach or a basis of force majeure or other claim of accelerated or increased rights, termination, excusable delay or nonperformance by KEC, the KEC Affiliate or any other Person under any Contract relating to or evidencing Indebtedness of KEC or the KEC Affiliate, that would entitle any Person to require KEC, the KEC Affiliate or ECF to pay any portion of the principal amount of such Indebtedness prior to the scheduled maturity thereof.

5.10 Absence of Changes. Except as disclosed on ***KEC Schedule 5.10***, since the KEC Audited Financial Statement Date, there has not been:

(a) any adverse change in the assets, properties, financial condition, operations, results of operations, or business of KEC or the KEC Affiliate which has had, or could reasonably be expected to have, a Material Adverse Effect with respect to KEC, the KEC Affiliate or the KEC System;

(b) any loss or destruction of or damage to any of the assets of KEC or the KEC Affiliate, whether or not covered by insurance, that has had, or could reasonably be expected to have, a Material Adverse Effect with respect to KEC, the KEC Affiliate or the KEC System;

(c) any general labor dispute between KEC or the KEC Affiliate and its respective employees;

(d) any sale, transfer, pledge, lease, license or other disposition of any material portion of any of the material assets of KEC or the KEC Affiliate;

(e) any Lien incurred on any of the assets of KEC or the KEC Affiliate;

(f) any waiver or release of any material rights or claims of KEC or the KEC Affiliate;

(g) any additional Indebtedness of KEC or the KEC Affiliate incurred, other than by way of additional interest accruing thereon;

(h) any loss of or challenge to the tax exempt status of KEC or the KEC Affiliate, the failure to pay withholding taxes for the employees of KEC or the KEC Affiliate, or loss of any material license, or any adverse notice or information concerning the material funding sources of KEC or the KEC Affiliate;

(i) any increase or agreement to increase the wages, salaries, compensation, pension or other benefits payable to any employee of KEC or the KEC Affiliate other than in the ordinary course of business and in accordance with the normal compensation and benefits policies of the respective employer, or granting any severance or termination pay, or entering into any employment, severance or consulting agreement or arrangement with any officer, employee, independent contractor or other Person currently or previously affiliated with KEC or the KEC Affiliate that is not terminable by KEC or the KEC Affiliate without cause and without penalty;

(j) any bonus or other special compensation paid to any employee or other Person currently or previously affiliated with KEC or the KEC Affiliate;

(k) any merger or consolidation with or acquisition of the business of any other Person or, except in the ordinary course of business, acquisition of any material property or material assets of any other Person;

(l) any capital expenditure or commitment to make any capital expenditure other than in the ordinary course of business;

(m) any amendment or modification or Consent to the termination (other than by expiration pursuant to the terms thereof as of the date hereof) of any Material Contract or any of KEC's or the KEC Affiliate's rights thereunder;

(n) any lapse or termination, or failure to renew by KEC or the KEC Affiliate of any Permit or insurance policy that was issued or relating to KEC or the KEC Affiliate, or the KEC System;

(o) any material change in the accounting method or accounting practice or policy used by KEC; or

(p) agreement by KEC or the KEC Affiliate to do any of the things described in the preceding clauses (a) through (o).

5.11 Insurance. All of the properties and operations of each of KEC and the KEC Affiliates that are of an insurable nature are covered as of the date hereof, and will be covered at all times from the date hereof until the Effective Time, with types and amounts of insurance that provide commercially reasonable insurance protection that insure each of KEC or the KEC Affiliate, as applicable, against risks involved in its business, either through the purchase of insurance from a third-party insurance company or through a self-insurance program. Disclosed on ***KEC Schedule 5.11*** is a true and complete list of all policies of insurance (and a description of all self-insurance programs) held by, or maintained on behalf of each of KEC and the KEC Affiliate as of the date hereof in effect for policy periods beginning on or after January 1, 2005, indicating for each policy the carrier, the insured, the type of insurance, the dollar amounts of coverage and the expiration date. Except as disclosed on ***KEC Schedule 5.11***, all such policies are in full force and effect, all premiums due and payable thereon have been paid in full and neither KEC nor the KEC Affiliate has received any written notice of cancellation, amendment or dispute as to coverage with respect to any such policies. Neither KEC nor the KEC Affiliate has any obligation, liability or other commitment relating to any policy of insurance containing a provision for retrospective rating or adjustment of its premium obligation. To KEC's Knowledge, no facts or circumstances exist that would cause KEC or the KEC Affiliate to be unable to renew its existing insurance coverage as and when the same shall expire upon terms at least as favorable as those currently in effect, other than possible increases in premiums that do not result from any act or omission on the part of KEC or the KEC Affiliate.

5.12 Title to and Condition of Real Property. For purposes of this Agreement, all land owned by KEC or the KEC Affiliate, all improvements, buildings, structures, construction in progress, and fixtures thereon (collectively, the "**Improvements**"), and all privileges, easements, tenements, hereditaments and appurtenances thereto are collectively referred to herein as the "**Real Property**." With respect to the Real Property, KEC represents and warrants the following:

(a) *Owned Real Property*. Attached hereto as ***KEC Schedule 5.12(a)*** is a complete list of all Real Property. As of the date hereof (and as of the Effective Time): (1) the Real Property is subject only to the Liens listed on ***KEC Schedule 5.12(a)***; and, except as disclosed on ***KEC Schedule 5.12(a)***, (2) there are no purchase contracts, options, rights of first refusal, rights of first offer or first negotiation, restrictive covenants or other agreements of any kind, oral or written, formal or informal, choate or inchoate, recorded or unrecorded, whereby any Person or entity other than KEC or the KEC Affiliate will have acquired or will have any basis to assert any right, title or interest in, the Real Property. No officers, directors or

employees of KEC or the KEC Affiliate, or Relative of any of such officer, director or employee, has any direct or indirect interest in any of the Real Property.

(b) *Leased Real Property; Real Estate Leases.* Neither KEC nor the KEC Affiliate has the right to use or occupy any real property pursuant to any lease and neither KEC nor the KEC Affiliate is a party to any contract, agreement, lease, sublease, option or commitment, oral or written, relating to the Real Property.

(c) *Zoning.* To KEC's Knowledge, the Real Property is zoned to permit the uses for which such Real Property is presently used and/or intended to be used, without variances or conditional use permits.

(d) *Subdivision.* To KEC's Knowledge, the Real Property constitutes valid subdivided parcels in accordance with all applicable subdivision Legal Requirement presently in effect.

(e) *Easements and Encroachments.* To KEC's Knowledge, KEC or the KEC Affiliate has all easements and rights of way, including without limitation, easements for all utilities, services, roadways and other means of ingress and egress, necessary for access to the Real Property and the Improvements thereon. To KEC's Knowledge, none of the Improvements encroach onto adjacent property, violate set-back, building, or sideline requirements, or encroach onto any easements located on the Real Property.

(f) *Flood Zone/Wetlands.* To KEC's Knowledge, no portion of the Real Property is located within a "Special Flood Hazard Area" as set forth on a Federal Emergency Management Agency Flood Insurance Rate Map or Flood Hazard Bounding Map or lakeshore erosion hazard area.

(g) *Utilities.* All utilities serving the Improvements are adequate to operate such Improvements in the manner in which they are currently operated, and all utility lines, pipes, hookups, and wires serving the Improvements are located within recorded easements on properties contiguous to the Real Property, for the benefit of the Real Property. All industrial water and gas, plumbing, electrical, steam, compressed air, telecommunication, sanitary, storm and sewage lines and systems and other similar systems servicing the Real Property are: (1) installed and operating; (2) sufficient to enable the Real Property to continue to be used and operated in the manner currently being used and operated; and (3) in compliance in all material respects with all applicable Legal Requirements. The Real Property is provided water service from a public utility, the utility provider has given no notice of cancellation or notice that insufficient water has been dedicated to support the current water usage on the Real Property, and all assessments from the utility provider have been paid in full. Neither KEC nor the KEC Affiliate own any right, title or interest in any certified or permitted water rights.

(h) *Condemnation.* To KEC's Knowledge, neither the Real Property nor any portion thereof has been condemned, requisitioned, or otherwise taken by any public authority, and no such condemnation, requisitions, or taking is pending, threatened or contemplated.

(i) *Assessments*. No public improvements relating to or affecting the Real Property have been ordered to be made which have not been assessed, and there are no special, general or other assessments pending, threatened against, or affecting the Real Property. Neither KEC nor the KEC Affiliate has entered into any understanding or agreement with any taxing authority respecting the imposition or deferment of any Taxes or assessments regarding the Real Property.

(j) *Soil Conditions*. To KEC's Knowledge, the soil condition of the Real Property is such that it will support the Improvements thereon for the foreseeable depreciable life of such Improvements, without the need for subsurface excavations, fill, footings or other installations. To KEC's Knowledge, the Improvements, as built, were constructed together with all necessary excavations, fill, footings or other installations or the same have since been provided. To KEC's Knowledge, there are no facts that would adversely affect the ownership, possession, or use of the Improvements, relating to the physical condition of the Improvements or any portion thereof, including without limitation, such facts relating to soil conditions, sinkholes or geologic faults, or such facts contained in architectural drawings, building or construction plans, inspection reports or related documents.

(k) *Condition of Improvements*. Except as disclosed on ***KEC Schedule 5.12(k)***, the material Improvements and every part thereof are in good condition and repair and there are no physical, structural or mechanical defects or deficiencies in any part thereof, including without limitation, the roof, exterior walls, structural components, heating, air conditioning, plumbing, electrical, ventilating, utility, sprinkler and other systems. ***KEC Schedule 5.12(k)*** also identifies all material repairs and all scheduled material repairs to be made by KEC or the KEC Affiliate to the Improvements owned, occupied or used by KEC or the KEC Affiliate. To KEC's Knowledge, the Improvements are free from infestation of termites and other pests, insects and animals.

5.13 Environmental Conditions.

(a) To KEC's Knowledge, the information contained in the Phase I Study conducted by Anderson Environmental on or about June 28, 2007 and in ***KEC Schedule 5.13(a)*** accurately describes:

(i) any and all defects in the physical condition of the Real Property;

(ii) any and all unremediated incidents of noncompliance regarding the Real Property with zoning, land use, building, safety and fire Legal Requirements; and

(iii) any and all unremediated incidents of noncompliance of the Real Property with respect to applicable Environmental Laws.

(b) To KEC's Knowledge, except as provided in the Phase I Study conducted by Anderson Environmental on or about June 28, 2007 or in ***KEC Schedule 5.13(b)***:

(i) no Hazardous Substances have been released on any part of the Real Property, and no soil, air, surface water, ground water or structural contamination exists (a) on any Real Property, or (b) on property adjacent to such Real Property;

(ii) KEC and its operations have been and are now in compliance with all applicable Environmental Laws. Neither KEC nor the KEC Affiliate has assumed, contractually or through merger, any known liabilities, whether by indemnity or otherwise, under any Environmental Law;

(iii) no modification, revocation, reissuance, alteration, transfer or amendment of any Permit required of KEC or the KEC Affiliate pursuant to any Environmental Law, or any review by, or approval of, any Governmental Authority or Person of any such Permit, is required in connection with the execution or delivery of this Agreement, the consummation of the transactions contemplated in this Agreement, or the operation of the KEC System immediately after the Closing;

(iv) no Hazardous Substance was placed, stored, generated, used, manufactured, maintained, treated, deposited, spilled, discharged, recycled, released, or disposed of on, under, or at any Real Property, nor to KEC's Knowledge, any real property contiguous thereto, except as authorized pursuant to all applicable Environmental Laws;

(v) Neither KEC nor the KEC Affiliate has arranged for the transportation, treatment, recycling, disposal or release of Hazardous Substances except as authorized by all applicable Environmental Laws;

(vi) no notice of claim, demand, citation, summons, Order, or notice of violation has been received by KEC or the KEC Affiliate, no notice has been given by KEC or the KEC Affiliate, and no complaint has been filed, no penalty has been assessed that remains outstanding and, to KEC's Knowledge, no investigation, administrative or judicial proceeding or review is pending or threatened by any Governmental Authority or Person with respect to KEC, the KEC Affiliate, or the Real Property arising from any actual or alleged violation of any Environmental Law;

(vii) Neither KEC nor the KEC Affiliate has entered into, agreed to or is subject to any Order or any outstanding Consent arrangement with any Governmental Authority under any Environmental Law, including any such Environmental Law relating to the investigation, cleanup, remediation or removal of Hazardous Substances;

(viii) there are no underground or aboveground storage tanks, whether or not in use, located at, on, or under, nor have any been removed from, any Real Property;

(ix) no asbestos or asbestos-containing material is now being used or has ever been used by KEC or the KEC Affiliate in the KEC System or is present or has ever been present at any Real Property;

(x) there are no circumstances that could reasonably be expected to give rise to liability under any agreements with any Person under which KEC or the

KEC Affiliate would be required to defend, indemnify, hold harmless, or otherwise be responsible for any violation by or other liability or expense of such Person, or alleged violation by or other liability or expense of such Person, arising under any Environmental Law;

(xi) no notice has been received by KEC or the KEC Affiliate with respect to the listing or proposed listing of any Real Property pursuant to any Environmental Law or any similar state Legal Requirement listing sites which require investigation or cleanup;

(xii) there have been no environmental inspections, investigations, studies, tests, reviews or other analyses conducted in relation to KEC or the KEC Affiliate or any Real Property, the results of which identify a condition which could reasonably be expected, either individually or in the aggregate, to influence adversely ECF's decision to enter this Agreement;

(xiii) ***KEC Schedule 5.13(b)(xiii)*** includes an accurate list of all Permits required of KEC or the KEC Affiliate pursuant to any Environmental Law related to the placement, storage, generation, use, manufacture, maintaining, treatment, deposit, spill discharge, recycling, release or disposal of Hazardous Substances and KEC or the KEC Affiliate hold, and are in compliance with, all such Permits;

(xiv) KEC has made available all material reports, audits or assessments related to the operation of the KEC System or conditions present at any Real Property concerning compliance with or liability under any Environmental Law, including, but not limited to, any Phase I environmental site assessments or compliance audits; and

(xv) there are no other circumstances or conditions, including circumstances or conditions at the property of others, that could reasonably be expected to give rise to liability of KEC or the KEC Affiliate under any Environmental Law.

5.14 KEC Personal Property. For purposes of this Agreement, the Personal Property Leases, the Equipment, the Inventory, the Intellectual Property, and all rights under the Material Contracts, and any other Contract of KEC or the KEC Affiliate, each as defined below, are collectively referred to as the "**KEC Personal Property**," with respect to which KEC represents and warrants the following:

(a) *Title*. Except for the property that is leased by KEC or the KEC Affiliate pursuant to the Personal Property Leases, KEC and the KEC Affiliate has good, marketable, and indefeasible title to all of the KEC Personal Property. The KEC Personal Property is in good condition and free of material defects, and none of the KEC Personal Property is now nor shall be as of the Effective Time subject to: (1) any Lien except as disclosed on ***KEC Schedule 5.14(a)***; or (2) any claims whereby any Person or entity will have acquired any right, title or interest in, or right to possession, use, enjoyment or proceeds of any KEC Personal Property. Except as disclosed on ***KEC Schedule 5.14(a)*** and except for Intellectual Property covered by License Agreements, no Person, other than KEC or the KEC Affiliate, is in possession of any of the KEC Personal Property. Except as otherwise provided in the License Agreements with respect to Intellectual Property, each of KEC and the KEC Affiliate has full,

free and exclusive use and quiet enjoyment of the KEC Personal Property. The KEC Personal Property taken together represent all assets and properties (other than those leased by KEC or the KEC Affiliate) which are used in the KEC System and which are required for the conduct of the KEC System as presently conducted.

(b) *Equipment.* ***KEC Schedule 5.14(b)*** sets forth an accurate and complete list of all material items of fixed assets owned by KEC or the KEC Affiliate including all furniture, furnishings, appliances, fixtures, leasehold improvements, machinery, equipment, computer systems, computer hardware, inventory, computer software, supplies, spare parts, vehicles, whether or not capitalized at the time of their purchase (collectively, the "**Equipment**"). KEC and the KEC Affiliate possess all Equipment necessary for the operation of the KEC System. All Equipment is in good operating condition and in a state of reasonable maintenance and repair, ordinary wear and tear excepted, and are free from any known defects except such as may be repaired by routine maintenance and do not materially interfere with their continued use in the KEC System.

(c) *Personal Property Leases.* ***KEC Schedule 5.14(c)*** sets forth an accurate and complete list of all leases relating to the Equipment leased by KEC or the KEC Affiliate and all other personal property leases to which KEC or the KEC Affiliate is a party (the "**Personal Property Leases**"). Except as disclosed on ***KEC Schedule 5.14(c)***: (1) the Personal Property Leases have not been modified, amended or assigned, are legally binding and enforceable in accordance with their respective terms, and are in full force and effect; (2) there are no material defaults (or matters that upon written notice or lapse of time should constitute material defaults) by KEC or the KEC Affiliate or by any other Person to the Personal Property Leases; and (3) as of the Effective Time there will not exist any material Lien on any property subject to a Personal Property Lease, except as disclosed on ***KEC Schedule 5.14(c)***.

(d) *Intellectual Property.*

(i) ***KEC Schedule 5.14(d)(i)*** lists all KEC Intellectual Property. ***KEC Schedule 5.14(d)(i)*** contains a true and complete list and description of all licenses of, or rights to, Intellectual Property granted to KEC or the KEC Affiliate by any Person (other than shrink wrap and other generally available commercial licenses) ("**Inbound Licenses**"). Except for the Inbound Licenses, KEC or the KEC Affiliate exclusively owns all KEC Intellectual Property, free and clear of any Lien and without infringing upon or otherwise acting adversely to the right or claimed right of any other Person. The KEC Intellectual Property, in combination with the Inbound Licenses, constitutes all of the intellectual property necessary to enable KEC or the KEC Affiliate to conduct the KEC System as currently being conducted. There are no claims or demands of any Person pertaining to, or any actions that are pending or threatened, which challenge the rights of KEC or the KEC Affiliate in respect of, any KEC Intellectual Property, including any interferences, oppositions, cancellations or other contested proceedings, nor is there any valid basis for the same. Each item of KEC Intellectual Property is unexpired and subsisting, and no item of KEC Intellectual Property has been adjudged to be invalid or unenforceable. Commercially reasonable measures have been taken to maintain the confidentiality of the KEC Intellectual Property, and of all other information the value of which to KEC or the KEC Affiliate is contingent upon maintenance of the

confidentiality thereof. To the Knowledge of KEC, no Person has interfered with, infringed, misappropriated or otherwise come into conflict with any KEC Intellectual Property.

(ii) ***KEC Schedule 5.14(d)(ii)*** lists all Contracts under which KEC or the KEC Affiliate has licensed or otherwise granted to third parties any right to use or employ any KEC Intellectual Property ("**Outbound Licenses**," and collectively with the Inbound Licenses, the "**License Agreements**"). Except as disclosed on ***KEC Schedule 5.14(d)(ii)***, neither KEC nor the KEC Affiliate have sold, transferred, assigned, licensed, restricted, encumbered or subjected to any Lien, any KEC Intellectual Property or any interest therein. With respect to each License Agreement, ***KEC Schedule 5.14(d)(ii)*** identifies the respective Persons, the nature of licensed KEC Intellectual Property, the date and term of the License Agreement, and whether the Consent of any Person is required to maintain such License Agreement in effect after the Merger. Each License Agreement is in full force and effect and neither KEC nor the KEC Affiliate, nor, to KEC's Knowledge, any other Person is in default or breach under any License Agreement.

(e) *Material Contracts*. ***KEC Schedule 5.14(e)*** contains a list of all Contracts and Permits, including a summary of any oral Contracts, of the following categories to which KEC or the KEC Affiliate is a party or by which KEC or the KEC Affiliate is bound (collectively, the "**Material Contracts**"):

(i) any Contracts not made in the ordinary course of business;

(ii) any employment, consulting, severance or "change of control" agreements, or any other agreements or instruments with any officer, employee or consultant;

(iii) any employee benefit, employee welfare benefit and employee pension plans, policies or agreements;

(iv) any agreement that grants a power of attorney, agency or similar authority to another Person;

(v) any employee collective bargaining agreement or other contract with any labor union;

(vi) any Contract involving expenditures or liabilities of KEC or the KEC Affiliate in excess of $25,000;

(vii) any Contract which has involved, or is reasonably expected to involve, a sharing of revenues, profits, cash flows, expenses or losses by KEC or the KEC Affiliate with any other Person;

(viii) any lease or similar agreement under which KEC or the KEC Affiliate is lessee of, or holds or uses, any machinery, equipment, vehicle or other tangible personal property owned by any other Person;

(ix) any Contract that involves the obligation of KEC or the KEC Affiliate to purchase materials, supplies, equipment or services from any other Person for payment of more than $25,000 and which is not terminable by KEC or the KEC Affiliate on not more than thirty days' notice without penalty or premium;

(x) any Contract that involves the obligation of KEC or the KEC Affiliate to deliver products or services to any other Person for annual payment of more than $25,000 and which is not terminable by KEC or the KEC Affiliate on not more than thirty days' notice without penalty or premium;

(xi) any Contract under which KEC or the KEC Affiliate has borrowed or lent any money or issued any note, bond, indenture or other similar evidence of Indebtedness or guaranteed Indebtedness, liabilities or obligations of others;

(xii) any mortgage, pledge, security agreement, deed of trust or other document, in each case granting a Lien;

(xiii) any Contract restricting the right of KEC or the KEC Affiliate to compete in any material respect with any other Person;

(xiv) any partnership or joint venture agreement, license, LLC and/or management agreements related to any business co-owned or conducted by KEC or the KEC Affiliate;

(xv) any Contract to which KEC or the KEC Affiliate is a party or by which KEC or the KEC Affiliate or any of its assets or properties are bound that is material to the KEC System;

(xvi) any Contract that settled any dispute, claim, proceeding, investigation, litigation or arbitration by or against any Person; and

(xvii) any other Contracts which require penalties for cancellation or which are not cancelable at will on less than 90 days' notice.

True and complete copies of the Material Contracts described above have been made available to ECF for review. Except as disclosed on ***KEC Schedule 5.14(e)***, there are no other Material Contracts or other arrangements under which goods, equipment or services are provided, leased or rendered to KEC or the KEC Affiliate and such Material Contracts constitute all agreements relating to the KEC System. Except as disclosed on ***KEC Schedule 5.14(e)***, (1) the Material Contracts have not been modified, amended or assigned, (2) the Material Contracts are valid, legally binding and enforceable in accordance with their respective terms, and are in full force and effect; (3) each of KEC and the KEC Affiliate is in material compliance in all respects with all of the Material Contracts; and (4) neither KEC nor the KEC Affiliate, nor, to KEC's Knowledge, any other Person (with or without the lapse of time or the giving of notice, or both) is in breach or default under any Material Contract. Except as disclosed on ***KEC Schedule 5.14(e)***, the Material Contracts are freely and fully assignable without the Consent or approval of any other Person and without penalty or other adverse consequences and the Merger will not constitute a deemed assignment or a prohibited change of control under, or entitle any third

Person to terminate, any Material Contract. Neither KEC nor the KEC Affiliate has any Contracts with (including any outstanding loan to or receivable from) (i) any of its officers, directors, trustees or employees; (ii) any Relative of any of its officers, directors, trustees or employees; or (iii) any Person controlled by or for the benefit of such officers, directors, trustees or employees or their Relatives. None of KEC's or the KEC Affiliate's Contracts restricts or limits in any way the use of funds.

5.15 Employees.

(a) ***KEC Schedule 5.15(a)*** lists (a) the names and rates of salary, commission and other compensation of all employees of KEC, the KEC Affiliate and the KEC System as of August 1, 2007, and (b) all accrued but unpaid salary, bonuses, wages, commissions or other compensation or employee benefits owed by KEC or the KEC Affiliate to employees of the KEC System, all vacation, severance or termination pay obligations owed by KEC or the KEC Affiliate for all employees of the KEC System, and the leave status for all employees of the KEC System, including type of leave, expected date of return for non-disability-related leaves and expiration dates for disability-related leaves, in each case as of such date. Neither KEC nor the KEC Affiliate is or has ever been a party to or bound by, otherwise subject to, any labor or collective bargaining agreement. KEC has made available to ECF accurate and complete copies of all employee manuals and handbooks, disclosure materials, policy statements and other materials relating to the employment of the current or former employees of KEC or the KEC Affiliate. No labor strike, dispute, slowdown, stoppage, unresolved employee grievance or labor arbitration proceeding has occurred in the last five years or is pending, or, to KEC's Knowledge, has been threatened, against KEC or the KEC Affiliate. Except as disclosed on ***KEC Schedule 5.15(a)***, no employee of KEC or the KEC Affiliate is represented by a labor union, and no current union organizing activities or other attempts to organize or establish a labor union, employee organization or labor organization or group involving the employees of the KEC System has occurred in the last five years, is in progress or, to KEC's Knowledge, is threatened. Each of KEC and the KEC Affiliate has complied and is in compliance in all material respects with the requirements under all Labor Laws. Neither KEC nor the KEC Affiliate is liable for any arrearage of wages or any Taxes or penalties for failure to comply with any of the foregoing. Neither KEC nor the KEC Affiliate is engaged, nor has it ever been engaged, in any unfair labor practice of any nature. Neither KEC nor the KEC Affiliate has implemented any employee layoffs that could implicate the Worker Adjustment Retraining and Notification Act of 1988, as amended, or any similar state Legal Requirement. Except as disclosed on ***KEC Schedule 5.15(a)***, there are no written or oral employment agreements in effect between KEC or the KEC Affiliate and any of its respective employees. There are no administrative charges, court complaints or arbitrations pending or, to KEC's Knowledge, threatened against KEC or the KEC Affiliate before the U.S. Equal Employment Opportunity Commission or any federal, foreign, state or local court or agency, or arbitrator concerning or relating to any labor, safety or employment matters.

(b) ***KEC Schedule 5.15(b)*** lists (a) the names, average number of hours per week worked, nature of the work performed (including title, if any), rates and other compensation of all individuals who currently serve as independent contractors (or former independent contractors who served in such capacity within the last two (2) years) of KEC, the KEC Affiliate and the KEC System as of August 1, 2007, and (b) all accrued but unpaid

compensation (or other obligations) owed by KEC or the KEC Affiliate to such independent contractors, in each case as of such date. ***KEC Schedule 5.15(b)*** lists, in addition to the foregoing, the date and term of the Contract pursuant to which such independent contractors are (or were) engaged by KEC, the KEC Affiliate or the KEC System and whether the Consent of any Person is required to maintain such Contract in effect after the Merger. The consummation of the transactions contemplated hereby will not, with or without the giving of notice and/or the passage of time violate or conflict with, result in the breach or termination of any provision of, or create rights of acceleration, amendment, suspension, revocation or constitute a default under, or result in the creation of a Lien on any of the properties or assets of KEC, the KEC Affiliate or ECF, as applicable, pursuant to, any provision of any such Contract binding upon KEC, the KEC Affiliate or the KEC System, as applicable. None of the current or former independent contractors of KEC or the KEC Affiliate could be reclassified as an employee and no current or former employees classified as "exempt" from overtime requirements could be reclassified as nonexempt. No independent contractor of KEC or the KEC Affiliate is eligible to participate in any KEC Employee Plans (defined below in ***Section 5.16(a)***).

5.16 Employee Plans.

(a) ***KEC Schedule 5.16(a)*** accurately sets forth each retirement, pension, bonus, stock purchase, profit sharing, stock option, deferred compensation, severance or termination pay, insurance, medical, hospital, dental, vision care, drug, sick leave, disability, salary continuation, unemployment benefits, vacation, incentive or other compensation plan, fund, program, agreement, scheme or arrangement or other employee benefit (whether written or oral) which is or was at any time in the six-year period prior to the Closing Date sponsored or maintained, or required to be sponsored or maintained, or otherwise contributed to or required to be contributed to, by either KEC or the KEC Affiliate or any ERISA Affiliate of any of them for the benefit of employees and former employees, directors, officers, consultants, independent contractors, contingent workers or leased employees, or the dependents of any of them, of the KEC System, including any "employee benefit plan" within the meaning of Section 3(3) of ERISA (the "**KEC Employee Plans**"). All KEC Employee Plans can be amended, terminated, or otherwise discontinued after the Closing in accordance with its terms, without liability to ECF or KEC (other than ordinary administration expenses). For the purposes of this Agreement, "**ERISA Affiliate**" means any entity that is treated as a "single employer" with KEC or the KEC Affiliate pursuant to Section 414(b), 414(c), 414(m) or 414(o) of the Code or Section 4001(a)(14) or 4001(b)(1) of ERISA.

(b) KEC has delivered to ECF: (i) correct and complete copies of all documents setting forth the terms of each KEC Employee Plan, including all amendments thereto and all related trust documents; (ii) the three most recent annual reports (Form Series 5500 and all schedules and financial statements attached thereto), if any, required under ERISA or the Code in connection with each KEC Employee Plan; (iii) the most recent summary plan description together with the summaries of material modifications thereto, if any, required under ERISA with respect to each KEC Employee Plan; (iv) all material written contracts relating to each KEC Employee Plan, including administrative service agreements and group insurance contracts; (v) all correspondence to or from any Governmental Authority relating to any KEC Employee Plan; and (vi) the most recent IRS determination or opinion letter issued with respect to each KEC Employee Plan intended to be qualified under Section 401(a) of the Code.

(c) KEC and the KEC Affiliate have complied, and currently are in compliance, both as to form and operation, in all material respects, with the terms of each KEC Employee Plan and all applicable provisions of ERISA and each other Legal Requirement with respect to each of the KEC Employee Plans. Each KEC Employee Plan intended to qualify under Section 401 of the Code has received a favorable determination letter as to its qualification, and nothing has occurred that would reasonably be expected to result in the revocation of such qualification or that would adversely affect KEC's ability to submit a timely request for and to obtain an updated determination letter or opinion letter from the IRS that each plan is currently so qualified. Each KEC Employee Plan intended to comply with Section 403(b) of the Code has been operated in material compliance with Section 403(b) of the Code. All amendments required to be adopted before the effective dates for any such KEC Employee Plan to continue to be qualified have been or will be duly and timely adopted. No "prohibited transaction," within the meaning of Section 4975 of the Code or Sections 406 and 407 of ERISA, and not otherwise exempt under Section 408 of ERISA, has occurred with respect to any KEC Employee Plan, and, neither KEC, nor, to KEC's Knowledge, any other fiduciary (within the meaning of Section 3(21) of ERISA) of any KEC Employee Plan subject to Part 4 of Title I of ERISA has committed a breach of fiduciary duty that could subject KEC to any liability. None of KEC, the KEC Affiliate nor any ERISA Affiliate has ever incurred any penalty or tax with respect to any KEC Employee Plan under Section 502(i) of ERISA or Sections 4975 through 4980 of the Code. All contributions to, and payments from, each KEC Employee Plan which may have been required to be made in accordance with the terms of any such KEC Employee Plan and, where applicable, the Legal Requirements which govern such KEC Employee Plan, have been made in a timely manner. All material reports, Tax Returns and similar documents with respect to any KEC Employee Plan required to be filed with any Governmental Authority or distributed to any KEC Employee Plan participant have been duly filed on a timely basis or distributed. To KEC's Knowledge, there are no pending investigations by any Governmental Authority involving or relating to any KEC Employee Plan, no threatened or pending claims (except for claims for benefits payable in the normal operation of the KEC Employee Plans), suits or proceedings against any KEC Employee Plan or asserting any rights or claims to benefits under any KEC Employee Plan which could give rise to a liability of KEC or the KEC Affiliate, nor, to KEC's Knowledge, are there any facts that could give rise to any such liability in the event of any such investigation, claim, suit or proceeding. No notice has been received by KEC or the KEC Affiliate of any complaints or other proceedings of any kind involving KEC or the KEC Affiliate or any of the employees of any of them before any Governmental Authority relating to any KEC Employee Plan.

(d) With respect to each KEC Employee Plan which is an employee welfare benefit plan (within the meaning of Section 3(1) of ERISA), all claims incurred by KEC are (i) insured pursuant to a contract of insurance (that does not provide for any retrospective premium adjustments) whereby the insurance company bears any risk of loss with respect to such claims, (ii) covered under a contract with a health maintenance organization pursuant to which such health maintenance organization bears the liability for claims, or (iii) reflected as a liability or accrued for on the KEC Financial Statements.

(e) Reserves maintained by KEC or the KEC Affiliate and transferred to ECF at the Effective Time for liabilities associated with self-funded employee benefit plans

maintained by KEC or the KEC Affiliate for employees of KEC or the KEC Affiliate are sufficient to fund all liabilities for which they were reserved.

(f) None of KEC, the KEC Affiliate nor any ERISA Affiliate has ever sponsored, maintained, contributed to, or otherwise had any liability (contingent or otherwise) with respect to an employee benefit plan within the meaning of Section 3(3) of ERISA that is (i) a multiemployer plan within the meaning of Section 3(37) of ERISA, (ii) subject to Section 302 of ERISA, Title IV of ERISA, or Code Section 412, or (iii) sponsored by more than one employer within the meaning of Sections 4063 or 4064 of ERISA or Section 413(c) of the Code.

(g) With respect to each KEC Employee Plan, KEC has complied with (i) the applicable health care continuation and notice provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985 ("**COBRA**") and the regulations (including proposed regulations) thereunder, (ii) the applicable requirements of the Family Medical and Leave Act of 1993 and the regulations thereunder, and (iii) the applicable requirements of the Health Insurance Portability and Accountability Act of 1996 and the regulations thereunder.

(h) No KEC Employee Plan provides medical, health, dental or life benefits (whether or not insured), after an employee's termination of employment other than COBRA continuation coverage and other than coverage required by applicable Legal Requirements, the full cost of which is borne by the former employee and/or his or her qualified beneficiaries. There are no Liens imposed on KEC's or the KEC Affiliate's assets under ERISA and no act or omission has occurred that could result in such Liens.

(i) The execution of, and performance of the transactions contemplated in, this Agreement will not constitute an event under any KEC Employee Plan that will or may result in any payment (whether of severance pay or otherwise), acceleration, forgiveness of indebtedness, vesting, distribution, increase in benefits or obligation to fund benefits with respect to any officers or employees.

(j) To the extent that any KEC Employee Plan constitutes a "non-qualified deferred compensation plan" within the meaning of Section 409A of the Code, such KEC Employee Plan has been operated in good faith compliance with Section 409A of the Code. No options or other equity grants are subject to Section 409A of the Code.

(k) Neither KEC nor the KEC Affiliate has made any payments, nor has been nor is a party to any Contract or plan that could result in it making payments that would be considered an "excess benefit transaction" within the meaning of Code Section 4958.

5.17 No Litigation.

(a) Except as disclosed on ***KEC Schedule 5.17(a)***, there are no suits, actions, proceedings or investigations pending, or to KEC's Knowledge, threatened against or affecting (w) KEC or the KEC Affiliate or any of their respective properties, assets, operations or businesses or (x) any officer, director or employee of KEC or the KEC Affiliate relating to KEC or the KEC Affiliate or any of their respective properties, assets, operations, or businesses that have not been satisfied or resolved. KEC does not have Knowledge of any grounds on which any suit, action, proceeding or investigation of the nature described in this ***Section 5.17(a)*** might

be commenced with any reasonable likelihood of success. There is no Order continuing against or affecting (y) KEC or the KEC Affiliate or any of their respective properties, assets, operations, or businesses or (z) any officer, director, or employee of KEC or the KEC Affiliate relating to KEC or the KEC Affiliate or any of their respective properties, assets, operations, or businesses that have not been satisfied or resolved. There are no unsatisfied judgments against KEC or the KEC Affiliate and neither KEC nor the KEC Affiliate is in default under any Order.

(b) Except as disclosed on ***KEC Schedule 5.17(b)***, there are no pending appeals, challenges, disciplinary, or corrective actions, or disputes involving applicants to (or current members of) KEC's or the KEC Affiliate's staff.

5.18 Compliance with Laws. Each of KEC and the KEC Affiliate has complied in all material respects with all Legal Requirements applicable to KEC or KEC Affiliate or applicable to the ownership, operation, or conduct of the KEC System during the past three years. Except as disclosed on ***KEC Schedule 5.18***, neither KEC nor the KEC Affiliate has received any communication from any Governmental Authority that alleges that KEC or the KEC Affiliate is in violation of any Legal Requirement applicable to KEC or the KEC Affiliate or applicable to the ownership, operation, or conduct of the KEC System. Neither KEC nor the KEC Affiliate is delinquent in filing any report with any Governmental Authority.

5.19 Taxes. Concerning Taxes:

(a) Except as disclosed on ***KEC Schedule 5.19(a)***, all Tax Returns required to be filed by KEC or the KEC Affiliate with any taxing authority have been duly filed on a timely basis in accordance with all applicable Legal Requirements;

(b) At the time of their filing, all such Tax Returns were complete and correct in all material respects;

(c) All Taxes required to be paid by or on behalf of KEC or the KEC Affiliate on or before the date of this Agreement have been paid, and the reserves for Taxes reflected in the KEC Audited Financial Statements are adequate to cover all Taxes that have not been paid through the KEC Interim Financial Statement Date and for all prior periods, whether or not disputed;

(d) Neither KEC nor the KEC Affiliate has executed or filed with the IRS or any other taxing authority any agreement extending the period for filing any Tax Return;

(e) Neither KEC nor the KEC Affiliate has received notice of a claim for assessment or collection of Taxes, and none of them is a party to any pending action, proceeding, audit or investigation by any Governmental Authority or any other taxing authority for the assessment or collection of Taxes;

(f) No waivers of statutes of limitations in respect of any Tax Returns have been given by KEC or the KEC Affiliate and none of them have agreed to any extension of time with respect to a Tax assessment or deficiency;

(g) There are no Liens for Taxes on any of KEC's or the KEC Affiliate's assets, except Liens for Taxes not yet due for current Tax periods ending after the date of this Agreement;

(h) All Taxes arising from sales by KEC or the KEC Affiliate have been properly collected and accounted for by KEC or the KEC Affiliate, and each of KEC and the KEC Affiliate has made all required reports of sales and use Taxes with the appropriate Governmental Authority or any other taxing authorities;

(i) Except as disclosed on ***KEC Schedule 5.19(i)***, none of the Tax Returns of KEC or the KEC Affiliate are the subject of an audit by any Governmental Authority or any other taxing authority; and

(j) Since the KEC Audited Financial Statement Date, neither KEC nor the KEC Affiliate has engaged in any activity that would cause KEC or the KEC Affiliate to incur any unrelated business taxable income within the meaning of the Code.

5.20 Licenses, Permits, and Certifications. Each of KEC and the KEC Affiliate possess all Permits necessary to the conduct of the KEC System, all of which are listed and described in ***KEC Schedule 5.20***. True and correct copies of all such items have previously been made available to ECF. ***KEC Schedule 5.20*** identifies all such items which are not transferable or which require a Consent to transfer from a third Person. Each of KEC and the KEC Affiliate is in compliance with all of the Permits it holds. All Permits of KEC and the KEC Affiliate, including all Permits that are required for the operation of the KEC System, are validly held and in full force and effect, and each of KEC and the KEC Affiliate has complied with all requirements in connection therewith and will not be subject to suspension, modification or revocation as a result of this Agreement or the consummation of the transactions contemplated hereby, except as disclosed on ***KEC Schedule 5.20***. No notice from any Governmental Authority with respect to any threatened, pending, or possible revocation, termination, suspension, or limitation of any such Permits has been received by KEC or the KEC Affiliate, nor to KEC's Knowledge, is there any proposed or threatened issuance of such notice. Any such Permits that have expired or would expire prior to or as of the Effective Time, shall have been renewed prior to the Closing Date.

5.21 Suppliers and Customers. To KEC's Knowledge:

(a) No supplier or vendor intends to cease providing materials, products or services to KEC or the KEC Affiliate, or to limit or reduce its sales to KEC or the KEC Affiliate, or to materially increase its prices to KEC or the KEC Affiliate or materially and adversely change its terms of sale to KEC or the KEC Affiliate including as a result of the transactions contemplated by this Agreement; and

(b) No customer of the KEC System intends to terminate, limit or reduce its purchases from KEC or the KEC Affiliate or materially alter its pricing or terms of business that it is presently conducting with KEC or the KEC Affiliate including as a result of the transactions contemplated by this Agreement.

5.22 Capital Expenditures. ***KEC Schedule 5.22*** accurately sets forth the total and by entity amounts of capital expenditures currently planned to be incurred by KEC and the KEC Affiliate during the balance of the current calendar year. Except as disclosed on ***KEC Schedule 5.22***, to KEC's Knowledge, no condition or state of facts exists which will require ECF to make any material capital expenditure to replace worn-out or obsolete Equipment now used in the KEC System in the current calendar year to exceed the amount planned for capital expenditures by each of KEC and the KEC Affiliate for such period.

5.23 Business Names. Except as disclosed on ***KEC Schedule 5.23***, within the past five years, neither KEC nor the KEC Affiliate has used any business name other than its present corporate name. During the same period, neither KEC nor the KEC Affiliate has had a principal business address other than the addresses disclosed on ***KEC Schedule 5.23***.

5.24 Brokers. No broker, finder, investment banker, financial advisor, consultant or other Person, is entitled to any commission or fee in connection with the origin, negotiation or consummation of the transactions contemplated by this Agreement made by or on behalf of KEC or the KEC Affiliate. Neither KEC nor the KEC Affiliate is a party to any Contract with any broker, finder, investment banker, or other financial advisor, under which ECF is or could be liable for the payment of any commission or fee in connection with the origin, negotiation or consummation of the transactions contemplated by this Agreement made by or on behalf of KEC or the KEC Affiliate.

5.25 Members. There are no "members" of KEC or the KEC Affiliate within the meaning of Section 5056 of the California Corporations Code, and no Person or entity has control of or control rights with respect to KEC or the KEC Affiliate.

5.26 Health Facility. Neither KEC nor the KEC Affiliate operate or control a "health facility" as defined in Section 1250 of the California Health and Safety Code, or operate or control a facility that provides similar health care services.

5.27 Delivery of Due Diligence Materials. KEC has provided all documents requested of it in writing by ECF, and has not omitted any material item so requested.

ARTICLE VI.

REPRESENTATIONS AND WARRANTIES OF ECF

The truth, accuracy and completeness of ECF's representations and warranties contained in this Agreement shall be conditions precedent to KEC's obligation to close under this Agreement in accordance with and to the extent provided in Section 8.3(a); provided, however, that KEC shall have no obligation to investigate the truth, accuracy, or completeness of said representations, warranties, and covenants. As an inducement to KEC to enter into this Agreement and to consummate the transactions contemplated hereby, subject to the exceptions disclosed on the ECF Schedule, ECF hereby represents and warrants to KEC as to the following matters, and, except as otherwise provided herein, shall be deemed to remake all of the following representations, warranties, and covenants as of the Effective Time:

6.1 Organization and Good Standing. ECF is a California nonprofit public benefit corporation, duly organized, validly existing, and in good standing under the laws of the State of California. ECF has the full corporate power and authority to own, lease, and operate its properties, to carry on its business as it is now being conducted, and to enter into and perform its obligations under this Agreement. ECF has delivered to KEC true and complete copies of its Articles of Incorporation and Bylaws, in each case as amended to date and in effect on the date hereof. ECF is not in violation of its respective Articles of Incorporation or Bylaws, in each case as amended to date and in effect on the date hereof. ECF's Articles of Incorporation irrevocably dedicate ECF's assets and properties to a charitable purpose as required by Section 6010 of the California Corporations Code.

6.2 No Subsidiaries. Except as disclosed on ***ECF Schedule 6.2***, ECF has no subsidiaries, directly or indirectly, nor does it own, of record or beneficially, directly or indirectly, any stock of, or any other equity or debt interest or investment in or any right (contingent or otherwise) to acquire, any Person. ECF is not obligated to make, nor bound by any Contract or other obligation to make, any investment in or capital contribution to or on behalf of any other Person, and ECF is not a party to any joint venture.

6.3 Tax-Exempt Status. ECF is an organization described in Section 501(c)(3) of the Code, exempt from federal income tax under Section 501(a) of the Code, except with respect to unrelated business taxable income, and, except as disclosed in writing to KEC, is not a private foundation under Section 509(a) of the Code and has taken all necessary steps to maintain such status. ECF has not received any notice from representatives of the IRS to the effect that its exemption under Section 501(c)(3) of the Code has been revoked or modified, or that the IRS is considering revoking or modifying such exemption.

6.4 Authority. ECF has the full corporate right, power, legal capacity, and authority to enter into, execute, deliver, and perform its obligations under the terms of this Agreement and all documents and agreements necessary to give effect to the provisions of this Agreement to which ECF is a party (the "**ECF Ancillary Documents**") and to consummate the transactions contemplated hereby. All corporate and other actions required to be taken by ECF to authorize the execution, delivery, and performance of this Agreement, the ECF Ancillary Documents, and all transactions contemplated hereby have been duly and properly taken or obtained.

6.5 Validity. This Agreement and the ECF Ancillary Documents have been duly executed and delivered (except for such ECF Ancillary Documents which, pursuant to a reasonable interpretation of this Agreement, may be executed and delivered after the date hereof, which shall have been executed and delivered at or prior to the Closing Date or prior to the Effective Time, as applicable and in accordance with the terms of this Agreement (the "**Post-Signing ECF Ancillary Documents**")) by ECF to KEC and (assuming due authorization, execution and delivery by each of KEC and the KEC Affiliate), this Agreement and the ECF Ancillary Documents constitute, and upon its execution of the Post-Signing ECF Ancillary Documents shall constitute, the lawful, valid, and legally binding obligations of ECF, enforceable in accordance with their respective terms except as limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting the rights of creditors generally and (ii) the effect of rules of law and general principles of equity, including

rules of law and general principles of equity governing specific performance, injunctive relief and other equitable remedies (regardless of whether such enforceability is considered in a proceeding in equity or at law).

6.6 Consents and Approvals. Except as disclosed on ***ECF Schedule 6.6***, no Consent, or other action of or by any Governmental Authority or other Person is required to be obtained by ECF in connection with the execution, delivery, or performance of this Agreement, the ECF Ancillary Documents, the Post-Signing ECF Ancillary Documents, or the consummation of the Merger (the "**ECF Consents**"). ECF shall be responsible for and shall take any and all steps necessary, at its sole expense, to obtain all ECF Consents prior to the Closing Date, and with respect to the following Consents, work jointly with KEC to obtain such Consents as soon as practicable on or after the Closing Date:

(i) such filings with the Attorney General of the State of California as required by Sections 6010(a) and (b) of the California Corporations Code, including the Certificates of Approval and Agreement of Merger; and

(ii) any filing with the IRS as required by the Code, including filing the Form 990 no later than the date due.

6.7 No Conflict. Except as disclosed on ***ECF Schedule 6.7***, the execution and delivery of this Agreement, the ECF Ancillary Documents, and the Post-Signing ECF Ancillary Documents by ECF and the consummation of the transactions contemplated hereby will not, with or without the giving of notice and/or the passage of time:

(a) violate or conflict with the Articles of Incorporation or Bylaws, each as amended to date and in effect on the date hereof, of ECF;

(b) violate or conflict with any Legal Requirement to which ECF is subject; or

(c) result in the breach or termination of any provision of, or create rights of acceleration, amendment, suspension, revocation, or constitute a default under, or result in the creation of a Lien on any of the properties or assets of ECF pursuant to, any provision of any employee benefit plan of, Contract binding upon, or Permit held by ECF which would reasonably be expected to have a Material Adverse Effect with respect to ECF or the ECF System.

6.8 Financial Statements. ECF has previously provided to KEC true and complete copies of (i) the audited consolidated statement of financial position of ECF and the ECF Affiliate for the years ended June 30, 2006 and June 30, 2005, and the related consolidated statements of activities, functional expenses and cash flows for such years then ended (together, the "**ECF Audited Financial Statements**") and (ii) the preliminary unaudited statement of financial position of ECF for the year ended June 30, 2007, and the related statement of activities for such period then ended (together with the ECF Audited Financial Statements, the "**ECF Financial Statements**"). The ECF Audited Financial Statements were audited by ECF's independent certified public accountant. The ECF Financial Statements are true, complete and correct in all material respects, were prepared in accordance with GAAP and fairly present the

financial position and results of operations of ECF (and with respect to the ECF Audited Financial Statements, the ECF Affiliate) as of and for the dates and periods shown thereon.

6.9 Absence of Changes. Except as disclosed on ***ECF Schedule 6.9***, since June 30, 2006, there has not been:

(a) any adverse change in the assets, properties, financial condition, operations, results of operations, or business of ECF which has had, or could reasonably be expected to have, a Material Adverse Effect with respect to ECF or the ECF System;

(b) any loss or destruction of or damage to any of the assets of ECF, whether or not covered by insurance, that has had, or could reasonably be expected to have, a Material Adverse Effect with respect to ECF or the ECF System;

(c) any general labor dispute between ECF and its employees;

(d) any sale, transfer, pledge, lease, license or other disposition of any material portion of any of the material assets of ECF;

(e) any Lien incurred on any of the assets of ECF;

(f) any waiver or release of any material rights or claims of ECF;

(g) any additional Indebtedness of ECF incurred, other than by way of additional interest accruing thereon;

(h) any loss of or challenge to the tax exempt status of ECF, the failure to pay withholding taxes for the employees of ECF, or loss of any material license, or any adverse notice or information concerning the material funding sources of ECF;

(i) any increase or agreement to increase the wages, salaries, compensation, pension or other benefits payable to any employee of ECF other than in the ordinary course of business and in accordance with the normal compensation and benefits policies of the respective employer, or granting any severance or termination pay, or entering into any employment, severance or consulting agreement or arrangement with any officer, employee, independent contractor or other Person currently or previously affiliated with ECF that is not terminable by ECF without cause and without penalty;

(j) any bonus or other special compensation paid to any employee or other Person currently or previously affiliated with ECF;

(k) any merger or consolidation with or acquisition of the business of any other Person or, except in the ordinary course of business, acquisition of any material property or material assets of any other Person;

(l) any capital expenditure or commitment to make any capital expenditure other than in the ordinary course of business;

(m) any amendment or modification or Consent to the termination (other than by expiration pursuant to the terms thereof as of the date hereof) of any material contract binding on ECF or any of ECF's rights thereunder;

(n) any lapse or termination, or failure to renew by ECF of any permit or insurance policy that was issued or relating to ECF or the ECF System;

(o) any material change in the accounting method or accounting practice or policy used by ECF; or

(p) agreement by ECF to do any of the things described in the preceding clauses (a) through (o).

6.10 No Litigation.

(a) Except as disclosed on ***ECF Schedule 6.10(a)***, there are no suits, actions, proceedings or investigations pending, or to ECF's Knowledge, threatened against or affecting (w) ECF or any of its properties, assets, operations or businesses or (x) any officer, director or employee of ECF relating to ECF or any of its properties, assets, operations, or businesses that have not been satisfied or resolved. ECF does not have Knowledge of any grounds on which any suit, action, proceeding or investigation of the nature described in this ***Section 6.10(a)*** might be commenced with any reasonable likelihood of success. There is no Order continuing against or affecting (y) ECF or any of its properties, assets, operations, or businesses or (z) any officer, director, or employee of ECF relating to ECF or any of its properties, assets, operations, or businesses that have not been satisfied or resolved. There are no unsatisfied judgments against ECF and ECF is not in default under any Order.

(b) Except as disclosed on ***ECF Schedule 6.10(b)***, there are no pending appeals, challenges, disciplinary, or corrective actions, or disputes involving applicants to (or current members of) ECF's staff.

6.11 Delivery of Due Diligence Materials. ECF has provided all documents requested of it in writing by KEC, and has not omitted any material item so requested.

ARTICLE VII.

OBLIGATIONS OF ECF AND KEC

7.1 Pre-Merger Obligations of ECF and KEC. Each Party (and with respect to KEC, on behalf of KEC and the KEC Affiliate) covenants that:

(a) From the date hereof until the earlier of the Effective Time or the termination of this Agreement, the other Party and their counsel, accountants, and other representatives shall have reasonable access during normal business hours to all of its assets, properties, books, accounts, records, employees, Contracts, donors, documents and other information of or relating to it. It shall furnish or cause to be furnished to the other Party and

their representatives all information concerning its condition (financial or otherwise), liabilities, assets, properties, business, operations and prospects that the other Party may reasonably request.

(b) From the date hereof until the earlier of the Effective Time or the termination of this Agreement, it will carry on its business and activities diligently and in substantially the same manner as they previously have been carried out. Except as specifically permitted in writing by the other Party (which approval, with respect to conduct in furtherance of the business of the KEC System or the ECF System, as applicable, being conducted as of the date of this Agreement, shall not be unreasonably withheld, conditioned or delayed so long as it relates to the business of the KEC System or the ECF System, as applicable, as currently conducted), permitted, contemplated by, or required by this Agreement or required by any Legal Requirement, it shall: (i) operate the ECF System or KEC System, whichever is applicable, in the ordinary course consistent with past practices and use reasonable best efforts to preserve its assets and relationships with its suppliers, customers and employees; (ii) maintain and keep all of its business books, records, accounts, files, records, Contracts and other documents and information in the ordinary course of business consistent with past practices; (iii) (A) not hire any new or additional officers, and (B) not hire any new employees or independent contractors or change the terms of employment for any current officers, directors, employees or independent contractors so as to materially increase any such Person's compensation or benefits, in each case, other than in the ordinary course of business and consistent with past practice; (iv) not change, amend or otherwise modify any benefit plan (including any of the KEC Employee Plans) except as may be required by any Legal Requirement; (v) not incur any material liability; (vi) not take or omit to take any action that would cause it to be in breach of any of its representations or warranties in this Agreement; and (vii) and neither KEC nor the KEC Affiliate shall authorize, cause, agree to take, or take any action described in Section 5.10 and ECF shall not authorize, cause, agree to take, or take any action described in Section 6.9. Any Party which intends to act inconsistently with any covenant or negative covenant listed in ***Section 7.1(b)(i – vii)*** because such action is specifically permitted in writing by the other Party, permitted, contemplated, or required by this Agreement or required by any Legal Requirement, shall, if practicable, first inform the other Party of such action prior to taking such action. Notwithstanding the foregoing, no such written Consent or prior notice shall be required to be given by KEC to ECF for any such actions taken (or to be taken) listed in ***Section 7.1(b)(i – vii)*** by any employee of ECF who is leased to KEC pursuant to that certain Employee Leasing Agreement, dated as of the date hereof, substantially in the form attached hereto as ***Exhibit 7.2(a)***, in his or her capacity as a leased employee to KEC and acting in accordance therewith unless acting at the direction of the KEC Board, and no written approval shall be required to be given by ECF to KEC for any such actions.

(c) From the date hereof until the earlier of the Effective Time or the termination of this Agreement, it will use its reasonable best efforts to preserve its business organization, insurance coverage, its Contracts and its present relationships with its employees, suppliers, customers, contributors, donors, clients, and others having business relationships with it.

(d) From the date hereof until the earlier of the Effective Time or the termination of this Agreement, it will use commercially reasonable efforts to obtain (i) the Consent of all Persons from whom such approval, authorization, or Consent is required to

consummate the Merger contemplated by this Agreement or otherwise pertaining to the matters covered by it and (ii) the Consent of all material contributors to the change in beneficiary of any funds held in trust.

(e) From the date hereof until the earlier of the Effective Time or the termination of this Agreement, it shall promptly notify the other Party in writing if it becomes aware of (i) any fact or condition that causes or constitutes a breach of any of its representations and warranties made as of the date of this Agreement or (ii) the occurrence after the date of this Agreement of any fact or condition that would or be reasonably likely to (except as expressly contemplated by this Agreement) cause or constitute a breach of any such representation or warranty had that representation or warranty been made as of the time of the occurrence of, or its discovery of, such fact or condition. Should any such fact or condition require any change to its disclosure schedules, it shall promptly deliver to the other Party a supplement to its disclosure schedules specifying such change. Such notification or delivery shall not affect any rights of the other Party under this Agreement. During the same period, it also shall promptly notify the other Party of the occurrence of any breach of any covenant of it in this ***Section 7.1*** or of the occurrence of any event that may make the satisfaction of the conditions in ***Article VIII*** impossible or unlikely.

(f) From and after the date of this Agreement until the Effective Time, it will use its best efforts to maintain its status of being exempt from federal income tax as an organization qualifying under Section 501(c)(3) of the Code.

(g) *Cooperation.* After the date hereof and prior to the Effective Time, representatives from each of ECF and KEC shall:

(i) file written notice of the Merger with the Attorney General of California in compliance with Sections 6010(a) and (b) of the California Corporations Code;

(ii) continue joint review of the benefit plans, insurance policies, and other Contracts of each of ECF, KEC and the KEC Affiliate and agree on what the scope, coverage, and other such details shall be with respect to ECF (and the KEC Affiliate) on and after the Effective Time.

(iii) continue joint planning efforts for implementation of the Merger, including the joint decision making as to any material leases, Contracts or purchases of each of ECF, KEC and the KEC Affiliate on a going-forward basis; and

(iv) jointly develop a press release to publicly announce the consummation of the Merger and other communications to vendors, users of the Parties' products and services, employees and donors.

7.2 Pre-Merger Obligations of KEC. KEC, on behalf of KEC and the KEC Affiliate, covenants that:

(a) Concurrently with the execution of this Agreement, KEC shall deliver to ECF an executed counterpart of that certain Employee Leasing Agreement, dated as of the date hereof, substantially in the form attached hereto as ***Exhibit 7.2(a)***.

(b) On or prior to the Closing Date, KEC shall deliver to ECF:

(i) copies of the resignations of those members of the KEC Board set forth on ***Exhibit 7.2(b)(i)*** to this Agreement, such resignations to be contingent upon the Closing and effective as of the Effective Time;

(ii) a certificate of the Secretary or an Assistant Secretary of each of KEC and the KEC Affiliate, dated as of the Closing Date and certifying on behalf of KEC and the KEC Affiliate, that attached thereto is a true, correct and complete copy of the Articles of Incorporation and Bylaws of each of KEC and the KEC Affiliate as in effect on the date of such certification;

(iii) a certificate of the Secretary or an Assistant Secretary of KEC, dated as of the Closing Date and certifying on behalf of KEC: (1) that attached thereto is a true, correct and complete copy of all resolutions adopted by the KEC Board (and any committees thereof), authorizing the execution, delivery and performance of this Agreement, the KEC Ancillary Documents and the Post-Signing KEC Ancillary Documents and that all such resolutions are in full force and effect; and (2) the incumbency and specimen signature of all officers of KEC executing this Agreement, the KEC Ancillary Documents and the Post-Signing KEC Ancillary Documents and any certificate or instrument furnished pursuant hereto, and a certification by another officer of KEC as to the incumbency and signature of the officer signing the certificate referred to in this clause (2);

(iv) a certificate of the Secretary or an Assistant Secretary of the KEC Affiliate, dated as of the Closing Date and certifying on behalf of the KEC Affiliate: (1) that attached thereto is a true, correct and complete copy of all resolutions adopted by the KEC Affiliate Board (and any committees thereof), (A) authorizing the execution, delivery and filing with the Secretary of State of the State of California, if necessary, of the Articles of Incorporation and the Bylaws of the KEC Affiliate as amended and restated in accordance with ***Section 2.4(k)*** and ***Section 2.4(l)***, respectively, and upon request by ECF any other documents and instruments and take any actions desirable or necessary to vest in ECF the title to and possession of all rights, properties, assets, trusts and businesses of KEC and the KEC System as of the Effective Time or otherwise to carry out the full intent and purpose of this Agreement and (B) appointing those Persons set forth on ***Exhibit 2.4(f)(ii)*** to this Agreement to the KEC Affiliate Board, such appointments to be contingent on the Closing and to become effective as of the Effective Time and such members shall serve in accordance with, and in such capacities, as provided by resolution of ECF until changed after the Effective Time in accordance with any resolution of ECF (as the KEC Affiliate's sole member) and, with respect to clauses (A) and (B), that all such resolutions are in full force and effect; and (2) the incumbency and specimen signature of all officers of the KEC Affiliate executing this Agreement, the KEC Ancillary Documents and the Post-Signing KEC Ancillary Documents, if any, and any certificate or instrument furnished pursuant hereto, and a certification by another officer of the KEC Affiliate as to the incumbency and signature of the officer signing the certificate referred to in this clause (2); and

(v) copies of the Articles of Incorporation and Bylaws of the KEC Affiliate as amended and restated in accordance with ***Section 2.4(k)*** and ***Section 2.4(l)***,

respectively, and the KEC Affiliate Power of Attorney, substantially in the form attached hereto as ***Exhibit 7.2(b)(v)***, duly executed by the parties thereto.

(c) As soon as practicable after the execution of this Agreement, in accordance with any regulatory agreement between the KEC Affiliate and any Governmental Authority and subject to any notification or consent requirements as with respect to any Governmental Authority, and prior to the Closing if practicable, KEC shall cause the KEC Affiliate to (i) appoint those persons set forth on ***Exhibit 2.4(f)(ii)*** to the KEC Affiliate Board, (ii) file with the Secretary of State of the State of California an amendment to the Articles of Incorporation of the KEC Affiliate appointing KEC as the sole member of the KEC Affiliate, and (iii) amend the Bylaws of the KEC Affiliate to appoint KEC as the sole member of the KEC Affiliate with the power to appoint the KEC Affiliate Board.

(d) *Insurance*. Prior to and contingent upon the Closing, KEC shall, at its sole cost and expense, purchase an extended reporting period endorsement under KEC's existing directors' and officers' liability insurance coverage for the KEC directors and officers that shall provide such directors and officers with coverage for three (3) years following the Effective Time of not less than the existing coverage under, and have other terms not materially less favorable to, the insured persons than the directors' and officers' liability insurance coverage presently maintained by KEC.

(e) *Termination of Certain Pre-Closing Agreements*. Prior to the Closing, KEC shall provide to ECF executed counterparts of that certain (i) Kayne Family Agreement, substantially in the form attached hereto as ***Exhibit 7.2(e)(i)***, evidencing the fact that that certain Kayne Pledge Agreement, dated on or about February 2000, by and between KEC, on the one hand, and Jerry Kayne, Richard and Suzanne Kayne, Husband and Wife, and Fred and Lenore Kayne, Husband and Wife, on the other hand, is terminated and of no further force and effect, and (ii) Archerd Agreement, substantially in the form attached hereto as ***Exhibit 7.2(e)(ii)***, evidencing the fact that that certain Agreement with Respect to the Army Archerd Tribute Dinner, April 26, 2002, for the Benefit of the Kayne-Eras Center, dated as of February 8, 2002, by and between Army Archerd and Selma Archerd and KEC, is terminated and of no further force and effect, each of subparagraphs (i) and (ii), duly executed by the parties thereto and contingent upon the Closing and effective as of the Effective Time.

7.3 Pre-Merger Obligations of ECF. ECF covenants that

(a) Concurrently with the execution of this Agreement, ECF shall deliver to KEC an executed counterpart of that certain Employee Leasing Agreement, dated as of the date hereof, substantially in the form attached hereto as ***Exhibit 7.2(a)***.

(b) On or prior to the Closing Date, ECF shall deliver to KEC:

(i) a certificate of the Secretary or an Assistant Secretary of ECF, dated as of the Closing Date and certifying on behalf of ECF, that attached thereto is a true, correct and complete copy of the Articles of Incorporation and Bylaws of ECF as in effect on the date of such certification; and

(ii) a certificate of the Secretary or an Assistant Secretary of ECF, dated as of the Closing Date and certifying on behalf of ECF: (1) that attached thereto is a true, correct and complete copy of all resolutions adopted by the ECF Board (and any committees thereof), (A) authorizing the execution, delivery and performance of this Agreement, the ECF Ancillary Documents and the Post-Signing ECF Ancillary Documents (including the execution, delivery and filing with the Secretary of State of the State of California, if necessary, of the Articles of Incorporation and the Bylaws of ECF as set forth on ***Exhibits 2.4(i)*** and ***2.4(j))***, respectively, (B) appointing those Persons set forth on ***Exhibit 7.3(b)(ii)(B)*** to this Agreement to the ECF Board, such appointments to be contingent on the execution by both Parties hereto of this Agreement and to become effective as of such time and such members shall serve in accordance with, and in such capacities, as provided by resolution of the ECF Board until changed in accordance with any resolution of the ECF Board, and (C) appointing those Persons set forth on ***Exhibit 7.3(b)(ii)(C)*** to this Agreement to the ECF Board, such appointments to be contingent on the Closing and to become effective as of the Effective Time and such members shall serve in accordance with, and in such capacities, as provided by resolution of the ECF Board until changed in accordance with any resolution of the ECF Board and, with respect to clauses (A), (B), and (C), that all such resolutions are in full force and effect; and (2) the incumbency and specimen signature of all officers of ECF executing this Agreement, the ECF Ancillary Documents and the Post-Signing ECF Ancillary Documents and any certificate or instrument furnished pursuant hereto, and a certification by another officer of ECF as to the incumbency and signature of the officer signing the certificate referred to in this clause (2).

(c) *Entry into Certain Pre-Closing Agreements*. Prior to the Closing, ECF shall provide to KEC an executed counterpart of that certain (i) Kayne Family Agreement, substantially in the form attached hereto as ***Exhibit 7.2(e)(i)***, such agreement contingent upon the Closing and effective as of the Effective Time and (ii) Archerd Agreement, substantially in the form attached hereto as ***Exhibit 7.2(e)(ii)***, such agreement contingent upon the Closing and effective as of the Effective Time.

7.4 Post-Merger Obligations of ECF. ECF covenants that:

(a) *Employee Benefits.*

(i) From the Effective Time to the open enrollment date for the ECF Plans, it shall (or shall cause the KEC Affiliate to) continue to provide employee benefits that are, unless otherwise provided for herein, substantially comparable, in the aggregate, to those KEC Plans set forth on ***Exhibit 7.4(a)(i)*** (which shall be updated by the parties hereto as of the Effective time to reflect the KEC Employee Plans as of the Effective Time), for the benefit of the employees of KEC and the KEC Affiliate, set forth on ***Exhibit 7.4(a)(i)*** (which shall be updated by the parties hereto as of the Effective time to reflect the employees of KEC, the KEC Affiliate and the KEC System as of the Effective Time) who continue as employees of KEC and the KEC Affiliate after the Effective Time (the "**Continuing Employees**").

(ii) For all purposes (other than benefit accrual under any defined benefit plan (except for that certain Severance Agreement and Release of All Claims, dated on or about February 27, 2003, by and between Barbara G. Cull and KEC)) under the employee benefit plans of ECF providing benefits to each Continuing Employee after the

Effective Time (the "**ECF Plans**"), except as would result in a duplication of benefits, each Continuing Employee shall be credited with all years of service for which such Continuing Employee was credited before the Effective Time under any similar KEC Employee Plans. In addition, except as restricted by the insurance carriers for the ECF Plans: (i) each Continuing Employee shall, after the Effective Time, be immediately eligible to participate, without any waiting time, in any and all ECF Plans to the extent coverage under such ECF Plan replaces coverage under a comparable KEC Employee Plan in which such Continuing Employee participated immediately before the Effective Time; and (ii) for purposes of each ECF Plan providing medical, dental, disability, pharmaceutical and/or vision benefits to any Continuing Employee, ECF shall, after the Effective Time, cause all pre-existing condition exclusions and actively-at-work requirements of such ECF Plan to be waived for such employee and his or her covered dependents during the portion of the plan year of the KEC Employee Plan ending on the date such employee's participation in the corresponding ECF Plan begins to be taken into account under such ECF Plan for purposes of satisfying all deductible, coinsurance, and maximum out-of-pocket requirements applicable to such employee and his or her covered dependents for the applicable plan year as if such amounts had been paid in accordance with such ECF Plan.

(iii) No officer, director, employee, agent or representative of KEC shall make any communication to employees of KEC regarding any compensation or benefits to be provided after the date hereof without the advance written approval of ECF.

(iv) Notwithstanding anything to the contrary in this ***Section 7.4(a)(iv)***, the Parties expressly acknowledge and agree that (i) this Agreement is not intended to create a Contract between ECF or KEC or the KEC Affiliate on the one hand and any employee of KEC or the KEC Affiliate, on the other hand, and no employee of KEC or the KEC Affiliate may rely on this Agreement as the basis for any breach of contract claim against ECF or KEC or the KEC Affiliate, (ii) nothing in this Agreement shall be deemed or construed to require ECF or KEC or the KEC Affiliate to continue to employ any particular employee of KEC or the KEC Affiliate for any period after the Closing Date, (iii) nothing in this Agreement shall be deemed or construed to limit ECF's right to terminate the employment of any employee of KEC or the KEC Affiliate during any period after the Effective Time, and (iv) nothing in this Agreement shall amend or modify any KEC Employee Plan or other agreement, plan, program, or document unless this Agreement explicitly states that the provision "amends" or "modifies" such KEC Employee Plan or other agreement, plan, program, or document.

(b) *Operations and Services.*

(i) ECF holds its property and operates the ECF System as a nonprofit "public benefit" corporation subject to and consistent with: (i) Section 501(c)(3) of the Code and (ii) applicable Legal Requirements of the State of California regarding nonprofit charitable organizations (collectively with the Code, the "**Charitable Standards**"). With respect to KEC, the KEC Affiliate and the KEC System, including all property and operations that were subject to such Charitable Standards prior to the Merger, ECF shall, after the Effective Time, continue to comply with the Charitable Standards.

(ii) After the Effective Time, ECF will use its good faith effort to continue to operate the KEC System in order to provide special education programs and services to serve the special education needs of the Los Angeles community.

(c) *KE School Advisory Board.* Not later than sixty (60) days after the Effective Time, ECF shall establish an advisory board to perform certain delegated duties related to local operations of the KEC Center (the "**KE School Advisory Board**").

(i) The KE School Advisory Board will comprise individuals nominated by the President and Chief Executive Officer of ECF and appointed by the ECF Board, according to the ECF Bylaws, as amended and restated as provided herein, provided that the President and Chief Executive Officer of ECF shall have determined that each such named member continues to qualify to serve on the KE School Advisory Board and desires to serve as such. The initial KE School Advisory Board shall consist of individuals chosen from those listed on ***Exhibit 7.4(c)(i)*** and appointed by the ECF Board.

(ii) The KE School Advisory Board is expressly not authorized to act as an alternate or secondary fiduciary board to ECF, and its duties and responsibilities are not intended to be, nor shall they be, substitutes for the ECF Board as the fiduciary board of ECF. The KE School Advisory Board is nominated by the President and Chief Executive Officer of ECF and established and appointed by the ECF Board with certain delegated powers. The KE School Advisory Board shall be fully engaged in the support and dissemination of the mission, values and vision of the KEC Center and ECF, and shall advise the President and Chief Executive Officer of ECF with respect to the KEC Center. The KE School Advisory Board will serve in an advisory capacity to the President and Chief Executive Officer of ECF with respect to the KEC Center's budget and educational program.

(d) *Name.* After the Effective Time, the existing (and future) K-12 educational program (which includes education-related individualized therapy and K-12 educational instruction for individuals with developmental, learning and emotional disabilities) will be named the "Kayne Eras School" in any geographical location, and the ECF educational therapy program will be named the "Cull Educational Therapy Program," or such other names as mutually agreed to by the Parties. The building located at 5350 Machado Road, Culver City, California shall be named the "Kayne Eras Center".

(e) *KEC Affiliate.* As of the Effective Time, KEC shall have, or have caused the KEC Affiliate to, take those actions set forth in ***Section 7.2(a)***, ***Section 7.2(b)*** and ***Section 7.2(c)***. Thereafter, ECF may use its management discretion to determine the most efficient organizational model for local operations, which may include the reorganization or discontinuation of the KEC Affiliate. The KEC Affiliate Board shall be self nominating, with appointments made by ECF (as the KEC Affiliate's sole member), which shall not be unreasonably withheld or delayed; provided, however, that a nominee may be rejected in ECF's sole discretion. If a nominee is rejected, the KEC Affiliate Board may nominate a different Person until all appointments are made by ECF, in accordance with the Articles of Incorporation of the KEC Affiliate as amended and restated in accordance with ***Section 2.4(k)***.

(f) *System Services.* After the Effective Time, ECF will, as feasible and where appropriate, integrate the ECF System services with the KEC System. The KEC System will participate in all ECF System services that its size and services make it eligible to participate in, as such system services exist from time to time. The goals of the integration of system services will include cost reduction, operating efficiencies, quality maintenance and improvement, enhanced financial performance, management education and improvement, systems improvements, risk management, compliance, and community benefit.

(g) *Functional Specialists.* After the Effective Time, ECF will, as feasible and where appropriate, provide functional specialists to assist KEC System management by providing expertise to improve operational and financial performance on the same basis as the ECF System.

(h) *Affiliate Documents.* After the Effective Time, ECF shall file the Articles of Incorporation of the KEC Affiliate as amended and restated in accordance with ***Section 2.4(k)*** with the Secretary of State of the State of California.

ARTICLE VIII.

CONDITIONS TO OBLIGATIONS OF ECF AND KEC

8.1 Conditions to the Obligations of ECF and KEC. Each and every obligation of ECF and KEC under this Agreement (including the obligation to consummate the Merger) shall be subject to the satisfaction, on or prior to the Closing Date, and as of the Effective Time, of each of the following conditions, unless waived in writing by ECF and KEC:

(a) *Waiting Period.* The twenty (20) day waiting period (or any extension thereof by the Attorney General of California) following notice of the Merger to the Attorney General of California under Section 6010(b) of the California Corporations Code shall have expired.

(b) *No Proceeding or Litigation.* No preliminary or permanent Order shall be instituted or threatened nor shall there be any Legal Requirement in effect, which would prevent the consummation of the transactions contemplated by this Agreement.

8.2 Conditions to the Obligations of ECF. Each and every obligation of ECF under this Agreement (including the obligation to consummate the Merger) shall be subject to the satisfaction, on or prior to the Closing Date, and as of the Effective Time, of each of the following conditions, unless waived in writing by ECF:

(a) *Representations and Warranties; Performance.* Except as otherwise permitted by this Agreement, all representations and warranties of KEC in this Agreement or in any written statement that shall be delivered by or on behalf of KEC to ECF under this Agreement shall be true, complete, and correct in all respects at and as of the Closing Date and at and as of the Effective Time as though made at such times (except to the extent that such representations and warranties speak as of an earlier date, in which case such representations and warranties shall be made as of such earlier date), except for such

inaccuracies of representations or warranties the circumstances giving rise to which, individually or in the aggregate, do not constitute and could not reasonably be expected to have a Material Adverse Effect with respect to KEC, the KEC Affiliate, or the KEC System. KEC shall have performed, satisfied, and complied in all material respects with all covenants, agreements, and conditions required by this Agreement to be performed, satisfied, or complied with by KEC at or prior to the Closing Date or prior to the Effective Time, as applicable.

(b) *Consents and Approvals*. KEC shall have obtained the KEC Consents and complied with and made all filings required by all applicable Legal Requirements and Orders binding upon KEC or the KEC Affiliate with respect to the consummation of the transactions contemplated herein.

(c) *No Material Adverse Change*. There shall have been no developments or changes with respect to the KEC System since the date of this Agreement which would have a Material Adverse Effect with respect to KEC, the KEC Affiliate or the KEC System.

(d) *Statutory Agreements*. The obligations set forth in ***Section 2.3(a)*** and ***Section 2.3(b)*** shall have been satisfied.

(e) *Legal Opinions*. ECF shall have received a legal opinion issued by Orrick, Herrington & Sutcliffe LLP, stating that the Merger will not cause the interest on the 1995 Series A Insured Revenue Bonds—such bonds issued in conjunction with the refinancing of certain of ECF's property located at 8740 Washington Blvd, Culver City, California 90232—to be included in gross income for federal income tax purposes under Section 103 of the Code.

(f) *Title Insurance for Real Property*. A nationally recognized title company shall have issued to ECF irrevocable commitments to issue ALTA extended coverage owner's policies of title insurance, together with such endorsements as ECF may require, insuring fee title to the Real Property vested in ECF or the KEC Affiliate, as applicable, as of or within 48 hours after the Effective Time, at ECF's responsibility, cost, and expense, subject to:

(i) the standard printed exceptions;

(ii) non-delinquent real property taxes and utility easements; and

(iii) such other matters as ECF may approve in writing.

(g) *Deeds of Trust*. There shall be no mortgages or deeds of trust encumbering or applicable to Real Property except for (i) that certain Deed of Trust on the Real Property located at the KEC Center in favor of Alliance Bank pursuant to that Business Loan Agreement (Loan 50025), dated as of November 11, 2000, as amended, between KEC and Alliance Bank, (ii) that certain Deed of Trust on the Real Property located at the KEC Center in favor of Alliance Bank pursuant to that Business Loan Agreement (Loan 4460), dated as of November 13, 2001, as amended, between KEC and Alliance Bank; (iii) that certain Deed of Trust on the Real Property located at ERAS Home No. 2, the beneficiary of which is The United States of America Acting By and Through The Secretary of Housing and Urban Development

pursuant to that Note, dated as of September 1, 1997, between ERAS Home #2 and The U.S. Department of Housing and Urban Development; and (iv) that certain Deed of Trust on the Real Property located at ERAS Home No. 1, the beneficiary of which is The State of California, Department of Housing and Community Development pursuant to that local assistance loan and grant, granted in 1993, between KEC and The State of California, Department of Housing and Community Development.

(h) *Issuance of Governmental Authorizations.* ECF shall be reasonably satisfied that each of the Permits identified on ***KEC Schedule 5.20*** and any other Permit required for its operation or ownership of the KEC System will be issued or approved without lapse as of the Effective Time or at such other date as may, in ECF's commercially reasonable discretion, be necessary.

(i) *Secretary Certificates.* ECF shall have received certificates executed by the Secretary or an Assistant Secretary of KEC and/or the KEC Affiliate, as applicable, dated as of the Closing Date, to the effect that the obligations set forth in ***Section 7.2*** have been satisfied by KEC and/or the KEC Affiliate, as applicable, on or prior to the Closing Date, as applicable, and that the certificates, instruments, resolutions and all other documents delivered pursuant thereto have not been amended, modified or terminated (except as otherwise pursuant to and in accordance with this Agreement, such exceptions to be stated therein) and are in full force and effect as of the Closing Date.

(j) *Secretary of State of the State of California Certificates.* KEC shall deliver to ECF certificates of the Secretary of State of the State of California, which certificates shall be of a reasonably recent date relative to the Effective Time, as to the due incorporation and good standing of KEC and the KEC Affiliate.

(k) *Closing Certificate.* ECF shall have received a certificate executed by the Interim Executive Director of KEC, dated as of the Closing Date, to the effect that the conditions set forth in ***Section 8.2(a)*** have been satisfied by it at or prior to the Closing Date or shall be satisfied by it prior to the Effective Time, as applicable.

8.3 Conditions to the Obligations of KEC. Each and every obligation of KEC under this Agreement (including the obligation to consummate the Merger) shall be subject to the satisfaction, on or prior to the Closing Date, and as of the Effective Time, of each of the following conditions unless waived in writing by KEC:

(a) *Representations and Warranties; Performance.* Except as otherwise permitted by this Agreement, all representations and warranties of ECF in this Agreement or in any written statement that shall be delivered by or on behalf of ECF to KEC under this Agreement shall be true, complete, and correct in all respects at and as of the Closing Date and at and as of the Effective Time as though made at such times (except to the extent that such representations and warranties speak as of an earlier date, in which case such representations and warranties shall be made as of such earlier date), except for such inaccuracies of representations or warranties the circumstances giving rise to which, individually or in the aggregate, do not constitute and could not reasonably be expected to have a Material Adverse Effect with respect to ECF or the ECF System. ECF shall have performed, satisfied,

and complied in all material respects with all covenants, agreements, and conditions required by this Agreement to be performed, satisfied, or complied with by ECF at or prior to the Closing Date, prior to the Effective Time, or after the Effective Time, as applicable.

(b) *Consents and Approvals.* ECF shall have obtained the ECF Consents and complied with and made all filings required by all applicable Legal Requirements and Orders binding upon ECF with respect to the consummation of the transactions contemplated herein, including the timely filing of the notice of Merger with the Attorney General and the Agreement of Merger or this Agreement with the California Secretary of State.

(c) *Secretary Certificates.* KEC shall have received a certificate executed by the Secretary or an Assistant Secretary of ECF, dated as of the Closing Date, to the effect that the obligations set forth in ***Section 7.3*** have been satisfied by ECF on or prior to the Closing Date, as applicable, and that the certificates, instruments, resolutions and all other documents delivered pursuant thereto have not been amended, modified or terminated (except as otherwise pursuant to and in accordance with this Agreement, such exceptions to be stated therein) and are in full force and effect as of the Closing Date.

(d) *Secretary of State of the State of California Certificates.* ECF shall deliver to KEC certificates of the Secretary of State of the State of California, which certificates shall be of a reasonably recent date relative to the Effective Time, as to the due incorporation and good standing of ECF.

(e) *Closing Certificate.* KEC shall have received a certificate executed by the President and Chief Executive Officer of ECF, dated as of the Closing Date, to the effect that the conditions set forth in ***Section 8.3(a)*** have been satisfied by it at or prior to the Closing Date or shall be satisfied by it prior to or after the Effective Time, as applicable.

ARTICLE IX.

CLOSING

9.1 Time and Place. The closing of the Merger (the "**Closing**") will take place at a date, time and location to be specified by the Parties, which date will be no later than the fifth Business Day after the satisfaction or waiver of the conditions set forth in ***Article VIII***, or at such other date, time and location as the Parties hereto agree (the "**Closing Date**") or, if the Parties mutually so determine, by pre-arranged physical deliveries and custodianships, and by electronic or Internet deliveries, communications, and exchanges effected on the Closing Date, from and among Parties at multiple locations; provided, however, that notwithstanding the foregoing, the Closing will be deemed to occur as of the Effective Time.

9.2 Compliance with Conditions. At the Closing all of the conditions to each Party's obligation to close pursuant to ***Article IX*** shall have been met or waived in writing by the Party that has the benefit of the condition.

ARTICLE X.

OTHER AGREEMENTS OF THE PARTIES

10.1 Best Efforts to Satisfy Conditions. KEC and ECF agree to use their best efforts, and to cause the KEC Affiliate and the ECF Affiliate, as applicable, to use their best efforts, to bring about the satisfaction of the conditions specified in ***Article VIII***.

10.2 Utilities. The Parties will cause all utilities servicing the KEC System, including electricity, water, gas and telephone service, to be transferred to the name of ECF, where applicable, as of the Effective Time.

10.3 Publicity. Except as set forth in ***Section 7.1(g)***, before the Closing, no Party will issue or cause publication of any press release or other public announcement concerning this Agreement or the Merger without the Consent of the other Party.

ARTICLE XI.

TERMINATION

11.1 Termination and Abandonment. This Agreement and the Merger may be terminated and abandoned at any time before the Effective Time:

(a) by the mutual written Consent of ECF and KEC;

(b) by either ECF or KEC upon written notice to the other if there has been a material misrepresentation or other material breach by the other in its representations, warranties or covenants set forth herein; provided, however, that if such misrepresentation or breach is susceptible to cure, the breaching Party will have ten (10) Business Days in which to cure such breach after receiving notice from the other Party of its intention to terminate this Agreement due to such breach if not so cured;

(c) by either Party upon written notice to the other if a Governmental Authority has issued an Order or taken any other action, in any case having the effect of permanently restraining, enjoining or otherwise prohibiting the Merger, which Order or other action is final and nonappealable; or

(d) by either Party upon written notice to the other if any event occurs or condition exists that would render impossible the satisfaction of one or more conditions to the obligations of such Party to consummate the transactions contemplated by this Agreement as set forth in ***Sections 8.1***, with respect to both ECF and KEC, ***8.2***, with respect to ECF, or ***8.3***, with respect to KEC (other than through the failure of the Party providing notice to comply with its obligations under this Agreement), and the condition is not waived by the beneficiary thereof.

11.2 Effect of Termination. Any termination of this Agreement under ***Section 11.1*** will be effective immediately upon the delivery of a written notice of the terminating Party to the other Party hereto (or such later time as may be specified in such notice or as may be

required by ***Section 11.1***). Upon the termination of this Agreement as provided in ***Section 11.1***, this Agreement and all obligations and duties hereunder shall immediately terminate and be of no further force and effect (expressly excepting the duties set out in this ***Section 11.2***, ***Section 12.2***, and ***Section 12.6***, and the duties of confidentiality and return of documents pursuant to and in accordance with the Letter of Intent and as provided below, each of which will survive the termination of this Agreement), and no Party (or its directors, officers, employees or agents) shall be liable to the other Party or any other Person for any cause of action related to the transactions contemplated by this Agreement; provided, however, that the duties of confidentiality and return of documents stated in the Letter of Intent shall remain in full force and effect and shall be enforceable by injunction, damages or otherwise, and such duty of confidentiality shall include confidentiality about the proposed Merger transaction and all of the documents and information pertaining thereto. Upon a termination, all matters that were expressly or impliedly contingent on or resultant from the Merger occurring at the Effective Time shall not be completed or, as applicable, shall be reversed, so that the Parties shall be returned to the *status quo ante*. In furtherance of returning the Parties to the *status quo ante*, upon a termination, each of those persons set forth on ***Exhibit 7.3(b)(ii)(B)*** shall resign from the ECF Board.

ARTICLE XII.

GENERAL PROVISIONS

12.1 Termination of Representations and Warranties. All representations and warranties of the Parties contained in this Agreement, or in any instrument, certificate (including any closing certificate delivered pursuant to ***Sections 8.2(k)*** or ***8.3(e)***), opinion, or other writing provided for herein, shall immediately terminate and be of no further force and effect at and after the Effective Time.

12.2 Expenses. Unless expressly provided otherwise in this Agreement, each of the Parties shall bear its own costs and expenses (including outside legal fees and expenses) incurred in connection with this Agreement and the transactions contemplated by this Agreement.

12.3 Further Assurances. Upon request by ECF, each of KEC and the KEC Affiliate shall from time to time execute and deliver any documents and instruments and take any actions desirable or necessary to vest in ECF the title to and possession of all rights, properties, assets, trusts and businesses of KEC and the KEC System as of the Effective Time or otherwise to carry out the full intent and purpose of this Agreement. From and after the Effective Time, the officers and directors of ECF and the officers and directors, respectively, of each of ECF, KEC and the KEC Affiliate immediately prior to the Effective Time shall take all action as shall be required in connection with the Merger to carry out the full intent and purpose of this Agreement.

12.4 Amendments and Waivers. The Parties may mutually amend any provision of this Agreement at any time prior to the Effective Time. No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by the

Parties. Any failure on the part of either Party to comply with any of its obligations, agreements, or conditions hereunder may be waived in writing by the other Party. No waiver by either Party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation or breach of warranty or covenant hereunder, be deemed a waiver of any other provision of this Agreement, or affect in any way any rights arising by virtue of any prior or subsequent such occurrence. No failure or delay in enforcing a breached provision of this Agreement shall be construed as a waiver of the breached provision.

12.5 Non-Business Days. If the date on or by which any action (including the delivery of notices) to be taken under this Agreement falls on a day which is not a Business Day, such action will be deemed timely if taken on the first Business Day following such date.

12.6 Governing Law; Jurisdiction. This Agreement and the rights and obligations of the Parties created under it shall be governed by the internal laws of the State of California without regard to its conflict of law rules. The Parties irrevocably Consent to the non-exclusive jurisdiction of the courts of the State of California in connection with any dispute between or among them arising under this Agreement.

12.7 Assignment; Binding Effect. This Agreement may not be assigned by either of the Parties without the prior written Consent of the other Party hereto. Subject to the preceding sentence, this Agreement shall inure to the benefit of, and be binding upon, the Parties hereto and their successors and permitted assigns.

12.8 Notices. All notices and other communications under this Agreement shall be in writing and shall be deemed to have been given if delivered in person or sent by prepaid, first-class, registered or certified mail, return receipt requested, as follows:

If to ECF:

Exceptional Children's Foundation
8740 Washington Boulevard
Culver City, California 90232
Attention: Scott D. Bowling, Psy.D.
Tel: 310-845-8041
Fax: 310-845-8001
Email: sbowlingECF@aol.com

With a copy to:

Paul, Hastings, Janofsky & Walker LLP
515 S. Flower St., 25th Fl.
Los Angeles, California 90071
Attention: Robert A. Miller, Jr., Esq.
Tel: 213-683-6000
Fax: 213-996-3254
Email: robertmiller@paulhastings.com

If to KEC or the KEC Affiliate: c/o Mr. Ralph Walter
Senior Managing Director
Kayne Anderson Capital Advisors, L.P.
1800 Avenue of the Stars
Los Angeles, CA 90067
Telephone: (310)712-2929
Facsimile: (310)712-2979
Email: rwalter@kaynecapital.com

With a copy to: Weissmann Wolff, Bergman Coleman Grodin & Evall, LLP
9665 Wilshire Boulevard, 9th Floor
Beverly Hills, California 90212
Attention: Howard Hart, Esq.
Tel: 310-858-7888
Fax: 310-550-7191
Email: hhart@wwllp.com

12.9 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery by telephonic facsimile or electronic transmission of a signed counterpart of this Agreement shall be effective as delivery of a manually signed counterpart.

12.10 Schedules; Exhibits. The Exhibits and Schedules to this Agreement are hereby incorporated and made a part hereof and are an integral part of this Agreement. Any capitalized terms used in any Schedule or Exhibit but not otherwise defined therein shall be defined as set forth in this Agreement.

12.11 Severability of Provisions. If a provision of this Agreement or its application to any Person or circumstance, is held invalid or unenforceable in any jurisdiction, to the extent permitted by law, the application of such provision to Persons or circumstances other than those as to which it is held invalid or unenforceable and in other jurisdictions, and the remaining provisions of this Agreement, shall not be affected.

12.12 Specific Performance. Each Party agrees that the other Party would be irreparably damaged if any provision of this Agreement were not performed in accordance with its specific terms or was otherwise breached. Therefore, the Parties agree that each Party shall be entitled to an injunction or injunctions to prevent breaches of this Agreement or any of its provisions and to specifically enforce this Agreement and its terms and provisions in any action instituted in any court of the United States or any state or province thereof having subject matter jurisdiction, in addition to any other remedy to which a Party may be entitled, at law or in equity.

12.13 Joint Drafting. This Agreement and its exhibits have been jointly drafted by the Parties and their counsel. Neither this Agreement nor any of its exhibits shall be construed against any Party based on its authorship.

12.14 No Third-Party Beneficiaries. There are no third-party beneficiaries of this Agreement. No provision in this Agreement shall modify or amend any other agreement, plan, program, or document unless this Agreement explicitly states that the provision "amends" that other agreement, plan, program, or document. This shall not prevent the Parties entitled to enforce this Agreement from enforcing any provision in this Agreement, but no other Person shall be entitled to enforce any provision in this Agreement on the grounds that it is an amendment to another agreement, plan, program, or document, unless the provision is explicitly designated as such in this Agreement, and the Person is otherwise entitled to enforce the other agreement, plan, program, or document. If a party not entitled to enforce this Agreement brings a lawsuit or other action to enforce any provision in this Agreement as an amendment to another agreement, plan, program, or document, and that provision is construed to be such an amendment despite not being explicitly designated as one in this Agreement, that provision shall lapse retroactively as of its inception, thereby precluding it from having any amendatory effect.

12.15 Time of the Essence. Time is of the essence in the performance of this Agreement.

12.16 Entire Agreement. This Agreement, including the schedules and exhibits hereto and the documents, certificates and instruments referred to herein, embodies the entire agreement and understanding of the Parties hereto in respect of the transactions contemplated by this Agreement and supersedes all prior agreements, representations, warranties, promises, covenants, arrangements, communications and understandings, oral or written, express or implied, between the Parties with respect to such transactions; provided, however, that the confidentiality provisions of the Letter of Intent shall survive until the Effective Time.

[***Remainder of page intentionally left blank***]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

Exceptional Children's Foundation,
a California nonprofit public benefit corporation

By: _____
Name: Scott Bowling
Its: President & Chief Executive Officer

By: _____
Name: Tevis Barnes
Its: Secretary

Educational Resource and Services Center, Inc.,
a California nonprofit public benefit corporation

By: _____
Name: Suzanne Kayne
Its: Chair of the board of directors

By: _____
Name: Ralph Walter
Its: Assistant Secretary

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

Exceptional Children's Foundation,
a California nonprofit public benefit corporation

By: Scott Bowling
Name: Scott Bowling
Its: President & Chief Executive Officer

By: Tavis Barnes
Name: Tavis Barnes
Its: Secretary

Educational Resource and Services Center, Inc.,
a California nonprofit public benefit corporation

By: Suzanne Kayne
Name: Suzanne Kayne
Its: Chair of the board of directors

By: Ralph Walter
Name: Ralph Walter
Its: Assistant Secretary

DEPARTMENT OF MENTAL HEALTH LEGAL ENTITY AGREEMENT

CONTRACTOR:
Exceptional Children's Foundation _____ _____
Contract Number

_____

Business Address:
8740 Washington Blvd. _____ _____
Reference Number(s)

Culver City, CA 90232 _____ _____
Legal Entity Number

Provider Number(s)_____

Contractor Headquarters' Supervisorial District 2

Mental Health Service Area(s) 5 OR Countywide _____

=====Below This Line For Official CDAD Use Only =====

DISTRIBUTION

(Please type in the applicable name for each)

Deputy Director C. Childs-Seagle Lead Manager Karen Williams

K: S____ --or-- U____

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DEPARTMENT OF MENTAL HEALTH LEGAL ENTITY AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, __2008__, by and between the County of Los Angeles (hereafter "County"), and _Exceptional Children's Foundation_(hereafter "Contractor") with the following business address at _8740 Washington Blvd., Culver City, CA 90232.

WHEREAS, County desires to provide to those persons in Los Angeles County who qualify therefor certain mental health services contemplated and authorized by the Bronzan-McCorquodale Act, California Welfare and Institutions Code (WIC) Section 5600 et seq.; and

WHEREAS, County desires through the County's Request for Statement of Qualification (RFSQ) process to provide to those persons in Los Angeles County who qualify therefor certain mental health services contemplated and authorized by the Mental Health Service Act (MHSA) adopted by the California electorate on November 2, 2004; and

WHEREAS, Contractor is equipped, staffed, and prepared to provide these services as described in this Agreement; and

WHEREAS, County believes it is in the best interest of the people of the County of Los Angeles to provide these services by contract; and

WHEREAS, these services shall be provided by Contractor in accordance with all applicable Federal, State and local laws, required licenses, ordinances, rules, Regulations, manuals, guidelines, and directives, which may include, but are not necessarily limited to, the following: Bronzan-McCorquodale Act, California Welfare and Institutions Code Section 5600 et seq., including, but not limited to, Sections 5600.2, 5600.3, 5600.4, 5600.9, 5602, 5608, 5651, 5670, 5670.5, 5671, 5671.5, 5672, 5705, 5709, 5710, 5716, 5719, 5721, 5722, 5751.2, and 5900 et seq.; Medi-Cal Act, California Welfare and Institutions Code Section 14000 et seq., including, but not limited to, Section 14132.44; California Welfare and Institutions Code Section 15600 et seq., including Section 15630; California Welfare and Institutions Code Section 17601 et seq.; California Work

Opportunities and Responsibilities to Kids Act, California Welfare and Institutions Code Section 11200 et seq.; California Government Code Sections 26227 and 53703; Title XIX of the Social Security Act, 42 United States Code Section 1396 et seq.; Part B of Title XIX of the Public Health Service Act, 42 United States Code Section 300x et seq.; Title XXI of the Social Security Act; California Penal Code (PC) Section 11164 et seq.; Title 9 and Title 22, including, but not limited to, Sections 51516, 70001, 71001, 72001 et seq., and 72443 et seq. of the California Code of Regulations; State Department of Mental Health's (SDMH) Cost Reporting/Data Collection Manual (CR/DC); Los Angeles County DMH Organizational Provider's Manual for Specialty Mental Health Services under the Rehabilitation Option and Targeted Case Management Services; State Department of Mental Health's Cost and Financial Reporting System Instruction Manual; Federal Office of Management and Budget Circular A-122 (Cost principles for non-profit organizations); Federal Office of Management and Budget Circular A-133 (Audits of States, local governments, and non-profit organizations); Auditor-Controller Contract Accounting and Administration Handbook; policies and procedures developed by County; State's Medicaid Plan; and policies and procedures which have been documented in the form of Policy Letters issued by State Department of Mental Health; and/or for State Department of Health Services; and

WHEREAS, this Agreement is authorized by WIC Section 5600 et seq., California Government Code Sections 23004, 26227 and 53703, and otherwise.

NOW, THEREFORE, Contractor and County agree as follows:

PREAMBLE

For over a decade, the County has collaborated with its community partners to enhance the capacity of the health and human services system to improve the lives of children and families. These efforts require, as a fundamental expectation, that the County's contracting partners share the County and community's commitment to provide health and human services that support achievement of the County's vision, goals, values, and adopted outcomes. Key to these efforts is the integration of service delivery systems and the adoption of the Customer Service and Satisfaction Standards.

The County of Los Angeles' Vision is to improve the quality of life in the County by

providing responsive, efficient, and high quality public services that promote the self-sufficiency, well-being and prosperity of individuals, families, businesses and communities. This philosophy of teamwork and collaboration is anchored in the shared values of:

- Responsiveness
- Professionalism
- Accountability
- Compassion
- Integrity
- Commitment
- A Can-Do Attitude
- Respect for Diversity

These shared values are encompassed in the County Mission to enrich lives through effective and caring service and the County Strategic Plan's eight goals: 1) Service Excellence; 2) Workforce Excellence; 3) Organizational Effectiveness; 4) Fiscal Responsibility; 5) Children and Families' Well-Being; 6) Community Services; 7) Health and Mental Health; and 8) Public Safety. Improving the well-being of children and families requires coordination, collaboration, and integration of services across functional and jurisdictional boundaries, by and between County departments/agencies, and community and contracting partners.

The basic conditions that represent the well-being we seek for all children and families in Los Angeles County are delineated in the following five outcomes, adopted by the Board of Supervisors in January 1993.

- Good Health;
- Economic Well-Being;
- Safety and Survival;
- Emotional and Social Well-Being; and
- Education and Workforce Readiness.

Recognizing no single strategy - in isolation - can achieve the County's outcomes of well-being for children and families, consensus has emerged among County and community leaders that making substantial improvements in integrating the County's health and human services system is necessary to significantly move toward achieving these outcomes. The County has also established the following values and goals for guiding this effort to integrate the health and human services delivery system:

- ✔ Families are treated with respect in every encounter they have with the health, educational, and social services systems.

- ✔ Families can easily access a broad range of services to address their needs, build on their strengths, and achieve their goals.
- ✔ There is no "wrong door": wherever a family enters the system is the right place.
- ✔ Families receive services tailored to their unique situations and needs.
- ✔ Service providers and advocates involve families in the process of determining service plans, and proactively provide families with coordinated and comprehensive information, services, and resources.
- ✔ The County service system is flexible, able to respond to service demands for both the Countywide population and specific population groups.
- ✔ The County service system acts to strengthen communities, recognizing that just as individuals live in families, families live in communities.
- ✔ In supporting families and communities, County agencies work seamlessly with public and private service providers, community-based organizations, and other community partners.
- ✔ County agencies and their partners work together seamlessly to demonstrate substantial progress towards making the system more strength-based, family-focused, culturally-competent, accessible, user-friendly, responsive, cohesive, efficient, professional, and accountable.
- ✔ County agencies and their partners focus on administrative and operational enhancements to optimize the sharing of information, resources, and best practices while also protecting the privacy rights of families.
- ✔ County agencies and their partners pursue multi-disciplinary service delivery, a single service plan, staff development opportunities, infrastructure enhancements, customer service and satisfaction evaluation, and revenue maximization.
- ✔ County agencies and their partners create incentives to reinforce the direction toward service integration and a seamless service delivery system.
- ✔ The County human service system embraces a commitment to the disciplined pursuit of results accountability across systems. Specifically, any strategy

designed to improve the County human services system for children and families should ultimately be judged by whether it helps achieve the County's five outcomes for children and families: good health, economic well-being, safety and survival, emotional and social well-being, and education and workforce readiness.

The County, its clients, contracting partners, and the community will continue to work together to develop ways to make County services more accessible, customer friendly, better integrated, and outcome-focused. Several departments have identified shared themes in their strategic plans for achieving these goals including: making an effort to become more consumer/client-focused; valuing community partnerships and collaborations; emphasizing values and integrity; and using a strengths-based and multi-disciplinary team approach. County departments are also working to provide the Board of Supervisors and the community with a better understanding of how resources are being utilized, how well services are being provided, and what are the results of the services: is anyone better off?

The County of Los Angeles health and human service departments and their partners are working together to achieve the following ***Customer Service And Satisfaction Standards*** in support of improving outcomes for children and families.

Personal Service Delivery

The service delivery team – staff and volunteers – will treat customers and each other with courtesy, dignity, and respect.

- Introduce themselves by name
- Listen carefully and patiently to customers
- Be responsive to cultural and linguistic needs
- Explain procedures clearly
- Build on the strengths of families and communities

Service Access

Service providers will work proactively to facilitate customer access to services.

- Provide services as promptly as possible
- Provide clear directions and service information
- Outreach to the community and promote available services
- Involve families in service plan development
- Follow-up to ensure appropriate delivery of services

Service Environment

Service providers will deliver services in a clean, safe, and welcoming environment, which supports the effective delivery of services.

- Ensure a safe environment
- Ensure a professional atmosphere
- Display vision, mission, and values statements
- Provide a clean and comfortable waiting area
- Ensure privacy
- Post complaint and appeals procedures

The basis for all County health and human services contracts is the provision of the highest level of quality services that support improved outcomes for children and families. The County and its contracting partners must work together and share a commitment to achieve a common vision, goals, outcomes, and standards for providing services.

1. TERM:

A. Initial Period: The Initial Period of this Agreement shall commence on February 1, 2008 and shall continue in full force and effect through June 30, 2010.

B. Automatic Renewal Period(s): After the Initial Period, this Agreement shall be automatically renewed two additional periods without further action by the parties hereto unless either party desires to terminate this Agreement at the end of either the Initial Period or First Automatic Renewal Period and gives written notice to the other party not less than 30 calendar days prior to the end of the Initial Period or at the end of the First Automatic Renewal Period, as applicable.

(1) First Automatic Renewal Period: If this Agreement is automatically renewed, the First Automatic Renewal Period shall commence on Board Adopted date and shall continue in full force and effect through June 30,2009.

(2) Second Automatic Renewal Period: If this Agreement is automatically renewed, the Second Automatic Renewal Period shall commence on July 1, 2009 and shall continue in full force and effect through June 30, 2010.

C. Termination:

(1) This Agreement may be terminated by either party at any time without cause by giving at least 30 calendar days prior written notice to the other party.

(2) This Agreement may be terminated by County immediately:

(a) If County determines that:

i. Any Federal, State, and/or County funds are not available for this Agreement or any portion thereof; or

ii. Contractor has failed to initiate delivery of services within 30 calendar days of the commencement date of this Agreement; or

iii. Contractor has failed to comply with any of the provisions of Paragraphs 17 (NONDISCRIMINATION IN SERVICES), 18 (NONDISCRIMINATION IN EMPLOYMENT), 20 (INDEMNIFICATION AND INSURANCE), 21 (WARRANTY AGAINST CONTINGENT FEES), 22 (CONFLICT OF INTEREST), 27 (DELEGATION AND ASSIGNMENT), 28 (SUBCONTRACTING), 33 (CHILD SUPPORT COMPLIANCE PROGRAM), 47 (CERTIFICATION OF DRUG-FREE WORK PLACE), and/or 53 (CONTRACTOR'S EXCLUSION FROM PARTICIPATION IN A FEDERALLY FUNDED PROGRAM); or

(b) In accordance with Paragraphs 34 (TERMINATION FOR INSOLVENCY), 35 (TERMINATION FOR DEFAULT), 36 (TERMINATION FOR IMPROPER CONSIDERATION), and/or 48 (COUNTY LOBBYISTS).

(3) This Agreement shall terminate as of June 30 of the last Fiscal Year for which funds for this Agreement were appropriated by County as provided in Paragraph 5 (COUNTY'S OBLIGATION FOR CURRENT AND FUTURE FISCAL YEARS).

(4) In the event that this Agreement is terminated, then:

(a) On or after the date of the written notice of termination, County, in its sole discretion, may stop all payments to Contractor hereunder until preliminary settlement based on the Annual Cost Report. Contractor shall prepare an Annual Cost Report, including a statement of expenses and revenues, which shall be submitted pursuant to Attachment II, Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph L (Annual Cost Reports), within 75 calendar days of the date of termination. Such preliminary settlement shall not exceed the Maximum Monthly Payment (see Attachment II, Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph D (Billing and Payment Procedures and Limitations), Subparagraph (6) (Maximum Monthly and Year-to-Date and Other Payment Limitations) multiplied by the actual number of months or portion

thereof during which this Agreement was in effect during the particular Fiscal Year; and

(b) Upon issuance of any notice of termination, Contractor shall make immediate and appropriate plans to transfer or refer all patients/clients receiving services under this Agreement to other agencies for continuing services in accordance with the patient's/client's needs. Such plans shall be subject to prior written approval of Director or his designee, except that in specific cases, as determined by Contractor, where an immediate patient/client transfer or referral is indicated, Contractor may make an immediate transfer or referral. If Contractor terminates this Agreement, all costs related to all such transfers or referrals as well as all costs related to all continuing services shall not be a charge to this Agreement nor reimbursable in any way under this Agreement; and

(c) If Contractor is in possession of any equipment, furniture, removable fixtures, materials, or supplies owned by County as provided in Paragraph 44 (PURCHASES), the same shall be immediately returned to County.

(5) Any termination of this Agreement by County shall be approved by County's Board of Supervisors.

D. Suspension of Payments: Payments to Contractor under this Agreement shall be suspended if Director, for good cause, determines that Contractor is in default under any of the provisions of this Agreement. Except in cases of alleged fraud or similar intentional wrongdoing, at least 30 calendar days notice of such suspension shall be provided to Contractor, including a statement of the reason(s) for such suspension. Thereafter, Contractor may, within 15 calendar days, request reconsideration of the Director's decision. Payments shall not be withheld pending the results of the reconsideration process.

E. Six Months Notification of Agreement Expiration: Contractor shall notify County when this Agreement is within six (6) months of expiration. Contractor shall send such notice to those persons and addresses which are set forth in Paragraph 61 (NOTICES).

2. ADMINISTRATION: Director or his designee shall have the authority to administer this Agreement on behalf of County. Contractor shall designate in writing a Contract

Manager who shall function as liaison with County regarding Contractor's performance hereunder.

3. DESCRIPTION OF SERVICES/ACTIVITIES: Contractor shall provide mental health services in the form as identified on the Financial Summary(ies) and Service Exhibit(s) and in the Program Description of Contractor's Negotiation Package for this Agreement as approved in writing by Director or his designee, including any addenda thereto as approved in writing by Director or his designee. Services provided by Contractor shall be the same regardless of the patient's/client's ability to pay or source of payment.

Contractor shall be responsible for delivering services to new clients to the extent that funding is provided by County. Where Contractor determines that services to new clients can no longer be delivered, Contractor shall provide 30 calendar days prior notice to County. Contractor shall also thereafter make referrals of new clients to County or other appropriate agencies.

Contractor shall not be required to provide the notice in the preceding paragraph when County reduces funding to Contractor, either at the beginning or during the fiscal year. In addition, when County cuts the funding for a particular program provided by Contractor, Contractor shall not be responsible for continuing services for those clients linked to that funding. Contractor shall also thereafter make referrals of those clients to County or other appropriate agencies.

Contractor may provide activities claimable as Title XIX Medi-Cal Administrative Activities pursuant to WIC Section 14132.44. The administrative activities which may be claimable as Title XIX Medi-Cal Administrative Activities are shown on the Financial Summary and are described in the policies and procedures provided by SDMH and/or SDHS.

Contractor may provide mental health services claimable as Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services.

If, during Contractor's provision of services under this Agreement, there is any need for substantial deviation from the services as described in Contractor's Negotiation Package for this Agreement, as approved in writing by Director or his designee, including

any addenda thereto as approved in writing by Director or his designee, then Contractor shall submit a written request to Director or his designee for written approval before any such substantial deviation may occur. A 30% variance of actual services from those projected and shown by Contractor in the Negotiation Package will be considered a substantial deviation in service delivery. The following language applies only to *Contractors found eligible to provide mental health services claimable under the Mental Health Services Act (MHSA):* Contractor has been found to be eligible to provide mental health services claimable as MHSA services. Contractor has demonstrated experience and training in its specialized field and has submitted to the County a Statement of Qualifications (SOQ) in response to County's RFSQ for the provision of such services, and Contractor has met the minimum qualifications listed in the RFSQ and has been selected for recommendation for placement on a MHSA Master Agreement eligibility list. Placement on the Master Agreement eligibility list does not guarantee that Contractor will be selected to provide mental health services claimable as MHSA services. In order to provide mental health services claimable as MHSA services, a provider must have been selected to provide MHSA services pursuant to a Request for Services.

4. FINANCIAL PROVISIONS: In consideration of services and/or activities provided by Contractor, County shall reimburse Contractor in the amount and manner described in Attachment II, Financial Exhibit A (FINANCIAL PROVISIONS) attached thereto and by this reference incorporated herein.

5. COUNTY'S OBLIGATION FOR CURRENT AND FUTURE FISCAL YEARS: Notwithstanding any other provision of this Agreement, this Agreement shall not be effective and binding upon the parties unless and until County's Board of Supervisors appropriates funds for purposes hereof in County's Budget for County's current Fiscal Year. Further, County shall not be obligated for Contractor's performance hereunder or by any provision of this Agreement during any of County's future Fiscal Years unless and until County's Board of Supervisors appropriates funds for purposes hereof in County's Budget for each such future Fiscal Year. In the event that funds are not appropriated for this Agreement, then this Agreement shall terminate as of June 30 of the last Fiscal Year for which funds were appropriated.

6. PRIOR AGREEMENT(S) SUPERSEDED:

A. Reference is made to the certain document(s) entitled:

TITLE	COUNTY AGREEMENT NUMBER	DATE OF EXECUTION
NA	NA	NA

The parties agree that the provisions of such prior Agreement(s), and all Amendments thereto, shall be entirely superseded as of NA, ____, by the provisions of this Agreement.

B. The parties further agree that all payments made by County to Contractor under any such prior Agreement(s) for services rendered thereunder on and after NA ____, ____, shall be applied to and considered against all applicable Federal, State, and/or County funds provided hereunder.

C. Notwithstanding any other provision of this Agreement or the Agreement(s) described in Subparagraph 6.A, the total reimbursement by County to Contractor under all these Agreements for Fiscal Year **NA** shall not exceed **NA** DOLLARS ($ **NA**); and for Fiscal Year _____ shall not exceed _____ DOLLARS ($ **NA**); and for Fiscal Year _____ shall not exceed _____ DOLLARS ($ **NA**).

The supersession of this Agreement is not intended to supersede ongoing programs and/or special provisions (such as, deeds, leases, rentals, or space use) which are implemented by special amendments with Contractors. Such ongoing programs and special provisions set forth in special amendments can only be affected by a written contract amendment that refers specifically to the provisions set forth in the Amendment.

For information on amendment(s) for special provisions for such ongoing programs and/or special services, see Exhibit(s) 1,2&3. (If applicable, this attachment has been included under the Table of Contents in the Attachments Section.)

7. STAFFING: Contractor shall operate throughout the term of this Agreement with staff, including, but not limited to, professional staff, that approximates the type and

number as indicated in Contractor's Negotiation Package for this Agreement, as approved in writing by Director or his designee, including any addenda thereto as approved in writing by Director or his designee and as required by WIC and CCR. Such staff shall be qualified and shall possess all appropriate licenses in accordance with WIC Section 5603 and all other applicable requirements of the California Business and Professions Code, WIC, CCR, CR/DC Manual, Los Angeles County DMH Organizational Provider's Manual for Specialty Mental Health Services under the Rehabilitation Option and Targeted Case Management Services, SDMH Policy Letters, and function within the scope of practice as dictated by licensing boards/bodies. If vacancies occur in any of Contractor's staff that would reduce Contractor's ability to perform any services under the Agreement, Contractor shall promptly notify Director or his designee of such vacancies. During the term of this Agreement, Contractor shall have available and shall provide upon request to authorized representatives of County, a list of all persons by name, title, professional degree, and experience, who are providing any services under this Agreement.

8. STAFF TRAINING AND SUPERVISION: Contractor shall institute and maintain an in-service training program of treatment review and case conferences in which all its professional, para-professional, intern, student and clinical volunteer personnel shall participate. Contractor shall institute and maintain appropriate supervision of all persons providing services under this Agreement with particular emphasis on the supervision of para-professionals, interns, students, and clinical volunteers in accordance with Departmental clinical supervision policy. Contractor shall be responsible for the provision of federal mandatory training for all staff at the time of employment and for subsequent updates as required by Federal and State law including but not limited to HIPAA and Sexual Harassment and for the training of all appropriate staff on the Los Angeles County DMH Organizational Provider's Manual for Specialty Mental Health Services under the Rehabilitation Option and Targeted Case Management Services, CR/DC Manual (as applicable), and other State and County policies and procedures as well as on any other matters that County may reasonably require.

Contractor shall document and make available upon request by the Federal, State and/or County the type and number of hours of training provided to Contractor's officers,

employees, agents, and subcontractors as required by State or Federal law.

9. PROGRAM SUPERVISION, MONITORING AND REVIEW:

A. Pursuant to WIC Section 5608 and CCR Title 9, Section 521, all services hereunder shall be provided by Contractor under the general supervision of Director or his designee. Director or his designee shall have the right to monitor and specify the kind, quality, appropriateness, timeliness, amount of services, and the criteria for determining the persons to be served. Upon receipt of any contract monitoring report pertaining to services/activities under this Agreement, Contractor shall respond in writing to the particular DMH Contract Monitor within the time specified in the contract monitoring report either acknowledging the reported deficiencies or presenting contrary evidence, and, in addition, submitting a plan for immediate correction of all deficiencies. In the event of a State audit of this Agreement, if State auditors disagree with County's written instructions to Contractor in its performance of this Agreement, and if such disagreement results in a State disallowance of any of Contractor's costs hereunder, then County shall be liable for Contractor's disallowed costs as determined by State.

B. To assure compliance with this Agreement and for any other reasonable purpose relating to performance of this Agreement, and subject to the provisions of State and Federal law, authorized County, State, and/or Federal representatives and designees shall have the right to enter Contractor's premises (including all other places where duties under this Agreement are being performed), with or without notice, to: inspect, monitor and/or audit Contractor's facilities, programs and procedures, or to otherwise evaluate the work performed or being performed; review and copy any records and supporting documentation pertaining to the performance of this Agreement; and elicit information regarding the performance of this Agreement or any related work. The representatives and designees of such agencies may examine, audit and copy such records at the site at which they are located. Contractor shall provide access to facilities and shall cooperate and assist County, State, and/or Federal representatives and designees in the performance of their duties. Unless otherwise agreed upon in writing, Contractor must provide specified data upon request by County, State, and/or Federal representatives and designees within ten (10) State business days for monitoring

purposes.

10. PERFORMANCE STANDARDS AND OUTCOME MEASURES: The Contractor shall comply with all applicable Federal, State, and County policies and procedures relating to performance standards and outcome measures. This is applicable whenever specific Federal or State funding, which has policies or procedures for performance standards and/or outcome measures has been included as part of the Contractor's contract and shall apply for all County policies, procedures, or departmental bulletins approved by the Director or his designee for performance standards and/or outcome measures. County will notify Contractor whenever County policies or procedures are to apply to this contract provision (e.g., AB 2034 grant) at least, where feasible, 30 calendar days prior to implementation.

These Federal, State or County performance standards and/or outcome measures will be used as part of the determination of the effectiveness of the services delivered by the Contractor.

11. COUNTY'S QUALITY ASSURANCE PLAN: The County or its agent will evaluate Contractor's performance under this Agreement on not less than an annual basis. Such evaluation will include assessing Contractor's compliance with all contract terms and performance standards. Contractor deficiencies which County determines are severe or continuing and that may place performance of the Agreement in jeopardy if not corrected will be reported to the Board of Supervisors. The report will include improvement/corrective action measures taken by the County and Contractor. If improvement does not occur consistent with the corrective action measures, County may terminate this Agreement or impose other financial deductions as specified in this Agreement.

12. RECORDS AND AUDITS:

A. Records:

(1) Direct Services and Indirect Services Records: Contractor shall maintain a record of all direct services and indirect services rendered by all the various professional, para-professional, intern, student, volunteer and other personnel to fully document all services provided under this Agreement and in sufficient detail to permit an

evaluation and audit of such services. All such records shall be retained, maintained, and made immediately available for inspection, program review, and/or audit by authorized representatives and designees of County, State, and/or Federal governments during the term of this Agreement and during the applicable period of records retention. Such access shall include regular and special reports from Contractor. In the event any records are located outside Los Angeles County, Contractor shall pay County for all travel, per diem, and other costs incurred by County for any inspection, program review, and/or audit at such other location. In addition to the requirements in this Paragraph 12, Contractor shall comply with any additional patient/client record requirements described in the Service Exhibit(s) and shall adequately document the delivery of all services described in the Service Exhibit(s).

(a) Patient/Client Records (Direct Services): Contractor shall maintain treatment and other records of all direct services (i.e., 24-hour services, day services, targeted case management, mental health services, medication support, and crisis intervention) in accordance with all applicable County, State and Federal requirements on each individual patient/client which shall include, but not be limited to, patient/client identification number, patient/client face sheet, all data elements required by the County's information system, consent for treatment form, initial evaluation form, treatment plan, progress notes and discharge summary. All patient/client records shall be maintained by Contractor at a location in Los Angeles County for a minimum period of seven (7) years following discharge of the patient/client or termination of services (except that the records of unemancipated minors shall be kept at least one year after such minor has reached the age of 18 years and in any case not less than seven (7) years), or until County, State and/or Federal audit findings applicable to such services are fully resolved, whichever is later. During such retention period, all such records shall be immediately available and open during County's normal business hours to authorized representatives and designees of County, State, and/or Federal governments for purposes of inspection, program review, and/or audit.

(b) Case Management Support Services and Outreach Services Records (Indirect Services): Contractor shall maintain accurate and complete program

records of all indirect services (i.e., all services other than direct services) in accordance with all applicable County, State and Federal requirements. All program records shall be maintained by Contractor at a location in Los Angeles County for a minimum period of seven years following the expiration or termination of this Agreement, or until County, State and/or Federal audit findings applicable to such services are fully resolved, whichever is later. During such retention period, all such records shall be immediately available and open during normal business hours to authorized representatives and designees of County, State, and/or Federal governments for purposes of inspection and/or audit.

(2) Financial Records: Contractor shall prepare and maintain, on a current basis, accurate and complete financial records of its activities and operations relating to this Agreement in accordance with generally accepted accounting principles, with the procedures set out in the State Department of Mental Health's Cost and Financial Reporting System (CFRS) Instruction Manual, and with all guidelines, standards, and procedures which shall be furnished to Contractor by County upon request. Minimum standards for accounting principles are set forth in County's Auditor-Controller's Contract Accounting and Administration Handbook which shall be furnished to Contractor by County upon request. The above financial records shall include, but are not limited to:

(a) Books of original entry and a general ledger.

(b) Reports, studies, statistical surveys or other information Contractor used to identify and allocate indirect costs among Contractor's various modes of service. "Indirect costs" shall mean those costs as described by the guidelines, standards, and procedures which may be provided by County in writing to Contractor, the Centers for Medicare and Medicaid Provider Reimbursement Manual, and the Federal Office of Management and Budget Circular A-122 (Cost principles for non-profit organizations).

(c) Bronzan-McCorquodale/County statistics and total facility statistics (e.g., patient days, visits) which can be identified by type of service pursuant to any policies and procedures which may be provided by County in writing to Contractor.

(d) A listing of all County remittances received.

(e) Patient/client financial folders clearly documenting:

i. Contractor's determination of patient's/client's eligibility for Medi-Cal, medical insurance and any other third party payer coverage; and

ii. Contractor's reasonable efforts to collect charges from the patient/client, his responsible relatives, and any other third party payer.

(f) Individual patient/client ledger cards indicating the type and amount of charges incurred and payments by source and service type.

(g) Employment records.

(3) The entries in all of the above financial records must be readily traceable to applicable source documentation (e.g., remittance invoices, vendor invoices, employee timecards signed by employee and countersigned by supervisor in ink, subsidiary ledgers and journals, appointment logs, patient ledger cards, etc.). Any apportionment of costs shall be made in accordance with the requirements of the State Department of Mental Health Cost and Financial Reporting System (CFRS) Instruction Manual, the Federal Centers for Medicare and Medicaid Provider Reimbursement Manual Parts 1 and 2 (Publications #15–1 and #15–2), and Los Angeles County DMH Organizational Provider's Manual for Specialty Mental Health Services under the Rehabilitation Option and Targeted Case Management Services. All such records shall be maintained by Contractor at a location in Los Angeles County for a minimum period of seven (7) years following the expiration or termination of the Agreement, or until County, State and/or Federal audit findings are fully resolved, whichever is later. During such retention period, all such records shall be immediately available and open during County's normal business hours to authorized representatives and designees of County, State, and/or Federal governments for purposes of inspection, program review, and/or audit. Such access shall include access to individuals with knowledge of financial records and Contractor's outside auditors, and regular and special reports from Contractor. In the event any records are located outside Los Angeles County, Contractor shall pay County for all travel, per diem, and other costs incurred by County for any inspection or audit at such other location.

(4) Preservation of Records: If, following termination of this Agreement,

Contractor's facility(ies) is (are) closed or if majority ownership of Contractor changes, then within forty-eight hours thereafter, Director of SDMH and Director or his designee shall be notified thereof by Contractor in writing of all arrangements made by Contractor for preservation of all the patient/client, financial, and other records referred to in this Paragraph 12.

B. Audits:

(1) Contractor shall provide County and its authorized representatives access to and the right to examine, audit, excerpt, copy, or transcribe, any pertinent transaction, activity, time cards, or any other records relating to this Agreement.

(2) County may, in its sole discretion, perform periodic fiscal and/or program review(s) of Contractor's records that relate to this Agreement. If County determines that the results of any such reviews indicate the need for corrective action, Contractor shall within 30 calendar days after receiving the findings of the fiscal and/or program review, either (a) submit a corrective plan of action to DMH, or (b) request a review by the Director. If Contractor requests a review by the Director within the 30 calendar days, and if a corrective plan of action is then required, Contractor shall have 30 calendar days to submit its corrective plan of action.

(3) Audit Reports: In the event that any audit of any or all aspects of this Agreement is conducted of Contractor by any Federal or State auditor, or by any auditor or accountant employed by Contractor or otherwise, then Contractor shall file a copy of such audit report(s) with DMH's Contracts Development and Administration Division within 30 calendar days of Contractor's receipt thereof, unless otherwise provided by applicable Federal or State law or under this Agreement. Contractor shall promptly notify County of any request for access to information related to this Agreement by any other governmental agency.

(4) State Department of Mental Health Access to Records: Contractor agrees that for a period of seven (7) years or until final audit is completed, which ever occurs later, following the furnishing of services under this Agreement, Contractor shall maintain and make available to the State Department of Mental Health, the Secretary of the United States Department of Health and Human Services or the Controller General of

the United States, and any other authorized Federal and State agencies, or to any of their duly authorized representatives, the contracts, books, documents and records of Contractor which are necessary to verify the nature and extent of the cost of services hereunder. Furthermore, if Contractor carries out any of the services provided hereunder through any subcontract with a value or cost of TEN THOUSAND DOLLARS ($10,000) or more over a 12-month period with a related organization (as that term is defined under Federal law), Contractor agrees that each such subcontract shall provide for such access to the subcontract, books, documents and records of the subcontractor as provided in Paragraph 9 and in this Paragraph 12.

(5) Federal Access to Records: Grant-funded programs require audits and compliance with Federal guidelines pursuant to Circular A-133 issued by the Federal Office of Management and Budgets (OMB), If, and to the extent that, Section 1861(v)(1)(I) of the Social Security Act (42 United States Code Section 1395x(v)(1)(I)) is applicable, Contractor agrees that for a period of seven (7) years following the furnishing of services under this Agreement, Contractor shall maintain and make available to the Secretary of the United States Department of Health and Human Services or the Controller General of the United States, or to any of their duly authorized representatives, the contracts, books, documents and records of Contractor which are necessary to verify the nature and extent of the cost of services hereunder. Furthermore, if Contractor carries out any of the services provided hereunder through any subcontract with a value or cost of TEN THOUSAND DOLLARS ($10,000) or more over a 12-month period with a related organization (as that term is defined under Federal law), Contractor agrees that each such subcontract shall provide for such access to the subcontract, books, documents and records of the subcontractor as provided in Paragraph 9 and in this Paragraph 12.

13. REPORTS:

A. Contractor shall make reports as required by Director or his designee or by State regarding Contractor's activities and operations as they relate to Contractor's performance of this Agreement. In no event may County require such reports unless it has provided Contractor with at least 30 calendar days' prior written notification. County shall provide Contractor with a written explanation of the procedures for reporting the

required information.

B. Income Tax Withholding: Upon Director's or his designee's request, Contractor shall provide County with certain documents relating to Contractor's income tax returns and employee income tax withholding. These documents shall include, but are not limited to:

(1) A copy of Contractor's Federal and State quarterly income tax withholding returns (i.e., Federal Form 941 and/or State Form DE-3 or their equivalents).

(2) A copy of a receipt for, or other proof of payment of, each employee's Federal and State income tax withholding, whether such payments are made on a monthly or quarterly basis.

C. County Information System:

(1) Contractor shall submit all required data to the County's Information System, as required by Director or his designee. Contractor shall report to County, all program, patient/client, staff, and other data and information about Contractor's services, within the specified time periods as required by County Chief Information Office's Training Manuals, IS Bulletins, and Reports Reference Guide and any other County requirements; in no event, no later than 40 calendar days after the close of each fiscal year in which the services were provided.

(2) Notwithstanding any other provision of this Agreement, only units of service submitted by Contractor into the County's claims processing information system shall be counted as delivered units of service. All units of service generated during the Start-Up Period, if any, shall be submitted by Contractor into the County's claims processing information system.

(3) Notwithstanding any other provision of this Agreement, the only units of service which shall be considered legitimate and reimbursable at Annual Cost Report adjustment and settlement time or otherwise shall be those units of service as submitted by Contractor into the County's claims processing information system.

(4) Contractor shall train its staff in the operation, procedures, policies, and all related use, of the County's information system as required by County. County shall train Contractor's designated trainer in the operation, procedures, policies, and all

related use of the County's information system.

14. CONFIDENTIALITY: Contractor shall maintain the confidentiality of all records and information, including, but not limited to, claims, County records, patient/client records and information, and County information system records, in accordance with WIC Sections 5328 through 5330, inclusive, and all other applicable County, State, and Federal laws, ordinances, rules, regulations, manuals, guidelines, and directives, relating to confidentiality. Contractor shall require all its officers, employees, and agents providing services hereunder to acknowledge, in writing, understanding of, and agreement to fully comply with, all such confidentiality provisions. Contractor shall indemnify and hold harmless County, its officers, employees, and agents, from and against any and all loss, damage, liability, and expense arising from any disclosure of such records and information by Contractor, its officers, employees, or agents.

15. PATIENTS'/CLIENTS' RIGHTS: Contractor shall comply with all applicable patients'/clients' rights provisions, including, but not limited to, WIC Section 5325 et seq., CCR Title 9, Section 850 et seq., and CCR Title 22. Further, Contractor shall comply with all patients'/clients' rights policies provided by County. County Patients' Rights Advocates shall be given access by Contractor to all patients/clients, patients'/clients' records, and Contractor's personnel in order to monitor Contractor's compliance with all applicable statutes, regulations, manuals and policies.

16. REPORTING OF PATIENT/CLIENT ABUSE AND RELATED PERSONNEL REQUIREMENTS:

A. Elders and Dependent Adults Abuse: Contractor, and all persons employed or subcontracted by Contractor, shall comply with WIC Section 15600 et seq. and shall report all known or suspected instances of physical abuse of elders and dependent adults under the care of Contractor either to an appropriate County adult protective services agency or to a local law enforcement agency, as mandated by WIC Sections 15630, and permitted by 15631 and 15632. Contractor and all persons employed or subcontracted by Contractor, shall make the report on such abuse, and shall submit all required information, in accordance with WIC Sections 15630, 15633 and 15633.5.

B. Minor Children Abuse: Contractor and all persons employed or

subcontracted by Contractor, shall comply with California Penal Code (hereafter "PC") Section 11164 et seq. and shall report all known or suspected instances of child abuse to an appropriate child protective agency, as mandated by California Penal Code 11164, 11165.8 and 11166. Contractor and all persons employed or subcontracted by Contractor, shall make the report on such abuse, and shall submit all required information, in accordance with PC Sections 11166 and 11167.

C. Contractor Staff:

(1) Contractor shall assure that any person who enters into employment as a care custodian of elders, dependent adults or minor children, or who enters into employment as a health or other practitioner, prior to commencing employment, and as a prerequisite to that employment, shall sign a statement on a form provided by Contractor in accordance with the above code sections to the effect that such person has knowledge of, and will comply with, these code sections.

(2) Contractor shall assure that clerical and other nontreatment staff who are not legally required to directly report suspected cases of abuse, consult with mandated reporters upon suspecting any abuse.

(3) For the safety and welfare of elders, dependent adults, and minor children, Contractor shall, to the maximum extent permitted by law, ascertain arrest and conviction records for all current and prospective employees and shall not employ or continue to employ any person convicted of any crime involving any harm to elders, dependent adults, or minor children.

(4) Contractor shall not employ or continue to employ, or shall take other appropriate action to fully protect all persons receiving services under this Agreement concerning, any person whom Contractor knows, or reasonably suspects, has committed any acts which are inimical to the health, morals, welfare, or safety of elders, dependent adults or minor children, or which otherwise make it inappropriate for such person to be employed by Contractor.

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17. NONDISCRIMINATION IN SERVICES:

A. Contractor shall not discriminate in the provision of services hereunder

because of race, religion, national origin, ancestry, sex, age, marital status, or physical or mental handicap or medical conditions, in accordance with requirements of Federal and State law. For the purpose of this Paragraph 17, discrimination in the provision of services may include, but is not limited to, the following: denying any person any service or benefit or the availability of a facility; providing any service or benefit to any person which is different, or is provided in a different manner or at a different time, from that provided to others; subjecting any person to segregation or separate treatment in any matter related to the receipt of any service; restricting any person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; and treating any person differently from others in determining admission, enrollment quota, eligibility, membership, or any other requirement or condition which persons must meet in order to be provided any service or benefit. Contractor shall take affirmative action to ensure that intended beneficiaries of this Agreement are provided services without regard to ability to pay or source of payment, race, religion, national origin, ancestry, sex, age, marital status, or physical or mental handicap, or medical conditions.

B. Contractor shall establish and maintain written complaint procedures under which any person applying for or receiving any services under this Agreement may seek resolution from Contractor of a complaint with respect to any alleged discrimination in the rendering of services by Contractor's personnel. Such procedures shall also include a provision whereby any such person, who is dissatisfied with Contractor's resolution of the matter, shall be referred by Contractor to Director for the purpose of presenting his complaint of the alleged discrimination. Such complaint procedures shall also indicate that if such person is not satisfied with County's resolution or decision with respect to the complaint of alleged discrimination, such person may appeal the matter to the State, if appropriate.

C. If direct services (i.e., 24-hour services, day services, targeted case management, mental health services, medication support, and crisis intervention) are provided hereunder, Contractor shall have admission policies which are in accordance with CCR Title 9, Sections 526 and 527, and which shall be in writing and available to the public. Contractor shall not employ discriminatory practices in the admission of any

person, assignment of accommodations, or otherwise. Any time any person applies for services under this Agreement, such person shall be advised by Contractor of the complaint procedures described in the above paragraph. A copy of such complaint procedures shall be posted by Contractor in a conspicuous place, available and open to the public, in each of Contractor's facilities where services are provided under this Agreement.

18. NONDISCRIMINATION IN EMPLOYMENT:

A. Contractor certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and will be treated equally by it without regard to, or because of, race, color, religion, national origin, ancestry, sex, age, marital status, condition of physical disability (including HIV and AIDS) or mental disability, medical condition (cancer), denial of family care leave, or political affiliation, and in compliance with all applicable Federal and State anti-discrimination laws and regulations.

B. Contractor shall take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment without regard to race, color, religion, national origin, ancestry, sex, age, marital status, condition of physical disability (including HIV and AIDS) or mental disability, medical condition (cancer), denial of family care leave, or political affiliation. Such action shall include, but is not limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Contractor shall not discriminate against or harass, nor shall it permit harassment of, its employees during employment based upon race, color, religion, national origin, ancestry, sex, age, marital status, condition of physical disability (including HIV and AIDS) or mental disability, medical condition (cancer), denial of family care leave, or political affiliation in compliance with all applicable Federal and State anti-discrimination laws and regulations. Contractor shall insure that the evaluation and treatment of its employees and applicants for employment are free from such discrimination and harassment, and will comply with the provisions of the Fair Employment and Housing Act (Government Code section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.).

C. Contractor shall deal with its subcontractors, bidders, or vendors without regard to or because of race, color, religion, national origin, ancestry, sex, age, marital status, condition of physical disability (including HIV and AIDS) or mental disability, medical condition (cancer), denial of family care leave, or political affiliation. Further, Contractor shall give written notice of its obligations under this Paragraph 18 to labor organizations with which it has a collective bargaining or other agreement.

D. Contractor shall allow County representatives access to its employment records during regular business hours to verify compliance with the provisions of this Paragraph 18 when so requested by Director.

E. If County finds that any of the above provisions has been violated, the same shall constitute a material breach of this Agreement upon which County may immediately terminate or suspend this Agreement. While County reserves the right to determine independently that the anti-discrimination provisions of this Agreement have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that Contractor has violated State or Federal anti-discrimination laws or regulations shall constitute a finding by County that Contractor has violated the anti-discrimination provisions of this Agreement.

F. In the event that Contractor violates any of the anti-discrimination provisions of this Paragraph 18, County shall be entitled, at its option, to the sum of FIVE HUNDRED DOLLARS ($500) pursuant to California Civil Code Section 1671 as liquidated damages in lieu of terminating or suspending this Agreement.

19. FAIR LABOR STANDARDS: Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act, and shall indemnify, defend, and hold harmless County, its officers, employees, and agents, from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law, including, but not limited to, the Federal Fair Labor Standards Act, for services performed by Contractor's employees for which County may be found jointly or solely liable.

20. INDEMNIFICATION AND INSURANCE:

A. Indemnification: Contractor shall indemnify, defend and hold harmless

County, and its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with Contractor's acts and/or omissions arising from and/or relating to this Agreement.

B. General Insurance Requirements: Without limiting Contractor's indemnification of County and during the term of this Agreement, Contractor shall provide and maintain, and shall require all of its subcontractors to maintain, the following programs of insurance specified in this Agreement. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by County, and such coverage shall be provided and maintained at Contractor's own expense.

1) Evidence of Insurance: Certificate(s) or other evidence of coverage satisfactory to County shall be delivered to *Department of Mental Health, 550 South Vermont Avenue, Contracts Development and Administration Division, 5th Floor, Los Angeles, CA, 90020,* prior to commencing services under this Agreement. Such certificates or other evidence shall:

(a) Specifically identify this Agreement.

(b) Clearly evidence all coverages required in this Agreement.

(c) Contain the express condition that County is to be given written notice by mail at least 30 days in advance of cancellation for all policies evidenced on the certificate of insurance.

(d) Include copies of the additional insured endorsement to the commercial general liability policy, adding the County of Los Angeles, its Special Districts, its officials, officers and employees as insureds for all activities arising from this Agreement.

(e) Identify any deductibles or self-insured retentions for County's approval. The County retains the right to require Contractor to reduce or eliminate such deductibles or self-insured retentions as they apply to County, or, require Contractor to provide a bond guaranteeing payment of all such retained losses and related costs, including, but not limited to, expenses or fees, or both, related to investigations, claims

administrations, and legal defense. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

2) Insurer Financial Ratings: Insurance is to be provided by an insurance company acceptable to the County with an A.M. Best rating of not less than A:VII, unless otherwise approved by County.

3) Failure to Maintain Coverage: Failure by Contractor to maintain the required insurance, or to provide evidence of insurance coverage acceptable to County, shall constitute a material breach of the contract upon which County may immediately terminate or suspend this Agreement. County, at its sole option, may obtain damages from Contractor resulting from said breach. Alternatively, County may purchase such required insurance coverage, and without further notice to Contractor, County may deduct from sums due to Contractor any premium costs advanced by County for such insurance.

4) Notification of Incidents, Claims or Suits: Contractor shall report to County:

(a) Any accident or incident relating to services performed under this Agreement which involves injury or property damage which may result in the filing of a claim or lawsuit against Contractor and/or County. Such report shall be made in writing within 24 hours of occurrence.

(b) Any third party claim or lawsuit filed against Contractor arising from or related to services performed by Contractor under this Agreement.

(c) Any injury to a Contractor employee which occurs on County property. This report shall be submitted on a County "Non-employee Injury Report" to the County contract manager.

(d) Any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of County property, monies or securities entrusted to Contractor under the terms of this Agreement.

5) Compensation for County Costs: In the event that Contractor fails to comply with any of the indemnification or insurance requirements of this Agreement, and such failure to comply results in any costs to County, Contractor shall pay full compensation for all costs incurred by County.

6) Insurance Coverage Requirements for Subcontractors: Contractor shall ensure any and all sub-contractors performing services under this Agreement meet the insurance requirements of this Agreement by either:

(a) Contractor providing evidence of insurance covering the activities of sub-contractors, or

(b) Contractor providing evidence submitted by sub-contractors evidencing that sub-contractors maintain the required insurance coverage. County retains the right to obtain copies of evidence of sub-contractor insurance coverage at any time.

C. Insurance Coverage Requirements:

1) General Liability: Insurance (written on ISO policy form CG 00 01 or its equivalent) with limits of not less than the following:

General Aggregate:	Two Million Dollars	($2,000,000)
Products/Completed Operations Aggregate:	One Million Dollars	($1,000,000)
Personal and Advertising Injury:	One Million Dollars	($1,000,000)
Each Occurrence:	One Million Dollars	($1,000,000)

2) Automobile Liability: Insurance (written on ISO policy form CA 00 01 or its equivalent) with a limit of liability of not less than One Million Dollars ($1,000,000) for each accident. Such insurance shall include coverage for all "owned", "hired" and "non-owned" vehicles, or coverage for "any auto".

3) Workers Compensation and Employers' Liability: Insurance providing workers compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which Contractor is responsible. If Contractor's employees will be engaged in maritime employment, coverage shall provide workers compensation benefits as required by the U.S. Longshore and Harbor Workers' Compensation Act, Jones Act or any other Federal law for which Contractor is responsible. In all cases, the above insurance also shall include Employers' Liability coverage with limits of not less than the following:

Each Accident:	One Million Dollars	($1,000,000)

Disease – policy limit: One Million Dollars ($1,000,000)

Disease – each employee: One Million Dollars ($1,000,000)

4) Professional Liability: Insurance covering liability arising from any error, omission, negligent or wrongful act of the Contractor, its officers or employees with limits of not less than One Million Dollars ($1,000,000) per occurrence and Three Million Dollars ($3,000,000) aggregate. The coverage also shall provide an extended two-year reporting period commencing upon termination or cancellation of this Agreement.

5) Property Coverage: Such insurance shall be endorsed naming the County of Los Angeles as loss payee, provide deductibles of no greater than 5% of the property value, and shall include:

Real Property and All Other Personal Property: – Special form (all-risk) coverage for the full replacement value of County-owned or leased property.

21. WARRANTY AGAINST CONTINGENT FEES: Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon any agreement or understanding for any commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by Contractor for the purpose of securing business. For Contractor's breach or violation of this warranty, County may, in its sole discretion, deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

22. CONFLICT OF INTEREST:

A. No County employee whose position in County enables such employee to influence the award or administration of this Agreement or any competing agreement, and no spouse or economic dependent of such employee, shall be employed in any capacity by Contractor or have any direct or indirect financial interest in this Agreement. No officer or employee of Contractor who may financially benefit from the provision of services hereunder shall in any way participate in County's approval, or ongoing evaluation, of such services, or in any way attempt to unlawfully influence County's approval or ongoing evaluation of such services.

B. Contractor shall comply with all conflict of interest laws, ordinances and

regulations now in effect or hereafter to be enacted during the term of this Agreement. Contractor warrants that it is not now aware of any facts which create a conflict of interest. If Contractor hereafter becomes aware of any facts which might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to County. Full written disclosure shall include, without limitation, identification of all persons implicated and complete description of all relevant circumstances.

23. UNLAWFUL SOLICITATION: Contractor shall require all of its employees to acknowledge, in writing, understanding of and agreement to comply with the provisions of Article 9 of Chapter 4 `of Division 3 (commencing with Section 6l50) of California Business and Professions Code (i.e., State Bar Act provisions regarding unlawful solicitation as a runner or capper for attorneys) and shall take positive and affirmative steps in its performance hereunder to insure that there is no violation of such provisions by its employees. Contractor shall utilize the attorney referral service of all those bar associations within the County of Los Angeles that have such a service.

24. INDEPENDENT STATUS OF CONTRACTOR:

A. This Agreement is by and between County and Contractor and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between County and Contractor. The employees and agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.

B. Contractor shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Agreement all compensation and benefits. County shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of Contractor.

C. Contractor understands and agrees that all persons performing services pursuant to this Agreement are, for purposes of workers' compensation liability, the sole employees of Contractor and not employees of County. Contractor shall be solely liable and responsible for furnishing any and all workers' compensation benefits to any person as a result of any injuries arising from or connected with any services performed by or on

behalf of Contractor pursuant to this Agreement.

D. Contractor shall obtain and maintain on file an executed Contractor Employee Acknowledgment of Employer, in the form as contained in Contractor's Negotiation Package for this Agreement, for each of its employees performing services under this Agreement. Such Acknowledgments shall be executed by each such employee on or immediately after the commencement date of this Agreement but in no event later than the date such employee first performs services under this Agreement.

25. CONSIDERATION OF HIRING COUNTY EMPLOYEES TARGETED FOR LAYOFF OR FORMER COUNTY EMPLOYEES ON A REEMPLOYMENT LIST: Should Contractor require additional or replacement personnel after the effective date of this Agreement to perform the services set forth herein, Contractor shall give first consideration for such employment openings to qualified permanent County employees who are targeted for layoff or qualified former County employees who are on a reemployment list during the term of this Agreement.

26. CONSIDERATION FOR HIRING GREATER AVENUES FOR INDEPENDENCE (GAIN) OR GENERAL RELIEF OPPORTUNITIES FOR WORK (GROW) PARTICIPANTS FOR EMPLOYMENT: Should Contractor require additional or replacement personnel after the effective date of this Agreement, Contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services' Greater Avenues for Independence (GAIN) Program or General Relief Opportunities for Work (GROW) Program who meet Contractor's minimum qualifications for the open position. The County will refer GAIN/GROW participants, by job category, to the Contractor.

In the event that both laid-off County employees and GAIN/GROW participants are available for hiring, County employees shall be given priority.

27. DELEGATION AND ASSIGNMENT BY CONTRACTOR:

A. Contractor shall not assign its rights or delegate its duties under this Agreement, or both, whether in whole or in part, without the prior written consent of County, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this paragraph, County consent shall

require a written amendment to this Agreement, which is formally approved and executed by the parties. Any payments by County to any approved delegate or assignee on any claim under this Agreement shall be deductible, at County's sole discretion, against the claims which Contractor may have against County.

B. Shareholders, partners, members, or other equity holders of Contractor may transfer, sell, exchange, assign, or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment, or divestment is effected in such a way as to give majority control of Contractor to any person(s), corporation, partnership, or entity other than the majority controlling interest therein at the time of execution of this Agreement, such disposition is an assignment requiring the prior written consent of County in accordance with applicable provisions of this Agreement.

C. Any assumption, assignment, delegation, or takeover of any of the Contractor's duties, responsibilities, obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without County's express prior written approval, shall be a material breach of this Agreement which may result in the termination of this Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor.

28. SUBCONTRACTING:

A. No performance of this Agreement, or any portion thereof, shall be subcontracted by Contractor without the prior written consent of County as provided in this Paragraph 28. Any attempt by Contractor to subcontract any performance, obligation, or responsibility under this Agreement, without the prior written consent of County, shall be null and void and shall constitute a material breach of this Agreement. Notwithstanding any other provision of this Agreement, in the event of any such breach by Contractor, this Agreement may be terminated forthwith by County. Notwithstanding any other provision of this Agreement, the parties do not in any way intend that any person or entity shall acquire any rights as a third party beneficiary of this Agreement.

B. If Contractor desires to subcontract any portion of its performance, obligations, or responsibilities under this Agreement, Contractor shall make a written request to County for written approval to enter into the particular subcontract. Contractor's request to County shall include:

(1) The reasons for the particular subcontract.

(2) A detailed description of the services to be provided by the subcontract.

(3) Identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected, including the degree of competition involved.

(4) A description of the proposed subcontract amount and manner of compensation, together with Contractor's cost or price analysis thereof.

(5) A copy of the proposed subcontract which shall contain the following provision:

> "This contract is a subcontract under the terms of the prime contract with the County of Los Angeles and shall be subject to all of the provisions of such prime contract."

(6) A copy of the proposed subcontract, if in excess of $10,000 and utilizes public funds, shall also contain the following provision:

> "The contracting parties shall be subject to the examination and audit of the State Auditor, pursuant to the California Government Code, Section 8546.7.for a period of seven (7) years from the end of the Fiscal Year in which such services were provided or until final resolution of any audits, whichever occurs later."

Further, the Contractor will also be subject to the examination and audit of the State Auditor , pursuant to the Government Code, Section 8546.7, for a period of seven (7) years from the end of the Fiscal Year in which such services were provided or until final resolution of any audits, which ever occurs later.

(7) Any other information and/or certifications requested by County.

C. County shall review Contractor's request to subcontract and shall determine,

in its sole discretion, whether or not to consent to such request on a case-by-case basis.

D. Contractor shall indemnify and hold harmless County, its officers, employees, and agents, from and against any and all liability, damages, costs, and expenses, including, but not limited to, defense costs and legal fees, arising from or related to Contractor's use of any subcontractor, including any officers, employees, or agents of any subcontractor, in the same manner as required for Contractor, its officers, employees, and agents, under this Agreement.

E. Notwithstanding any County consent to any subcontracting, Contractor shall remain fully liable and responsible for any and all performance required of it under this Agreement, and no subcontract shall bind or purport to bind County. Further, County approval of any subcontract shall not be construed to limit in any way Contractor's performance, obligations, or responsibilities, to County, nor shall such approval limit in any way any of County's rights or remedies contained in this Agreement. Additionally, County approval of any subcontract shall not be construed in any way to constitute the determination of the allowability or appropriateness of any cost or payment under this Agreement.

F. In the event that County consents to any subcontracting, such consent shall be subject to County's right to give prior and continuing approval of any and all subcontractor personnel providing services under such subcontract. Contractor shall assure that any subcontractor personnel not approved by County shall be immediately removed from the provision of any services under the particular subcontract or that other action is taken as requested by County. County shall not be liable or responsible in any way to Contractor, to any subcontractor, or to any officers, employees, or agents of Contractor or any subcontractor, for any liability, damages, costs or expenses arising from or related to County's exercise of such right.

G. In the event that County consents to any subcontracting, such consent shall be subject to County's right to terminate, in whole or in part, any subcontract at any time upon written notice to Contractor when such action is deemed by County to be in its best interest. County shall not be liable or responsible in any way to Contractor, to any subcontractor, or to any officers, employees, or agents of Contractor or any subcontractor,

for any liability, damages, costs, or expenses arising from or related to County's exercise of such right.

H. In the event that County consents to any subcontracting, each and all of the provisions of this Agreement and any amendment thereto shall extend to, be binding upon, and inure to the benefit of, the successors or administrators of the respective parties.

I. In the event that County consents to any subcontracting, such consent shall apply to each particular subcontract only and shall not be, or be construed to be, a waiver of this Paragraph 28 or a blanket consent to any further subcontracting.

J. In the event that County consents to any subcontracting, Contractor shall be solely liable and responsible for any and all payments and/or other compensation to all subcontractors and their officers, employees, and agents. County shall have no liability or responsibility whatsoever for any payment and/or other compensation for any subcontractors or their officers, employees, and agents.

K. Contractor shall deliver to the Chief of DMH's Contracts Development and Administration Division a fully executed copy of each subcontract entered into by Contractor pursuant to this Paragraph 28, on or immediately after the effective date of the subcontract but in no event later than the date any services are performed under the subcontract.

L. In the event that County consents to any subcontracting, Contractor shall obtain and maintain on file an executed Subcontractor Employee Acknowledgment of Employer, in the form as contained in Contractor's Negotiation Package for the Agreement, for each of the subcontractor's employees performing services under the subcontract. Such Acknowledgments shall be obtained and maintained on file and made available upon request on or immediately after the commencement date of the particular subcontract but in no event later than the date such employee first performs any services under the subcontract.

M. County shall have no liability or responsibility whatsoever for any payment or other compensation for any subcontractor or its officers, employees, and agents.

N. Director or his designee is hereby authorized to act for and on behalf of

County pursuant to this Paragraph 28, including, but not limited to, consenting to any subcontracting.

29. GOVERNING LAW, JURISDICTION AND VENUE: This Agreement shall be governed by, and construed in accordance with, the laws of the State of California. Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Agreement and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles, California. Further, this Agreement shall be governed by, and construed in accordance with, all laws, regulations, and contractual obligations of County under its agreement with the State.

30. COMPLIANCE WITH APPLICABLE LAW:

A. Contractor shall comply with all Federal, including, but not limited to, Title XIX of the Social Security Act, State, and local laws, ordinances, rules, regulations, manuals, guidelines, Americans with Disabilities Act (ADA) standards, and directives applicable to its performance hereunder. Further, all provisions required thereby to be included in this Agreement are hereby incorporated herein by reference.

B. Contractor shall indemnify and hold harmless County from and against any and all liability, damages, costs or expenses, including, but not limited to, defense costs and attorneys' fees, arising from or related to any violation on the part of Contractor, its officers, employees, or agents, of any such Federal, State or local laws, ordinances, rules, regulations, manuals, guidelines, ADA standards, or directives.

C. Contractor shall maintain in effect an active compliance program in accordance with the recommendations set forth by the Department of Health and Human Services, Office of the Inspector General.

D. Duty to Notify: Contractor agrees to notify County of any and all legal complaints, citations, enforcement proceedings, administrative proceedings, judgments or litigation, known to Contractor, whether civil or criminal initiated against Contractor, its officers, employees, or agents which are likely to have a material effect on the organization's stewardship, financial position and/or ability to perform and deliver services under this contract.

31. THIRD PARTY BENEFICIARIES: Notwithstanding any other provision of this Agreement, the parties do not in any way intend that any person or entity shall acquire any rights as a third party beneficiary of this Agreement.

32. LICENSES, PERMITS, REGISTRATIONS, ACCREDITATIONS, AND CERTIFICATES:

A. Contractor shall obtain and maintain in effect during the term of this Agreement, all licenses, permits, registrations, accreditations, and certificates (including, but not limited to, certification as a Short-Doyle/Medi-Cal provider if Title XIX Short-Doyle/Medi-Cal services are provided hereunder), as required by all Federal, State, and local laws, ordinances, rules, regulations, manuals, guidelines, and directives, which are applicable to Contractor's facility(ies) and services under this Agreement. Contractor shall further ensure that all of its officers, employees, and agents, who perform services hereunder, shall obtain and maintain in effect during the term of this Agreement all licenses, permits, registrations, accreditations, and certificates which are applicable to their performance hereunder. A copy of each such license, permit, registration, accreditation, and certificate (including, but not limited to, certification as a Short-Doyle/Medi-Cal provider if Title XIX Short-Doyle/Medi-Cal services are provided hereunder) as required by all applicable Federal, State, and local laws, ordinances, rules, regulations, manuals, guidelines and directives shall be provided, in duplicate, to DMH's Contracts Development and Administration Division.

B. If Contractor is a participant in the Short-Doyle/Medi-Cal program, Contractor shall keep fully informed of all current Short-Doyle/Medi-Cal Policy Letters, including, but not limited to, procedures for maintaining Medi-Cal certification of all its facilities.

33. CHILD SUPPORT COMPLIANCE PROGRAM:

A. Contractor's Warranty of Adherence to County's Child Support Compliance Program: Contractor acknowledges that County has established a goal of ensuring that all individuals who benefit financially from County through contract are in compliance with their court-ordered child, family, and spousal support obligations in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.

As required by County's Child Support Compliance Program (County Code

Chapter 2.200) and without limiting Contractor's duty under this Agreement to comply with all applicable provisions of law, Contractor warrants that it is now in compliance and shall during the term of this Agreement maintain in compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 United States Code (USC) Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholdings Orders or Child Support Services Department Notices of Wage and Earnings Assignment for Child, Family, or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

B. Termination for Breach of Warranty to Maintain Compliance with County's Child Support Compliance Program: Failure of Contractor to maintain compliance with the requirements set forth in Subparagraph A (Contractor's Warranty of Adherence to County's Child Support Compliance Program) shall constitute default under this Agreement. Without limiting the rights and remedies available to County under any other provision of this Agreement, failure of Contractor to cure such default within 90 calendar days of written notice shall be grounds upon which County may terminate this Agreement pursuant to Paragraph 35 (TERMINATION FOR DEFAULT) and pursue debarment of Contractor, pursuant to County Code Chapter 2.202.

34. TERMINATION FOR INSOLVENCY:

A. County may terminate this Agreement immediately in the event of the occurrence of any of the following:

(1) Insolvency of Contractor. Contractor shall be deemed to be insolvent if it has ceased to pay its debts for at least 60 days in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the Federal Bankruptcy Code and whether or not Contractor is insolvent within the meaning of the Federal Bankruptcy Code.

(2) The filing of a voluntary or involuntary petition regarding Contractor under the Federal Bankruptcy Code.

(3) The appointment of a Receiver or Trustee for Contractor.

(4) The execution by Contractor of a general assignment for the benefit

of creditors.

B. The rights and remedies of County provided in this Paragraph 34 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

35. TERMINATION FOR DEFAULT:

A. County may, by written notice of default to Contractor, terminate this Agreement immediately in any one of the following circumstances:

(1) If, as determined in the sole judgment of County, Contractor fails to perform any services within the times specified in this Agreement or any extension thereof as County may authorize in writing; or

(2) If, as determined in the sole judgment of County, Contractor fails to perform and/or comply with any of the other provisions of this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in either of these two circumstances, does not cure such failure within a period of five days (or such longer period as County may authorize in writing) after receipt of notice from County specifying such failure.

B. In the event that County terminates this Agreement as provided in Subparagraph A, County may procure, upon such terms and in such manner as County may deem appropriate, services similar to those so terminated, and Contractor shall be liable to County for any reasonable excess costs incurred by County, as determined by County, for such similar services.

C. The rights and remedies of County provided in this Paragraph 35 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

36. TERMINATION FOR IMPROPER CONSIDERATION: County may, by written notice to Contractor, immediately terminate the right of Contractor to proceed under this Agreement if it is found that consideration, in any form, was offered or given by Contractor, either directly or through an intermediary, to any County officer, employee or agent with the intent of securing the Agreement or securing favorable treatment with respect to the award, amendment or extension of the Agreement or the making of any determinations

with respect to the Contractor's performance pursuant to the Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by the Contractor.

Contractor shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (800) 544-6861.

Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

37. SEVERABILITY: If any provision of this Agreement or the application thereof to any person or circumstance is held invalid, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby.

38. CAPTIONS AND PARAGRAPH HEADINGS: Captions and paragraph headings used in this Agreement are for convenience only and are not a part of this Agreement and shall not be used in construing this Agreement.

39. ALTERATION OF TERMS: No addition to, or alteration of, the terms of the body of this Agreement, or the Financial Summary or Service Exhibit(s) hereto, whether by written or oral understanding of the parties, their officers, employees or agents, shall be valid and effective unless made in the form of a written amendment to this Agreement which is formally approved and executed by the parties in the same manner as this Agreement.

40. ENTIRE AGREEMENT: The body of this Agreement, all attachments, Financial Exhibit A (Financial Provisions), Financial Summary(ies), Fiscal Years 2007-08, 2008-09, 2009-10 Service Delivery Site Exhibit, and Service Exhibit(s) 1,2 &3, attached hereto and incorporated herein by reference, and Contractor's Negotiation Package for this Agreement, as approved in writing by Director, including any addenda thereto as approved in writing by Director, which are hereby incorporated herein by reference but not attached, shall constitute the complete and exclusive statement of understanding between the parties which supersedes all previous agreements, written or oral, and all other communications between the parties relating to the subject matter of this Agreement. In

the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, or schedule, or the contents or description of any service or other work, or otherwise, between the body of this Agreement and the other referenced documents, or between such other documents, such conflict or inconsistency shall be resolved by giving precedence first to the body of this Agreement and its definitions and then to such other documents according to the following priority:

A. Financial Exhibit A (Financial Provisions)

B. Financial Summary(ies)

C. Service Delivery Site Exhibit

D. Service Exhibit(s)

E. Contractor's Negotiation Package.

41. WAIVER: No waiver by County of any breach of any provision of this Agreement shall constitute a waiver of any other breach of such provision. Failure of County to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof. The rights and remedies set forth in this Paragraph 41 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

42. EMPLOYMENT ELIGIBILITY VERIFICATION: Contractor warrants that it fully complies with all Federal statutes and regulations regarding employment of aliens and others and that all its employees performing services hereunder meet the citizenship or alien status requirements set forth in Federal statutes and regulations. Contractor shall obtain, from all covered employees performing services hereunder, all verification and other documentation of employment eligibility status required by Federal statutes and regulations as they currently exist and as they may be hereafter amended. Contractor shall retain all such documentation for the period prescribed by law. Contractor shall indemnify, defend, and hold harmless County, its officers and employees from and against any employer sanctions and any other liability which may be assessed against Contractor or County in connection with any alleged violation of any Federal statutes or regulations pertaining to the eligibility for employment of persons performing services under this Agreement.

43. PUBLIC ANNOUNCEMENTS AND LITERATURE: In public announcements and literature distributed by Contractor for the purpose of apprising patients/clients and the general public of the nature of its treatment services, Contractor shall clearly indicate that the services which it provides under this Agreement are funded by the County of Los Angeles.

44. PURCHASES:

A. Purchase Practices: Contractor shall fully comply with all Federal, State and County laws, ordinances, rules, regulations, manuals, guidelines, and directives, in acquiring all furniture, fixtures, equipment, materials, and supplies. Such items shall be acquired at the lowest possible price or cost if funding is provided for such purposes hereunder.

B. Proprietary Interest of County: In accordance with all applicable Federal, State and County laws, ordinances, rules, regulations, manuals, guidelines and directives, County shall retain all proprietary interest, except the use during the term of this Agreement, in all furniture, fixtures, equipment, materials, and supplies, purchased or obtained by Contractor using any County funds. Upon the expiration or termination of this Agreement, the discontinuance of the business of Contractor, the failure of Contractor to comply with any of the provisions of this Agreement, the bankruptcy of Contractor or its giving an assignment for the benefit of creditors, or the failure of Contractor to satisfy any judgment against it within 30 calendar days of filing, County shall have the right to take immediate possession of all such furniture, removable fixtures, equipment, materials, and supplies, without any claim for reimbursement whatsoever on the part of Contractor. County, in conjunction with Contractor, shall attach identifying labels on all such property indicating the proprietary interest of County.

C. Inventory Records, Controls and Reports: Contractor shall maintain accurate and complete inventory records and controls for all furniture, fixtures, equipment, materials, and supplies, purchased or obtained using any County funds. Within 90 calendar days following the execution of this Agreement, Contractor shall provide Director with an accurate and complete inventory report of all furniture, fixtures, equipment, materials, and supplies, purchased or obtained using any County funds. The inventory

report shall be prepared by Contractor on a form or forms designated by Director, certified and signed by an authorized officer of Contractor, and one copy thereof shall be delivered to County within 30 calendar days of any change in the inventory. Within five business days after the expiration or termination of the Agreement, Contractor shall submit to County six copies of the same inventory report updated to the expiration or termination date of the Agreement, certified and signed by an authorized officer of Contractor, based on a physical count of all items of furniture, fixtures, equipment, materials, and supplies, as of such expiration or termination date.

D. Protection of Property in Contractor's Custody: Contractor shall maintain vigilance and take all reasonable precautions, to protect all furniture, fixtures, equipment, materials, and supplies, purchased or obtained using any County funds, against any damage or loss by fire, burglary, theft, disappearance, vandalism or misuse. In the event of any burglary, theft, disappearance, or vandalism of any item of furniture, fixtures, equipment, materials, and supplies, Contractor shall immediately notify the police and make a written report thereof, including a report of the results of any investigation which may be made. In the event of any damage or loss of any item of furniture, fixtures, equipment, materials, and supplies, from any cause, Contractor shall immediately send Director a detailed, written report. Contractor shall contact DMH's Administrative Services Division for instructions for disposition of any such property which is worn out or unusable.

E. Disposition of Property in Contractor's Custody: Upon the termination of the funding of any program covered by this Agreement, or upon the expiration or termination of this Agreement, or at any other time that County may request, Contractor shall: (1) provide access to and render all necessary assistance for physical removal by County or its authorized representatives of any or all furniture, fixtures, equipment, materials, and supplies, purchased or obtained using any County funds, in the same condition as such property was received by Contractor, reasonable wear and tear excepted, or (2) at Director's option, deliver any or all items of such property to a location designated by Director. Any disposition, settlement or adjustment connected with such property shall be in accordance with all applicable Federal, State and County laws, ordinances, rules, regulations, manuals, guidelines and directives.

45. AUTHORIZATION WARRANTY: Contractor represents and warrants that the person executing this Agreement for Contractor is an authorized agent who has actual authority to bind Contractor to each and every term, condition, and obligation of this Agreement and that all requirements of Contractor have been fulfilled to provide such actual authority.

46. RESTRICTIONS ON LOBBYING: If any Federal funds are to be used to pay for any of Contractor's services under this Agreement, Contractor shall fully comply with all certification and disclosure requirements prescribed by Section 319 of Public Law 101-121 (31 United States Code Section 1352) and any implementing regulations, and shall ensure that each of its subcontractors receiving funds under this Agreement also fully complies with all such certification and disclosure requirements.

47. CERTIFICATION OF DRUG-FREE WORK PLACE: Contractor certifies and agrees that Contractor and its employees shall comply with DMH's policy of maintaining a drug-free work place. Contractor and its employees shall not manufacture, distribute, dispense, possess, or use any controlled substances as defined in 21 United States Code Section 812, including, but not limited to, marijuana, heroin, cocaine, and amphetamines, at any of Contractor's facilities or work sites or County's facilities or work sites. If Contractor or any of its employees is convicted of or pleads nolo contendere to any criminal drug statute violation occurring at any such facility or work site, then Contractor, within five (5) days thereafter, shall notify Director in writing.

48. COUNTY LOBBYISTS: Contractor and each County lobbyist or County lobbying firm as defined in Los Angeles County Code Section 2.160.010, retained by Contractor, shall fully comply with County's Lobbyist Ordinance, Los Angeles County Code Chapter 2.160. Failure on the part of Contractor or any County lobbyist or County lobbying firm retained by Contractor to fully comply with County's Lobbyist Ordinance shall constitute a material breach of this Agreement upon which County may immediately terminate or suspend this Agreement.

49. MAINTENANCE STANDARDS FOR SERVICE DELIVERY SITES: Contractor shall assure that all locations where services are provided under this Agreement are operated at all times in accordance with all County community standards with regard to

property maintenance and repair, graffiti abatement, refuse removal, fire safety, landscaping, and in full compliance with all applicable local laws, ordinances, and regulations relating to the property. County's periodic monitoring visits to Contractor's facility(ies) shall include a review of compliance with this Paragraph 49.

50. NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT: Contractor shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the Federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice 1015.

51. USE OF RECYCLED-CONTENT PAPER PRODUCTS: Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at the County landfills, the Contractor agrees to use recycled-content paper to the maximum extent possible on the Project.

52. CONTRACTOR RESPONSIBILITY AND DEBARMENT: The following requirements set forth in the County's Non-Responsibility and Debarment Ordinance (Title 2, Chapter 2.202 of the County Code) are effective for this Agreement, except to the extent applicable State and/or Federal laws are inconsistent with the terms of the Ordinance.

A. A responsible Contractor is a Contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the contract. It is the County's policy to conduct business only with responsible contractors.

B. The Contractor is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the County acquires information concerning the performance of the Contractor on this or other Agreements which indicates that the Contractor is not responsible, the County may, in addition to other remedies provided in the Agreement, debar the Contractor from bidding or proposing on, or being awarded, and/or performing work on County Agreements for a specified period of time, which generally will not exceed five years but may exceed five years or be permanent if warranted by the circumstances, and terminate any or all existing Agreements the Contractor may have with the County.

C. The County may debar a Contractor if the Board of Supervisors finds, in its discretion, that the Contractor has done any of the following: (1) violated a term of an Agreement with the County or a nonprofit corporation created by the County; (2) committed an act or omission which negatively reflects on the Contractor's quality, fitness or capacity to perform a contract with the County, any other public entity, or a nonprofit corporation created by the County, or engaged in a pattern or practice which negatively reflects on same; (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity.

D. If there is evidence that the Contractor may be subject to debarment, the Department will notify the Contractor in writing of the evidence which is the basis for the proposed debarment and will advise the Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.

E. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether the contractor should be debarred, and, if so, the appropriate length of time of the debarment. The Contractor and the Department shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Supervisors.

F. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny or adopt the proposed decision and recommendation of the Hearing Board.

G If a Contractor has been debarred for a period longer than five (5) years, that Contractor may, after the debarment has been in effect for at least five (5) years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. The County may, in its discretion, reduce the

period of debarment or terminate the debarment if it finds that the Contractor has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the County.

H. The Contractor Hearing Board will consider a request for review of a debarment determination only where (1) the Contractor has been debarred for a period longer than five (5) years; (2) the debarment has been in effect for at least five (5) years; and (3) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.

The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

I. These terms shall also apply to subcontractors of County Contractors.

53. CONTRACTOR'S EXCLUSION FROM PARTICIPATION IN A FEDERALLY FUNDED PROGRAM: Contractor hereby warrants that neither it nor any of its staff members is restricted or excluded from providing services under any health care program funded by the Federal government, directly or indirectly, in whole or in part, and that Contractor will notify Director within 30 calendar days in writing of: (1) any event that would require Contractor or a staff member's mandatory exclusion from participation in a Federally funded health care program; and (2) any exclusionary action taken by any

agency of the Federal government against Contractor or one or more staff members barring it or the staff members from participation in a Federally funded health care program, whether such bar is direct or indirect, or whether such bar is in whole or in part.

There are a variety of different reasons why an individual or entity may be excluded from participating in a Federally funded health care program. Sometimes, the exclusion is mandatory and in other cases the Office of Inspector General (OIG) has the discretion not to exclude.

The mandatory bases for exclusion include: (1) felony convictions for program related crimes, including fraud or false claims, or for offenses related to the dispensing or use of controlled substances, or (2) convictions related to patient abuse.

Permissive exclusions may be based on: (1) conviction of a misdemeanor related to fraud or financial misconduct involving a government program; (2) obstructing an investigation; (3) failing to provide access to documents or premises as required by federal health care program officials; (4) conviction of a misdemeanor related to controlled substances; (5) failing to disclose information about the entity itself, its subcontractors or its significant business transactions; (6) loss of a state license to practice a health care profession; (7) default on a student loan given in connection with education in a health profession; (8) charging excessive amounts to a Federally funded health care program or furnishing services of poor quality or which are substantially in excess of the needs of the patients; (9) paying a kickback or submitting a false or fraudulent claim. Persons controlling or managing excluded entities who knew of the conduct leading to the exclusion can themselves be excluded, and entities which are owned and controlled by excluded individuals can also be excluded.

Contractor shall indemnify and hold County harmless against any and all loss or damage County may suffer arising from any Federal exclusion of Contractor or its staff members from such participation in a Federally funded health care program. Contractor shall provide the certification set forth in Attachment VI as part of its obligation under this Paragraph 53.

Failure by Contractor to meet the requirements of this Paragraph 53 shall constitute a material breach of Agreement upon which County may immediately terminate or

suspend this Agreement.

54. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT:

A. The parties acknowledge the existence of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations ("HIPAA"). Contractor understands and agrees that it is a *"Covered Entity"* under HIPAA and, as such, has obligations with respect to the confidentiality, privacy, and security of patients' medical information, and must take certain steps to preserve the confidentiality of this information, both internally and externally, including the training of staff and the establishment of proper procedures for the release of such information, including the use of appropriate consents and authorizations specified under HIPAA.

B. The parties acknowledge their separate and independent obligations with respect to HIPAA, and that such obligations relate to *transactions and code sets*, *privacy*, and *security*. Contractor understands and agrees that it is separately and independently responsible for compliance with HIPAA in all these areas and that County has not undertaken any responsibility for compliance on Contractor's behalf. Contractor has not relied, and will not in any way rely, on County for legal advice or other representations with respect to Contractor's obligations under HIPAA, but will independently seek its own counsel and take the necessary measures to comply with the law and its implementing regulations.

C. Contractor and County understand and agree that each is independently responsible for HIPAA compliance and agree to take all necessary and reasonable actions to comply with the requirements of HIPAA law and implementing regulations related to Transactions and Code Sets, Privacy, and Security. Each party further agrees to indemnify and hold harmless the other party (including their officers, employees and agents) for its failure to comply with HIPAA.

D. Contractor and County understand and agree that HIPAA has imposed additional requirements in regards to changes in DMH's County's information system.

(1) County desires to clarify County's information system terminology under this Agreement as it relates to HIPAA, and, accordingly, has set forth in Attachment VIII (Crosswalk Fact Sheet) a "crosswalk" of technical terms, definitions and language to

be used with this Agreement.

(2) County desires to clarify other HIPAA-related changes set forth in the DMH Provider Manual and which are incorporated herein by reference as though fully set forth.

(a) County has added to the DMH Provider Manual a Guide to Procedure Codes, which includes a "crosswalk" of DMH activity codes to Current Procedural Terminology (CPT) and Health Care Procedure Coding System (HCPCS) codes.

(b) County has added to the DMH Provider Manual an Electronic Data Interchange Fact Sheet which includes information about the applicable HIPAA transactions that can be processed in the County's claims processing information system. Effective January 2009 Electronic Data Interchange (EDI) will be the only acceptable method by which Contractor or its Subcontractor(s) may submit HIPAA-compliant transactions.

(c) County has added to the DMH Provider Manual a Trading Partner Agent Authorization Agreement which includes the Contractor's authorization to its Subcontractor(s) to submit HIPAA-compliant transactions on behalf of Contractor.

E. Contractor understands that County operates an informational website **http://dmh.lacounty.info/hipaa/index.html** related to the services under this Agreement and the parties' HIPAA obligations, and agrees to undertake reasonable efforts to utilize said website to obtain updates, other information, and forms to assist Contractor in its performance.

F. Contractor understands and agrees that if it uses the services of an Agent in any capacity in order to receive, transmit, store or otherwise process Data or Data Transmissions or perform related activities, the Contractor shall be fully liable to DMH or for any acts, failures or omissions of the Agent in providing said services as though they were the Contractor's own acts, failures, or omissions.

G. Contractor further understands and agrees that the terms and conditions of the current Trading Partner Agreement (TPA) set forth in the DMH Provider Manual shall apply to this Agreement and that said Terms and Conditions are incorporated by reference

as though fully set forth herein.

55. COMPLIANCE WITH JURY SERVICE PROGRAM:

A. Jury Service Program: This Agreement is subject to the provisions of the County's ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code.

B. Written Employee Jury Service Policy:

(1) Unless Contractor has demonstrated to the County's satisfaction either that Contractor is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that Contractor qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), Contractor shall have and adhere to a written policy that provides that its Employees shall receive from the Contractor, on an annual basis, no less than five (5) days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the Employee's regular pay the fees received for jury service.

(2) For purposes of this Section, "Contractor" means a person, partnership, corporation or other entity which has an Agreement with the County or a subcontract with a County Contractor and has received or will receive an aggregate sum of $50,000 or more in any 12-month period under one or more County Agreements or subcontracts. "Employee" means any California resident who is a full-time employee of Contractor. "Full-time" means 40 hours or more worked per week or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the County, or 2) Contractor has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If Contractor uses any subcontractor to perform services for the County under the Agreement, the subcontractor shall also be subject to the provisions of this Section. The provisions of this Section shall be inserted into any such subcontract Agreement and a copy of the Jury Service Program shall be attached to the Agreement.

(3) If Contractor is not required to comply with the Jury Service Program when

the Agreement commences, Contractor shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and Contractor shall immediately notify County if Contractor at any time either comes within the Jury Service Program's definition of "Contractor" or if Contractor no longer qualifies for an exception to the Program. In either event, Contractor shall immediately implement a written policy consistent with the Jury Service Program. The County may also require, at any time during the Agreement and at its sole discretion, that Contractor demonstrate to the County's satisfaction that Contractor either continues to remain outside of the Jury Service Program's definition of "Contractor" and/or that Contractor continues to qualify for an exception to the Program.

(4) Contractor's violation of this section of the Agreement may constitute a material breach of the Agreement. In the event of such material breach, County may, in its sole discretion, terminate the Agreement and/or bar Contractor from the award of future County Agreements for a period of time consistent with the seriousness of the breach.

56. NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW: The Contractor shall notify and provide to its employees, and shall require each subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby.

The fact sheet is set forth in Attachment VII of this Agreement and is also available on the Internet at **www.babysafela.org** for printing purposes.

57. CONTRACTOR'S ACKNOWLEDGEMENT OF COUNTY'S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW: The Contractor acknowledges that the County places a high priority on the implementation of the Safely Surrendered Baby Law. The Contractor understands that it is the County's policy to encourage all County Contractors to voluntarily post the County's "Safely Surrendered Baby Law" poster in a prominent position at the Contractor's place of business. The Contractor will also encourage its subcontractors, if any, to post this poster in a prominent position in the subcontractor's place of business. The County's Department of Children and Family Services will supply the Contractor with the poster to be used.

58. COMPLIANCE WITH THE COUNTY'S LIVING WAGE PROGRAM:

(LANGUAGE APPLIES ONLY TO PROP A LIVING WAGE CONTRACTS)

A. Living Wage Program: This Contract is subject to the provisions of the County's ordinance entitled Living Wage Program as codified in Sections 2.201.010 through 2.201.100 of the Los Angeles County Code, a copy of which is attached as *Exhibit K* and incorporated by reference into and made a part of this Contract.

B. Payment of Living Wage Rates:

(1) Unless the Contractor has demonstrated to the County's satisfaction either that the Contractor is not an "Employer" as defined under the Program (Section 2.201.020 of the County Code) or that the Contractor qualifies for an exception to the Living Wage Program (Section 2.201.090 of the County Code), the Contractor shall pay its Employees no less than the applicable hourly living wage rate, as set forth immediately below, for the Employees' services provided to the County under the Contract:

i. Not less than $9.46 per hour if, in addition to the per-hour wage, the Contractor contributes less than $1.14 per hour towards the provision of bona fide health care benefits for its Employees and any dependents; or

ii. Not less than $8.32 per hour if, in addition to the per-hour wage, the Contractor contributes at least $1.14 per hour towards the provision of bona fide health care benefits for its Employees and any dependents. The Contractor will be deemed to have contributed $1.14 per hour towards the provision of bona fide health care benefits if the benefits are provided through the County Department of Health Services Community Health Plan. If, at any time during the Contract, the Contractor contributes less than $1.14 per hour towards the provision of bona fide health care benefits, the Contractor shall be required to pay its Employees the higher hourly living wage rate.

(2) For purposes of this Sub-paragraph, "Contractor" includes any subcontractor engaged by the Contractor to perform services for the County under the Contract. If the Contractor uses any subcontractor to perform services for the County under the Contract, the subcontractor shall be subject to the provisions of this Sub-paragraph. The provisions of this Sub-paragraph shall be inserted into any such subcontract Contract and a copy of the Living Wage Program shall be attached to the

Contract. "Employee" means any individual who is an employee of the Contractor under the laws of California, and who is providing full-time services to the Contractor, some or all of which are provided to the County under the Contract. "Full-time" means a minimum of 40 hours worked per week, or a lesser number of hours, if the lesser number is a recognized industry standard and is approved as such by the County; however, fewer than 35 hours worked per week will not, in any event, be considered full-time.

(3) If the Contractor is required to pay a living wage when the Contract commences, the Contractor shall continue to pay a living wage for the entire term of the Contract, including any option period.

(4) If the Contractor is not required to pay a living wage when the Contract commences, the Contractor shall have a continuing obligation to review the applicability of its "exemption status" from the living wage requirement. The Contractor shall immediately notify the County if the Contractor at any time either comes within the Living Wage Program's definition of "Employer" or if the Contractor no longer qualifies for an exception to the Living Wage Program. In either event, the Contractor shall immediately be required to commence paying the living wage and shall be obligated to pay the living wage for the remaining term of the Contract, including any option period. The County may also require, at any time during the Contract and at its sole discretion, that the Contractor demonstrate to the County's satisfaction that the Contractor either continues to remain outside of the Living Wage Program's definition of "Employer" and/or that the Contractor continues to qualify for an exception to the Living Wage Program. Unless the Contractor satisfies this requirement within the time frame permitted by the County, the Contractor shall immediately be required to pay the living wage for the remaining term of the Contract, including any option period.

C. Contractor's Submittal of Certified Monitoring Reports: The Contractor shall submit to the County certified monitoring reports at a frequency instructed by the County. The certified monitoring reports shall list all of the Contractor's Employees during the reporting period. The certified monitoring reports shall also verify the number of hours worked, the hourly wage rate paid, and the amount paid by the Contractor for health benefits, if any, for each of its Employees. The certified monitoring reports shall also state

the name and identification number of the Contractor's current health care benefits plan, and the Contractor's portion of the premiums paid as well as the portion paid by each Employee. All certified monitoring reports shall be submitted on forms provided by the County (*Exhibit L and Exhibit M*), or other form approved by the County which contains the above information. The County reserves the right to request any additional information it may deem necessary. If the County requests additional information, the Contractor shall promptly provide such information. The Contractor, through one of its officers, shall certify under penalty of perjury that the information contained in each certified monitoring report is true and accurate.

D. Contractor's Ongoing Obligation to Report Labor Law/Payroll Violations and Claims: During the term of the Contract, if the Contractor becomes aware of any labor law/payroll violation or any complaint, investigation or proceeding ("claim") concerning any alleged labor law/payroll violation (including but not limited to any violation or claim pertaining to wages, hours and working conditions such as minimum wage, prevailing wage, living wage, the Fair Labor Standards Act, employment of minors, or unlawful employment discrimination), the Contractor shall immediately inform the County of any pertinent facts known by the Contractor regarding same. This disclosure obligation is not limited to any labor law/payroll violation or claim arising out of the Contractor's contract with the County, but instead applies to any labor law/payroll violation or claim arising out of any of the Contractor's operations in California.

E. County Auditing of Contractor Records: Upon a minimum of twenty-four (24) hours' written notice, the County may audit, at the Contractor's place of business, any of the Contractor's records pertaining to the Contract, including all documents and information relating to the certified monitoring reports. The Contractor is required to maintain all such records in California until the expiration of four years from the date of final payment under the Contract. Authorized agents of the County shall have access to all such records during normal business hours for the entire period that records are to be maintained.

F. Notifications to Employees: The Contractor shall place County-provided living wage posters at each of the Contractor's places of business and locations where

Contractor's Employees are working. The Contractor shall also distribute County-provided notices to each of its Employees at least once per year. The Contractor shall translate into Spanish and any other language spoken by a significant number of Employees the posters and handouts.

G. Enforcement and Remedies: If the Contractor fails to comply with the requirements of this Sub-paragraph, the County shall have the rights and remedies described in this Sub-paragraph in addition to any rights and remedies provided by law or equity.

(1) Remedies For Submission of Late or Incomplete Certified Monitoring Reports: If the Contractor submits a certified monitoring report to the County after the date it is due or if the report submitted does not contain all of the required information or is inaccurate or is not properly certified, any such deficiency shall constitute a breach of the Contract. In the event of any such breach, the County may, in its sole discretion, exercise any or all of the following rights/remedies:

(a) Withholding of Payment: If the Contractor fails to submit accurate, complete, timely and properly certified monitoring reports, the County may withhold from payment to the Contractor up to the full amount of any invoice that would otherwise be due, until Contractor has satisfied the concerns of the County, which may include required submittal of revised certified monitoring reports or additional supporting documentation.

(b) Liquidated Damages: It is mutually understood and agreed that the Contractor's failure to submit an accurate, complete, timely and properly certified monitoring report will result in damages being sustained by the County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for the Contractor's breach. Therefore, in the event that a certified monitoring report is deficient, including but not limited to being late, inaccurate, incomplete or uncertified, it is agreed that the County may, in its sole discretion, assess against the Contractor liquidated damages in the

amount of $100 per monitoring report for each day until the County has been provided with a properly prepared, complete and certified monitoring report. The County may deduct any assessed liquidated damages from any payments otherwise due the Contractor.

(c) Termination: The Contractor's continued failure to submit accurate, complete, timely and properly certified monitoring reports may constitute a material breach of the Contract. In the event of such material breach, the County may, in its sole discretion, terminate the Contract.

(2) Remedies for Payment of Less Than the Required Living Wage: If the Contractor fails to pay any Employee at least the applicable hourly living wage rate, such deficiency shall constitute a breach of the Contract. In the event of any such breach, the County may, in its sole discretion, exercise any or all of the following rights/remedies:

(a) Withholding Payment: If the Contractor fails to pay one or more of its Employees at least the applicable hourly living wage rate, the County may withhold from any payment otherwise due the Contractor the aggregate difference between the living wage amounts the Contractor was required to pay its Employees for a given pay period and the amount actually paid to the employees for that pay period. The County may withhold said amount until the Contractor has satisfied the County that any underpayment has been cured, which may include required submittal of revised certified monitoring reports or additional supporting documentation.

(b) Liquidated Damages: It is mutually understood and agreed that the Contractor's failure to pay any of its Employees at least the applicable hourly living wage rate will result in damages being sustained by the County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for the Contractor's breach. Therefore, it is agreed that the County may, in its sole discretion, assess against the Contractor liquidated damages of $50 per Employee per day for each and every instance of an underpayment to an Employee. The County may deduct any assessed liquidated damages from any payments otherwise due the Contractor.

(c) Termination: The Contractor's continued failure to pay any of its Employees the applicable hourly living wage rate may constitute a material breach of the Contract. In the event of such material breach, the County may, in its sole discretion, terminate the Contract.

(3) Debarment: In the event the Contractor breaches a requirement of this Sub-paragraph, the County may, in its sole discretion, bar the Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach, not to exceed three years.

H. Use of Full-Time Employees: The Contractor shall assign and use full-time Employees of the Contractor to provide services under the Contract unless the Contractor can demonstrate to the satisfaction of the County that it is necessary to use non-full-time Employees based on staffing efficiency or County requirements for the work to be performed under the Contract. It is understood and agreed that the Contractor shall not, under any circumstance, use non-full-time Employees for services provided under the Contract unless and until the County has provided written authorization for the use of same. The Contractor submitted with its proposal a full-time Employee staffing plan. If the Contractor changes its full-time Employee staffing plan, the Contractor shall immediately provide a copy of the new staffing plan to the County.

I. Contractor Retaliation Prohibited: The Contractor and/or its Employees shall not take any adverse action which would result in the loss of any benefit of employment, any contract benefit, or any statutory benefit for any Employee, person or entity who has reported a violation of the Living Wage Program to the County or to any other public or private agency, entity or person. A violation of the provisions of this Sub-paragraph may constitute a material breach of the Contract. In the event of such material breach, the County may, in its sole discretion, terminate the Contract.

J. Contractor Standards: During the term of the Contract, the Contractor shall maintain business stability, integrity in employee relations and the financial ability to pay a living wage to its employees. If requested to do so by the County, the Contractor shall demonstrate to the satisfaction of the County that the Contractor is complying with this requirement.

K. Employee Retention Rights:

(Note: This Sub-paragraph applies only if the contract involves the provision of services that were previously provided by a Contractor under a predecessor Proposition A contract or a predecessor cafeteria services contract, which predecessor contract was terminated by the County prior to its expiration.)

(1) Contractor shall offer employment to all retention employees who are qualified for such jobs. A "retention employee" is an individual:

(a) Who is not an exempt employee under the minimum wage and maximum hour exemptions defined in the federal Fair Labor Standards Act; and

(b) Who has been employed by a Contractor under a predecessor Proposition A contract or a predecessor cafeteria services contract with the County for at least six (6) months prior to the date of this new Contract, which predecessor contract was terminated by the County prior to its expiration; and

(c) Who is or will be terminated from his or her employment as a result of the County entering into this new contract.

(2) Contractor is not required to hire a retention employee who:

(a) Has been convicted of a crime related to the job or his or her performance; or

(b) Fails to meet any other County requirement for employees of a Contractor.

(3) Contractor shall not terminate a retention employee for the first 90 days of employment under the contract, except for cause. Thereafter, Contractor may retain a retention employee on the same terms and conditions as Contractor's other employees.

L. Neutrality in Labor Relations: The Contractor shall not use any consideration received under the Contract to hinder, or to further, organization of, or collective bargaining activities by or on behalf of the Contractor's employees, except that this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure pursuant to obligations incurred under a bona fide collective bargaining Contract, or which would otherwise be permitted under the

provisions of the National Labor Relations Act.

59. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS (45 C.F.R. PART 76): The Contractor hereby acknowledges that the County is prohibited from contracting with and making sub-awards to parties that are suspended, debarred, ineligible, or excluded or whose principals are suspended, debarred, ineligible, or excluded from securing federally funded contracts. By executing this Agreement, Contractor certifies that neither it nor any of its owners, officers, partners, directors or other principals is currently suspended, debarred, ineligible, or excluded from securing federally funded contracts. Further, by executing this Agreement, Contractor certifies that, to its knowledge, none of its subcontractors, at any tier, or any owner, officer, partner, director or other principal of any subcontractor is currently suspended, debarred, ineligible, or excluded from securing federally funded contracts. Contractor shall immediately notify County in writing, during the term of this Agreement, should it or any of its subcontractors or any principals of either be suspended, debarred, ineligible, or excluded from securing federally funded contracts. Failure of Contractor to comply with this provision shall constitute a material breach of this Agreement upon which the County may immediately terminate or suspend this Agreement.

60. CONTRACTOR'S CHARITABLE ACTIVITIES COMPLIANCE:

The Supervision of Trustees and Fundraisers for Charitable Purposes Act regulates entities receiving or raising charitable contributions. The "Nonprofit Integrity Act of 2004" (SB 1262, Chapter 919) increased Charitable Purposes Act requirements. By requiring Contractors to complete the certification in Attachment IX, the County seeks to ensure that all County contractors which receive or raise charitable contributions comply with California law in order to protect the County and its taxpayers. A Contractor which receives or raises charitable contributions without complying with its obligations under California law commits a material breach subjecting it to either contract termination or debarment proceedings or both. (County Code Chapter 2.202)

61. NOTICES: All notices or demands required or permitted to be given under thisAgreement shall be in writing and shall be delivered with signed receipt or mailed by

first class, registered or certified mail, postage pre-paid, addressed to the parties at the following addresses and to the attention of the persons named. Director shall have the authority to execute all notices or demands which are required or permitted by County under this Agreement. Addresses and persons to be notified may be changed by either party by giving ten (10) days prior written notice thereof to the other party.

For the County, please use the following contact information:

County of Los Angeles - Department of Mental Health
Contracts Development and Administration Division
550 South Vermont Ave., 5th Floor
Los Angeles, CA 90020
Attention: Chief of Contracts

For the Contractor, please use the following contact information:

Exceptional Children's Foundation
8740 Washington Blvd
Culver City, CA 90232

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IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this Agreement to be subscribed by its Chairman and the seal of said Board to be hereto affixed and attested to by the Executive Officer thereof, and Contractor has caused this Agreement to be subscribed in its behalf by its duly authorized officer, the day, month and year first above written.

ATTEST:

By _____
Deputy

COUNTY OF LOS ANGELES

By _____
Chairman, Board of Supervisors

APPROVED AS TO FORM:
OFFICE OF THE COUNTY COUNSEL

By _____
Deputy County Counsel

Exceptional Children's Foundation
CONTRACTOR

By _____

Name Scott D. Bowling

Title President & CEO

(AFFIX CORPORATE SEAL HERE)

APPROVED AS TO CONTRACT ADMINISTRATION:

DEPARTMENT OF MENTAL HEALTH

By _____
Chief, Contracts Development
and Administration Division

IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this Agreement to be subscribed by County's Director of Mental Health or his designee, and Contractor has caused this Agreement to be subscribed in its behalf by its duly authorized officer, the day, month, and year first above written.

COUNTY OF LOS ANGELES

APPROVED AS TO FORM:
OFFICE OF THE COUNTY COUNSEL

By _____
MARVIN J. SOUTHARD, D.S.W.
Director of Mental Health

By _____
Deputy County Counsel

Exceptional Children's Foundation
CONTRACTOR

By _____

Name Scott D. Bowling

Title President & CEO

(AFFIX CORPORATE SEAL HERE)

APPROVED AS TO CONTRACT
ADMINISTRATION:

DEPARTMENT OF MENTAL HEALTH

By _____
Chief, Contracts Development
and Administration Division

IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this Agreement to be subscribed by County's Director of Mental Health or his designee, and Contractor has caused this Agreement to be subscribed in its behalf by its duly authorized officer, the day, month, and year first above written.

COUNTY OF LOS ANGELES

By _____
MARVIN J. SOUTHARD, D.S.W.
Director of Mental Health

Exceptional Children's Foundation
CONTRACTOR

By _____

Name Scott D. Bowling

Title President & CEO
(AFFIX CORPORATE SEAL HERE)

APPROVED AS TO FORM:
OFFICE OF THE COUNTY COUNSEL

APPROVED AS TO CONTRACT
ADMINISTRATION:

DEPARTMENT OF MENTAL HEALTH

By _____
Chief, Contracts Development
and Administration Division

DEFINITIONS

The following terms, as used in this Agreement, shall have the following meanings:

A. "CCR" means the California Code of Regulations;

B. "CGF" means County General Funds;

C. "CalWORKs" means California Work Opportunities and Responsibilities to Kids Act, which under California Welfare and Institutions Code Section 11200 et seq. provides for mental health supportive services to eligible welfare recipients. CalWORKs funding consists of both Federal and State funds;

D. "Cash Flow Advance" means County General Funds (CGF) furnished by County to Contractor for cash flow purposes in expectation of Contractor repayment pending Contractor's rendering and billing of eligible services/activities;

E. "Cost Reimbursement" or "CR" means the arrangement for the provision of mental health services based on the reasonable actual and allowable costs of services provided under this Agreement, less all fees paid by or on behalf of patients/clients and all other revenue, interest and return resulting from the same services;

F. "County's Claims Processing Information System" means the current system employed by the Department of Mental Health to submit and process claims.

G. "CPT" means Physicians' Current Procedural Terminology as referenced in the American Medical Association standard edition publication;

H. "CR/DC Manual" means SDMH's Cost Reporting/Data Collection Manual;

I. "Day(s)" means calendar day(s) unless otherwise specified;

J. "DCFS" means County Department of Children and Family Services;

K. "Director" means County's Director of Mental Health or his authorized designee;

L. "DMH" means County's Department of Mental Health;

M. "DPSS" means County's Department of Public Social Services;

N. "EOB" means `Explanation of Balance' for Title XIX Short-Doyle/Medi-Cal services which is the State Department of Health Services adjudicated claim data and `Explanation of Benefits' for Medicare which is the Federal designated Fiscal Intermediary's adjudicated Medicare claim data;

DEFINITIONS CONTINUED

O. "EPSDT" means the Early and Periodic Screening, Diagnosis, and Treatment program, which is a requirement of the Medicaid program to provide comprehensive health care. Such State funds are specifically designated for this program;

P. "Established Maximum Allowable Rate" means the Short-Doyle/Medi-Cal maximum reimbursement for a specific SFC unit as established by SDMH;

Q. "FFP" means Federal Financial Participation for Short-Doyle/Medi-Cal services and/or Medi-Cal Administrative Activities as authorized by Title XIX of the Social Security Act, 42 United States Code Section 1396 et seq.;

R. "Fiscal Intermediary" means County acting on behalf of the Contractor and the Federally designated agency in regard to and/or Title XIX Short-Doyle/Medi-Cal services, and/or Title XIX Medi-Cal Administrative Activities;

S. "Fiscal Year" means County's Fiscal Year which commences July 1 and ends the following June 30;

T. "Gross Program Budget" is the sum total of the Net Program Budget and all "Third Party Revenues" shown in the Financial Summary;

U. "GROW" means General Relief Opportunities for Work;

V. "Healthy Families" ("HF") means the federally subsidized health insurance program administered by the State of California for the provision of comprehensive health services (including medical, dental and vision care) to children ages birth through 19th birthday from low income families;

W. "Healthy Families Procedures Manual" ("HF Procedures Manual") means DMH's Healthy Families Procedures Manual for providers. The HF Procedure Manual contains the formal requirements, policies and procedures governing Healthy Families and is incorporated into this Agreement by reference. Contractor hereby acknowledges receipt of the HF Procedures Manual upon execution of this Agreement;

X. "IMD" means Institutions for Mental Disease. Hospitals, nursing facilities or other institutions of more than 16 beds that are primarily engaged in providing

diagnosis, treatment or care of persons with mental disease, including medical attention, nursing care and related services;

Y. "Legal Entity" means the legal organization structure under California law;

Z. "Master Agreement List" means a list of contractors who have submitted a Statement of Qualifications (SOQ) in response to County's Request for Statement of Qualifications (RFSQ), and have met the minimum qualifications listed in the RFSQ, and who have an executed Master Agreement;

AA. "Maximum Contract Amount" is the sum total of all "Allocations" shown in the Financial Summary; except that the "Maximum Contract Amount" shall not include "Third Party Revenue" shown in the Financial Summary;

BB. "Mental Health Services Act" ("MHSA"), adopted by the California electorate on November 2, 2004 creates a new permanent revenue source, administered by the State Department of Mental Health (SDMH), for the transformation and expanded delivery of mental health services provided by State and County agencies and requires the development of integrated plans for prevention, innovation, and system of care services;

CC. "Member" or Title XXI Healthy Families Program Member ("HFPM") means an enrollee in any Healthy Families Health Plan through Healthy Families;

DD. "MHRC" means Mental Health Rehabilitation Centers certified by the State Department of Mental Health;

EE. "MRMIB" means the State of California Managed Risk Medical Insurance Board, the administrator of Healthy Families for the State of California;

FF. "Negotiated Rate" or "NR" means the total amount of reimbursement, including all revenue, interest and return, which is allowable for delivery of a SFC unit as defined by Director and which is shown on the Financial Summary. An NR is the gross rate of reimbursement which is generally determined by dividing Contractor's gross program cost of delivering a particular SFC by the number of such SFC units to be delivered. All fees paid by or on behalf of patients/clients and all other revenue, interest and return resulting from the same service shall

be deducted from the cost of providing the mental health services covered by the Negotiated Rate. A portion of the State-approved NR, which in some cases may be higher than the contracted NR, may be retained by County as County's share of reimbursement from SDMH;

GG. "Net Program Budget" is equal to the Maximum Contract Amount which is the sum total of all "Allocations" and "Pass Through" amounts shown in the Financial Summary. Unless otherwise provided in this Agreement, or separately agreed to in writing between the parties, it is the intent of the parties that the Net Program Budget shall be equal to the Maximum Contract Amount;

HH. "Organizational Provider's Manual" is the Los Angeles County DMH Organizational Provider's Manual for Specialty Mental Health Services under the Rehabilitation Option and Targeted Case Management Services;

II. "PATH" means Projects for Assistance in Transition from Homelessness Federal grant funds;

JJ. "PHF" means a Psychiatric Health Facility. A health facility licensed by the State Department of Mental Health, that provides 24 hour acute inpatient care on either a voluntary or involuntary basis to mentally ill persons. This care shall include, but not be limited to, the following basic services: psychiatry, clinical psychology, psychiatric nursing, social work, rehabilitation, drug administration, and appropriate food services for those persons whose physical health needs can be met in an affiliated hospital or in outpatient settings;

KK. "Request for Services" ("RFS") is a second solicitation process to Contractors on a pre-qualified Master Agreement that requests specific and detailed services as defined in a Statement of Work at a time when such services are needed;

LL. "Request for Statement of Qualifications" ("RFSQ") means a solicitation based on establishing a pool of qualified vendors/contractors to provider services through a Master Agreement;

MM. "SAMHSA" means Substance Abuse and Mental Health Services Administration Federal block grant funds;

DEFINITIONS CONTINUED

NN. "SDHS" means State Department of Health Services;

OO. "SDMH" means State Department of Mental Health;

PP. "SDSS" means State Department of Social Services;

QQ. "SFC" means Service Function Code, as defined by Director, for a particular type of mental health service, and/or Title XIX Medi-Cal administrative claiming activity;

RR. "SNF-STP" mean Skilled Nursing Facility licensed by the State Department of Health Services, with an added Special Treatment Program certified by the State Department of Mental Health;

SS. "State" means the State of California;

TT. "Statement of Qualifications" ("SOQ") means a contractor's response to an RFSQ;

UU. "Statement of Work" ("SOW") means a written description of services desired by County for a specific Work Order;

VV. "Title IV" means Title IV of the Social Security Act, 42 United States Code Section 601et seq.;

WW. "Title XIX" means Title XIX of the Social Security Act, 42 United States Code Section 1396 et seq.;

XX. "Title XXI" means Title XXI of the Social Security Act, 42 United States Code Section 1396 et seq.;

YY. "UMDAP" means SDMH's Uniform Method of Determining Ability to Pay; and

ZZ. "WIC" means the California Welfare and Institutions Code.

FINANCIAL EXHIBIT A
(FINANCIAL PROVISIONS)

FINANCIAL EXHIBIT A

(FINANCIAL PROVISIONS)

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EXHIBIT

EXHIBIT A-1: COUNTY OF LOS ANGELES DEPARTMENT OF MENTAL HEALTH CONTRACTOR CLAIMS CERTIFICATION FOR TITLE XIX SHORT-DOYLE MEDI-CAL AND TITLE XXI HEALTHY FAMILIES REIMBURSEMENTS

FINANCIAL EXHIBIT A

FINANCIAL PROVISIONS: REIMBURSEMENT BUSINESS RULES, METHODOLOGIES AND LIMITATIONS

A. GENERAL: This Agreement provides that County shall pay Contractor monthly, in arrears, for reimbursement of expenditures as provided for in this Financial Exhibit A (FINANCIAL PROVISIONS) (Attachment II to the Department of Mental Health (DMH) Legal Entity Agreement) and as shown in the Financial Summary(ies) (Attachment III to the DMH Legal Entity Agreement).

(1) The Contractor shall comply with requirements necessary for reimbursement as established by Federal, State and local statutes, laws, ordinances, rules, regulations, manuals, policies, guidelines and directives.

(2) The State Schedule of Maximum Allowances (SMAs) in effect during the Initial Period, the First Automatic Renewal Period, or the Second Automatic Renewal Period, shall be applicable to this Agreement when adopted by the State.

(3) Contractor shall inform County when 75 percent (75%) of the Maximum Contract Amount has been incurred based upon Contractor's own billing records. Contractor shall send such notice to those persons and addresses which are set forth in the DMH Legal Entity Agreement, Paragraph 61 (NOTICES).

(4) The maximum reimbursement under this Agreement, except as provided in this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph F (Shift of County General Funds), is in no event more than the Maximum Contract Amount, including any Agreement amendments with a Maximum Contract Amount increase for the applicable fiscal year, specified for each County, State and/or Federal payer/fund source shown in the Financial Summary(ies) (Attachment III) during the Initial Period, First Automatic Renewal Period and the Second Automatic Renewal Period respectively of this Agreement.

(5) Under no circumstances can the total Maximum Contract Amount for any of the periods specified in this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraphs B (Reimbursement for Initial Period) and C (Reimbursement if Agreement is

Automatically Renewed) of this Agreement be increased or decreased without a properly executed amendment, except as provided for in this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph F (Shift of County General Funds).

(6) The Maximum Contract Amount for each period of this Agreement includes Cash Flow Advance which is repayable by Contractor through cash and/or appropriate services/activities and/or actual allowable costs incurred under this Agreement.

B. REIMBURSEMENT FOR INITIAL PERIOD: The Maximum Contract Amount for the Initial Period of this Agreement as described in Paragraph 1 (TERM) shall not exceed THREE HUNDRED THIRTY SEVEN THOUSAND NINE HUNDRED SEVENTEEN DOLLARS (**$337,917**) and shall consist of County, State, and/or Federal funds as shown on the Financial Summary.

C. REIMBURSEMENT IF AGREEMENT IS AUTOMATICALLY RENEWED:

(1) Reimbursement For First Automatic Renewal Period: The Maximum Contract Amount for the First Automatic Renewal Period of this Agreement as described in Paragraph 1 (TERM) shall not exceed EIGHT HUNDRED ELEVEN THOUSAND DOLLARS (**$811,000**) and shall consist of County, State, and/or Federal funds as shown on the Financial Summary.

(2) Reimbursement For Second Automatic Renewal Period: The Maximum Contract Amount for the Second Automatic Renewal Period of this Agreement as described in Paragraph 1 (TERM) shall not exceed EIGHT HUNDRED ELEVEN THOUSAND DOLLARS (**$811,000**) and shall consist of County, State, and/or Federal funds as shown on the Financial Summary.

D. BILLING AND PAYMENT PROCEDURES AND LIMITATIONS:

(1) County payments for Contractor's performance hereunder are:

(a) Provisional until the completion of the audit settlement as specified in this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph N (Audits, Audit Appeals and Post-Audit Short-Doyle/Medi-Cal Final Settlement) because such payments are subject to future County, State and/or Federal adjustments. State and/or County adjustments to provisional payments to Contractor may result based upon County's claim processing information system data, Medi-Cal Administrative Activities

(MAA) data base information, State adjudicated Medi-Cal and Healthy Families Explanation of Benefits (EOB) claims files, contractual limitations of this Agreement, annual cost report, application of various County, State and/or Federal reimbursement limitations, and/or County, State or Federal audits, all of which take precedence over monthly claim reimbursements.

(b) To be made by County using the business rules as shown in this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph D (Billing and Payment Procedures and Limitations); Paragraph F (Shift of County General Funds); and in the Financial Summary(ies) – The Rate Summary (Attachment III) for each of the respective County, State and/or Federal funding sources(s).

(c) Restricted to the services/activities identified in the Financial Summary(ies) – The Rate Summary (Attachment III).

(d) Applied at the Legal Entity level for each respective payer/fund source specified in the Financial Summary(ies) (Attachment III).

(2) Submission of Bills: In general, unless otherwise agreed to by County and with the exception of this Paragraph D (Billing and Payment Procedures and Limitations), Subparagraph (7) (Claims Submission Timeline Requirements), claims for services, including Short-Doyle/Medi-Cal (SD/MC) and Healthy Families, are to be entered into the County's claims processing information system within 30 calendar days of the end of the month in which mental health services are delivered, although late claims may be submitted as needed in accordance with State and federal regulations. In special circumstances, such as Client Supportive Services, a manual claim may be necessary, in which case the Contractor is to submit the claim within 30 calendar days of the end of the month in which the eligible expense was incurred and in the form and content specified by County.

(a) Contractor shall notify County of any delay in meeting the 30 calendar day submission period in the event Contractor is not able to make timely data entry into the County's claims processing information system due to no fault on the part of Contractor. Such Contractor notification must include a description of the problem that the Contractor is having with the County claims processing information system. Notification shall be pursuant to the Legal Entity Agreement, Paragraph 61 (NOTICES), and such

notification shall also be made by Contractor to the DMH Chief Information Office Bureau's Help Desk.

(b) The County will notify Contractor in writing within 30 calendar days of any County issue(s) which will prevent the entry by Contractor of claiming information into the County claims processing information system, and County will waive the requirement of this Paragraph D (Billing and Payment Procedures and Limitations), Subparagraph (2) (Submission of Bills) in the event of any such County issue(s). Once County has resolved its issue(s), Contractor shall enter billing information into the County's claims processing information system within 30 calendar days of County's resolution date unless otherwise agreed to by County and Contractor.

(3) After Director's or his designee's review and approval of the monthly claim(s), Contractor shall receive from County provisional payment of Contractor's claimed amount subjected to the business rules in this Paragraph D (Billing and Payment Procedures and Limitations).

(4) Reimbursement Methodologies: County agrees to reimburse Contractor during the term of this Agreement based on the following less all fees paid by or on behalf of patients/clients receiving services/activities hereunder and all other revenue, interest and return resulting from services/activities and/or funds paid by County to Contractor hereunder, unless otherwise specified in this Agreement.

(a) Cost Reimbursement (CR): The provisional reimbursement shall be based upon the Contractor's actual costs of mental health services/activities entered into the County's claims processing information system, State approved Medi-Cal Explanation of Benefits (EOB) claims file(s), manual claims if specified by County, and County's analysis of the claim's reasonableness subject to the limitations specified in this Financial Exhibit A (FINANCIAL PROVISIONS).

i. Reasonable, necessary and proper actual costs are allowable subject to the limitations specified in this Agreement. The Centers for Medicare and Medicaid Services' Publications #15-1 and #15-2, "The Provider Reimbursement Manual Parts 1 and 2" is to be used to determine eligible costs for federal funds reimbursements. For non-federal funds, allowable costs shall be governed by State law, regulations and/or policy, or by County ordinance or policy.

ii. Additionally, reimbursement for Medi-Cal funded cost reimbursed services entered into the County's claims processing information system are limited to the lowest of:

1. The Contractor's published charge(s) to the general public; unless the Contractor is a Nominal Charge Provider. This federal published charges rule is applicable only for outpatient, rehabilitative, case management and 24-hour services.

2. The Contractor's actual costs.

3. The State's Schedule of Maximum Allowances (SMA).

4. The Maximum Contract Amount (MCA) of this Agreement.

(b) Negotiated Rate Reimbursement (NR):

i. County's reimbursement of Contractor's claim(s) shall be based upon:

1. The mental health services/activities claimed by Contractor by means of Contractor's entry of such services/activities into the County's claims processing information system;

2. State adjudicated approved Short-Doyle/Medi-Cal Explanation of Benefits (EOB) claims files; and

3. Pending State approval of the negotiated rates for Short-Doyle/Medi-Cal, the Contractor's provisional negotiated rate for each procedure as specified in the Financial Summary(ies) (Attachment III), and the State's approved negotiated rates upon receipt by County of the State's negotiated rates approval notice.

ii. A negotiated rate is the payment for services delivered on a per unit of service basis. Allowable costs are negotiated between the County and the Contractor, under the statutory and policy guidelines of the State, to arrive at a negotiated rate per unit of service. If federal funds are included in the reimbursement of negotiated rate services, federal requirements must also be followed in the determination of the negotiated rate(s).

iii. Negotiation rates for services funded with County funds

only shall be established using the provisions specified in Exhibit A (FINANCIAL PROVISIONS), Paragraph E. (Establishing Provisional Cost Reimbursement Rates and Negotiation Rates), Subparagraph (2) (Establishing Provisional Cost Reimbursement Rates).

iv. Negotiated rates for Short-Doyle/Medi-Cal funded services shall be established using the State's Short-Doyle/Medi-Cal Rate Establishment Process for the Fiscal Year for which such negotiated rates would be applicable.

v. Pursuant to California Welfare and Institutions Code (WIC) Section 5716, negotiated rates for Short-Doyle/Medi-Cal services must be approved by the SDMH. A negotiated rate for Short-Doyle/Medi-Cal services shall be effective only upon SDMH approval and only for the period of time specified by SDMH.

vi. Negotiated rates for County funds only services must be approved in writing by the County.

vii. If for any period during the term of this Agreement for which there is no approved SDMH negotiated rate(s); or for which there is no approved County negotiated rate(s) for County funds only services, reimbursement, as specified by WIC Section 5716, shall be based on actual costs, subject to the limitations specified in this Paragraph D (Billing and Payment Procedures and Limitations), Subparagraph (4) (Reimbursement Methodologies), (a) ii. (Cost Reimbursement).

viii. Additionally, reimbursement for Medi-Cal funded negotiated rate reimbursed services entered into the County's claim processing system are limited to the lowest of the following:

1. The Contractor's published charge(s) to the general public; unless the Contractor is a Nominal Charge Provider. This federal published charges rule is applicable only for the outpatient, rehabilitative, case management and 24-hour services.

2. The Contractor's negotiated rates, based on historic costs, and approved by the State, or by the County if the service is not a Short-Doyle/Medi-Cal covered service that requires State rate approval.

3. The State's Schedule of Maximum Allowances (SMA).

4. The Maximum Contract Amount (MCA) of this Agreement.

(c) IMDs: Manual claims submitted by Contractor to the County in the format specified by County. Pursuant to Section 5902(e) of the Welfare and Institutions Code (WIC), Institutions for Mental Diseases (IMD) which are licensed as Skilled Nursing Facilities (SNF) by SDHS are to be reimbursed for basic services at the rate(s) established by SDHS for SNF, in addition to the rate established for a Special Treatment Plan (STP). Accordingly, the IMD reimbursement consists of a basic SNF rate and a STP rate, or a Mental Health Rehabilitation Center (MHRC) rate. Contractor's manual IMD monthly claim to County shall be for those patient days that have been approved in writing by County and shall be separately itemized by each patient day.

(d) Medi-Cal Administrative Activities (MAA): Contractor is to claim reimbursement for MAA through the County's MAA data base system by entering the appropriate eligible MAA provided and the actual time incurred rendering the MAA. Reimbursement to Contractor for MAA billings is made on a quarterly basis and upon actual State approval and payment of MAA claims. Contractor must be approved by the State to participate in and to claim reimbursement for MAA.

(e) Organizational Providers under the Medi-Cal Specialty Mental Health Services:

i. The County will make reimbursement based upon State approved Medi-Cal claims, the maximum number of allowable visits stipulated in the Organizational Provider's Manual for Specialty Mental Health Services under the Rehabilitation Option and Targeted Case Management Services, and not to exceed the rate(s) shown in the Provisional Rate Schedule(s) as published and periodically revised as supplements to the Los Angeles County DMH Medi-Cal Specialty Mental health Services Provider Manual.

ii. The State will impose the reimbursement limits specified in this Paragraph D (Billing and Payment Procedures and Limitations), Subparagraph (4) (Reimbursement Methodologies), (b) viii. (Negotiated Rate Reimbursement (NR)).

iii. The County will at the time of settlement, as specified in

this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph N (Audits, Audit Appeals and Post-Audit Short-Doyle/Medi-Cal Final Settlement), hold Contractor harmless for the difference between the County reimbursement rate(s) specified in the schedule referenced in this Paragraph D (Billing and Payment Procedures and Limitations), Subparagraph (4) (Reimbursement Methodologies), (e) i. (Organizational Providers under the Medi-Cal Specialty Mental Health Services) and the amount allowed by the State subsequent to the application of the reimbursement limits specified in this Paragraph D (Billing and Payment Procedures and Limitations), Subparagraph (4) (Reimbursement Methodologies), (b) viii (Negotiated Rate Reimbursement). However, in no event will County be responsible for any State disallowances resulting from unlawful or inappropriate billings on the part of Contractor.

(5) Special Claiming Conditions:

(a) Mental Health Services Act (MHSA): The execution of Amendments issued under the MHSA Request for Statement of Qualifications (RFSQ) does not guarantee a Contractor any amount of funding. Contractor shall not be entitled to any payment of MHSA funds by County under this Agreement except pursuant to validly executed and satisfactorily performed Work Orders or Amendments completed in accordance with County issued MHSA Request for Services (RFS) that includes a specific and detailed Statement(s) of Work. Nothing herein is intended nor shall be construed as creating any exclusive arrangement with Contractor. This Agreement shall not restrict County from acquiring similar, equal or like MHSA goods and/or services from other entities or sources.

(b) AB 3632 Services Utilizing Medi-Cal, Individuals with Disabilities Education Act (IDEA), AB 3632 State General Funds, AB 3632 SB 90 State General Funds and/or County General Funds:

i. This Agreement's Maximum Contract Amount may include IDEA, State SB 90 (mandates) State General Funds, categorical State General Funds for AB 3632 services, and/or County General Funds for AB 3632 services all of which are restricted for AB 3632 reimbursements. Such funds shall be paid by County to Contractor solely in County's capacity as the AB 3632 claim intermediary between the Contractor and the State and are solely restricted to AB 3632 services.

ii. The CGF, if any, allocated on the Financial Summary(ies) (Attachment III) for AB 3632 services is designated solely for AB 3632 services and no CGF in this category shall be transferred to any other category on said Financial Summary(ies) (Attachment III).

iii. In the event AB 3632 services are rendered to a Medi-Cal beneficiary federal IDEA funds are not eligible for use as local match to draw down federal financial participation (FFP) funds. The only funds available in this Agreement's Maximum Contract Amount as the local match share of the Medi-Cal AB 3632 expenditures are State SB 90 (mandates) State General Funds, categorical State General Funds for AB 3632, EPSDT – State General Funds and County General Funds.

iv. County shall make all instructions issued by the State for SB 90 claiming available to Contractor.

v. Notwithstanding any other provision of this Agreement, in the event that Contractor provides AB 3632 services reimbursable under the State's SB 90 mandate claim process, Contractor shall be paid by County from SB 90 funds upon receipt from the State. In the event that SB 90 funds are not available to pay SB 90 claims or that State denies any or all of the SB 90 claims submitted by County on behalf of Contractor, Contractor shall indemnify and hold harmless County for any and all liability for payment of any or all of the denied SB 90 claims or for the unavailability of SB 90 funds to pay for SB 90 claims. Contractor shall be solely liable and responsible for all data and information submitted by Contractor to County in support of all claims for SB 90 funds submitted by County as the fiscal intermediary.

(c) Supportive and Therapeutic Options Program (STOP) Funds: STOP funds may not be used as local match for any State or Federal programs. Notwithstanding any other provision of this Agreement, in the event that Contractor provides STOP services reimbursable under the State's STOP claim process, Contractor shall be paid by County from STOP funds upon receipt from the State. In the event that STOP funds are not available to pay STOP claims or that State denies any or all of the STOP claims submitted by County on behalf of Contractor, Contractor understands and agrees that County is not responsible for any substantive payment obligation and, accordingly, Contractor shall not seek any payment from County and shall indemnify and

hold harmless County for any and all liability for payment of any or all of the denied STOP claims or for the unavailability of STOP funds to pay for STOP claims.

(6) Maximum Monthly and Year-to-Date and Other Payment Limitations:

(a) The County's monthly payment(s) to Contractor shall be made in a manner that ensures variations in service/activity levels from month-to-month are recognized. Accordingly, an overage in actual services/activities from the Maximum Monthly Payment amount in one month can be applied to offset any underage in actual services/activities in another month(s).

i. Example: The Agreement term is July 1 to June 30 (12 months); the fiscal year's Maximum Contract Amount (MCA) is $120,000; and the payment is for November of the same fiscal year which is the fifth month. The cumulative monthly year-to-date payments will be $50,000 which is calculated by the $120,000 MCA divided by 12 (the total number of months in the Agreement Term for the specific fiscal year) multiplied by 5 (July 1 through November 30 of the fiscal year is 5 months). Therefore, the total maximum County payments limitation to Contractor for the entire 5 month period is $50,000.

(b) All monthly claims shall be subject to adjustment based upon the County's claims processing information system reports, remittance advices and Explanation of Benefits (EOB) data, and/or Contractor's annual Cost Report which shall supersede and take precedence over all claims.

(c) Director or his designee may, in his discretion, at any time, make adjustments to any of Contractor's monthly claims as necessary to ensure that Contractor shall not be paid by County a sum in excess of the amount due to Contractor under the terms and conditions of this Agreement. Director or his designee shall provide Contractor with at least 30 calendar days written notice of his intention to make such payment adjustments, including the reason(s) for his intended action. Thereafter, Contractor may, within 15 calendar days, request reconsideration of the County's decision. Contractor may request in writing, and shall receive if requested, County's computations for determining any adjustment (s), including any amount(s) withheld, to Contractor's monthly claim.

(d) If service data are not submitted as required by County, then

payment shall be withheld until County is in receipt of a complete and correct service data and such service data has been reviewed and approved by Director or his designee. Director or his designee shall review such submitted service data within 60 calendar days of receipt. Director or his designee shall provide Contractor within 30 calendar days written notice of his intention to withhold payment, including the reason(s) for his intended action and the identification of the incomplete or incorrect service data. Thereafter, Contractor may, within 15 calendar days, request reconsideration of the County's decision.

(e) Director or his designee shall have the option to deny payment for services when documentation of clinical work does not meet minimum State and County written standards. Director or his designee shall provide Contractor with at least 30 calendar days written notice of his intention to deny payment, including the reason(s) for his intended actions. Thereafter, Contractor may, within 15 calendar days, request reconsideration of the County's decision. Payment to Contractor shall not be withheld pending the results of the reconsideration process.

(7) Claims Submission Timeline Requirements:

(a) Six-Month Billing Limit: Unless otherwise determined by State or federal regulations (e.g. Medi-Medi cross-over), all original (or initial) claims for eligible individual persons under this Agreement must be received by County within six (6) months from the date of service to avoid possible payment reduction or denial for late billing. Original (or initial) claims received after this six month billing limit without an acceptable delay reason code may be subject to reduction and/or denial by either the State or County. Exceptions to the six month billing limit can be made for months seven through twelve following the month in which the services were rendered if the reason for the late billing is allowed by the California Welfare and Institutions Code (WIC) Section 14115 and the California Code of Regulation Title 22, section 51008.5.

(b) One-Year Billing Limitation: Original (or initial) claims received by the County after the twelfth (12^{th}) month following the date of service will be denied, unless otherwise authorized by State Welfare and Institutions Code (WIC) Section 14115 or federal regulations.

(8) Claims Certification and Program Integrity: Contractor certifies that all units of service entered by Contractor into the County's claims processing system and/or

the Medi-Cal Administrative Activities (MAA) data base system and/or claims for actual costs submitted in hard copy to County for any payer source(s) covered by this Agreement are true and accurate to the best of Contractor's knowledge. Also, Contractor shall annually provide the additional certification set forth in the "Contractor Claims Certification for Title XIX Short-Doyle/Medi-Cal and Title XXI Healthy Families Reimbursements" (Exhibit A–1 to this Attachment II) that is related to the Contractor's compliance with specific State and federal statutory and regulatory requirements which are conditions for the reimbursement of Title XIX Short-Doyle/Medi-Cal and/or Medi-Cal Administrative Activities and/or Title XXI Healthy Families claims.

(9) Suspension of Payment: Payments to Contractor may be suspended if Director, for good cause, determines that Contractor is in default under any of the provisions of this Agreement, or if funds are unavailable from the State or other payer for which County is the fiscal intermediary under this Agreement for payment on Contractor's claims. Except in cases of alleged fraud or similar intentional wrongdoing, at least 30 calendar days notice of such suspension shall be provided to Contractor, including a statement of the reason(s) for such suspension. Thereafter, Contractor may, within 15 calendar days, request reconsideration of Director's decision to suspend payment. Suspension of payment to Contractor shall not take effect pending the results of such reconsideration process. Director shall immediately notify Contractor upon receiving notification of unavailability of funds from the State or other payer for which County is the fiscal intermediary under this Agreement for payment on Contractor's claims.

(10) Contractor agrees to hold harmless both the State and beneficiary in the event County cannot or will not pay for services performed by Contractor pursuant to this Agreement.

(11) No Payment for Services Provided Following Expiration/Termination of Contract: Contractor shall have no claim against County for payment of any money or reimbursement, of any kind whatsoever, for any service provided by Contractor after the expiration or other termination of this Contract. Should Contractor receive any such payment, it shall immediately notify County and shall immediately repay all such funds to County. Payment by County for services rendered after expiration/termination of this Contract shall not constitute a waiver of County's right to recover such payment from

Contractor. This provision shall survive the expiration or other termination of this Contract.

(12) County shall make payment for approved claims, with the exception of any claim for which County is the fiscal intermediary, within 30 calendar days of the receipt of said claim by County subject to the contractual limitations of this Agreement. County shall make payment of any claim for which County is the fiscal intermediary within 30 calendar days of receiving the approved adjudicated claim files from the responsible financial party for which County acts as fiscal intermediary subject to the contractual limitations of this Agreement.

E. ESTABLISHING PROVISIONAL COST REIMBURSEMENT RATES AND NEGOTIATED RATES: The following procedures are to be adhered to in establishing or adjusting provisional cost reimbursement rates and negotiation rates for the Initial Period, the First Automatic Renewal Period and the Second Automatic Renewal Period of this Agreement.

(1) With the exception of Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph D (Billing and Payment Procedures and Limitations), Subparagraph (4) (Reimbursement Methodologies), (e) iii. (Organizational Providers under the Medi-Cal Specialty Mental Health Services), in no case will payment under either cost reimbursement or negotiation rate(s) exceed the State's Schedule of Maximum Allowance rate(s).

(2) Establishing Provisional Cost Reimbursement Rates:

(a) Provisional cost reimbursement rate establishment is based on historical costs.

(b) If Contractor has no historical costs experience, provisional cost reimbursement rates will be based upon the County's approved Negotiation Package rate data. Historical cost information must be for one full operating year (12 months of operations). The start-up year is not considered a full operating year.

(c) When Contractor has historical cost information for at least one full operating year (12 months of operation), provisional cost reimbursement service rates shall be established by using the service rates from the Contractor's most recently filed cost report. The service rates are by service function code range, by legal entity. An application of the appropriate inflation factors is then made to those cost report rates. The

service rates that result will be considered by County to be the control rates. The inflation factors to be used are the Medical Component of the Consumer Price Index for inpatient services and the Home Health Agency Input Price Index (HHAIPI) for outpatient services. For example, the provisional cost reimbursement rates for fiscal year 2007-08 would be based on the fiscal year 2006-07 filed cost report rates increased by one (1) appropriate inflation factor, or if the fiscal year 2006-07 cost report was not available, the year fiscal year 2005-06 filed cost report increased by two (2) appropriate inflation factors.

(d) Justification must be provided for proposed provisional cost reimbursement rates that exceed the control rates as defined by County in Paragraph E (Establishing Provisional Cost Reimbursement Rates and Negotiated Rates), Subparagraph (2)(c) (Establishing Provisional Cost Reimbursement Rates). Changes that may significantly affect the rates are utilization patterns, client profile shifts which impact cost of service delivery, union contracts, changes in program design, and other unforeseen documented factors which impact the cost of service delivery. Quantifiable documentation must be provided by Contractor for County to evaluate such changes. Such documentation shall minimally include:

i. A brief program narrative identifying the changes, since the most recently filed cost report, that are expected to affect the rates for the current year and making those proposed cost reimbursement rates exceed the control rates.

ii. A budget for the current year identifying the cost items included in developing the proposed provisional cost reimbursement rates and the projected units by service function. The budget should be developed from the most recent costs available projected for the year based upon both past and current trends.

iii. A summary page comparing costs and other data by major categories: (1) Salaries and Employee Benefits; (2) Services and Supplies; and (3) Occupancy Costs. Compare the summary data for these three categories from the most recently filed cost report to the current year in both dollars and percentage change.

iv. Detailed data must be provided for each the three above cost categories that Contractor feels causes the proposed rates to exceed the control rates.

(e) When a provider of service is being eliminated during the year in question, the applicable costs and units of service shall be excluded from the calculation of the Contractor's service rates.

(f) Requested rates that exceed the State's Schedule of Maximum Allowance (SMA) will be denied.

(g) County shall within 20 business days of County approval of a requested provisional cost reimbursement rate notify Contactor of such approval, and update the County's information system's rate table with the approved rate(s).

(h) If Contractor desires any mid-year change in the provisional cost reimbursement rates, Contractor shall request such change in writing prior to April 1 of the Fiscal Year for which such change would be applicable. Contractor shall submit a pro forma cost report and such applicable justification information discussed in this Paragraph E (Establishing Provisional Cost reimbursement Rates and Negotiated Rates), Subparagraph (2) (d) (Establishing Provisional Cost Reimbursement Rates) if such proposed mid-year increase in the provisional cost reimbursement service rates is greater than the control rates referenced in this Paragraph E (Establishing Provisional Cost Reimbursement Rates and Negotiated Rates), Subparagraph (2)(c) (Establishing Provisional Cost Reimbursement Rates). However, such changes in the provisional cost reimbursement rates cannot be applied retroactively to services previously processed through the County's claims processing information system. The adjustment to actual costs for such previously processed services will occur at the time of the cost report settlement as discussed in this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph M (Pre-Audit Final Cost Report Settlement).

(i) Provisional rates for the cost reimbursement methodology are adjusted, at the time of the settlement specified in this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph M (Pre-Audit Final Cost Report Settlement), to actual costs based on the Contractor's annual cost report which is subject to subsequent adjustment at the time of audit as described in this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph N) (Audits, Audit Appeals and Post-Audit Short-Doyle/Medi-Cal Final Settlement).

(j) All rate changes shall be made by an amendment pursuant to

the DMH Legal Entity Agreement Paragraph 39 (ALTERATION OF TERMS).

(3) Establishing Negotiated Rates:

(a) Negotiation rates for services funded with County funds only shall be established using the provisions specified in this Paragraph E (Establishing Provisional Cost Reimbursement Rates and Negotiation Rates), Subparagraph (2) (Establishing Provisional cost reimbursement rates).

(b) Negotiated rates for Short-Doyle/Medi-Cal funded services shall be established using the State's Short-Doyle/Medi-Cal Rate Establishment Process for the Fiscal Year for which such negotiated rates would be applicable. If a negotiated rate for Short-Doyle/Medi-Cal is not approved by the State, reimbursement to Contractor shall be based on actual costs and subject to the limitations specified in this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph D (Billing and Payment Procedures and Limitations), Subparagraph (4) Reimbursement Methodologies) (a) ii. (Cost Reimbursement (CR)).

(c) Contractor's request to be reimbursed on a negotiated rate basis and Contractor's proposed negotiated rates and all State required documentation justifying the negotiated rates must be received by County no later than November 30 of the Fiscal Year for which such change would be applicable. County shall timely submit such proposed negotiated rate changes to the State no later than December 31 of the Fiscal Year for which such change would be applicable.

(d) County shall within 20 business days of receiving State approval of a requested negotiated rate(s) or County approval of a requested negotiated rate(s) for County funds only service(s) notify Contactor of such approval, and update the County's claims processing information system's rate table with the approved rate(s).

(4) All rate changes shall be made by an amendment pursuant to the DMH LE Agreement Paragraph 39 (ALTERATION OF TERMS).

F. SHIFT OF COUNTY GENERAL FUNDS: County and Contractor shall enter into a good faith negotiation prior to the beginning of the fiscal year regarding the allocation of County General Funds (CGF) for services to the uninsured and those eligible for benefits programs. Once this allocation has been negotiated, Contractor may shift up to 15 percent of the CGF in the Agreement between categories in the Financial Summary,

based on actual services delivered, without prior approval of the Department, with the provision that at settlement CGF will be first used for Match if the amount needed for Match exceeds the amount projected by Contractor, but in no event shall the amount used as Match exceed the amount shown on the Financial Summary plus 15 percent of CGF without prior approval of County. Any such shift of funds shall be in compliance with all County, State and Federal regulations, and categorical funds given to an agency for a specific purpose (e.g. CalWORKs, MHSA) must be used for the purpose for which they have been designated. In addition, any such shift of funds shall not result in any increase to the MCA, with the exception of FFP and EPSDT-SGF generated using CGF available in the Agreement, which shall be passed through to the Contractor after Board of Supervisor's approval based on a Board letter to be filed by the Director no later than 30 calendar days after the Department's reconciliation of State settlement.

G. RESTRICTION TO PROHIBIT THE REDIRECTION OF CONTRACTED FUNDS OTHER THAN COUNTY DEPARTMENT OF MENTAL HEALTH COUNTY GENERAL FUNDS: With the exception of County Department of Mental Health CGF which is subject to the provision of Exhibit A (FINANCIAL PROVISIONS), Paragraph F (Shift of County General Funds), County control of funds shown in the Financial Summary(ies) (Attachment III) is established in accordance to the requirements and restrictions imposed by each respective County, State and/or Federal payer/fund source. Accordingly, no funds shown in the Financial Summary (Attachment III), except County Department of Mental Health CGF, for any particular payer/fund source may be redirected to any other payer/fund source.

H. GENERAL ADMINISTRATION REQUIREMENTS FOR TITLE XIX SHORT-DOYLE/MEDI-CAL AND MEDI-CAL ADMINISTRATIVE ACTIVITIES, AND TITLE XXI HEALTHY FAMILIES:

(1) Short-Doyle/Medi-Cal (SD/MC) is California's mental health designation for federal Title XIX Medicaid. Federal Financial Participation (FFP) funds are available for mental health expenditures incurred by County when providing eligible services to Medi-Cal beneficiaries and when local match funds are also expended in rendering those Medi-Cal services. State General Fund (SGF) assistance is also available as local match for Medi-Cal eligible beneficiaries participating in the Early and Periodic

Screening, Diagnostic, and Treatment (EPSDT) service. EPSDT is Medicaid's (hence Medi-Cal's) comprehensive and preventive child health program for individuals under the age of 21. Medi-Cal beneficiaries that are eligible for the EPSDT service are assigned specific Medi-Cal aid codes which distinguish their EPSDT eligibility status.

(2) Medi-Cal Administrative Activities (MAA) is a federal Title XIX program that permits Federal Financial Participation (FFP) reimbursement for mental health expenditures when local match funds are also expended for certain activities that cannot be claimed through the State's current Targeted Case Management (TCM) plan. These activities include benefits intake, evaluation and assistance, outreach/intensive informing, crisis evaluation and referral to Medi-Cal for "non-open" cases, Medi-Cal contract administration, clinical training for Medi-Cal services, and program planning for Medi-Cal services.

(3) Healthy Families (HF) is California's Children's Health Insurance Program which is the State's designation of the federal Title XXI State Children's Health Insurance Program. Federal Financial Participation (FFP) funds are available for mental health services provided by a Contractor to eligible HF beneficiaries when local match funds are also expended for eligible services.

(4) County pays any SD/MC, MAA and/or HF FFP and Medi-Cal EPSDT -SGF funds to Contractor in County's capacity as the State designated Mental Health Plan.

(5) SD/MC, MAA and HF FFP funds and EPSDT-SGF funds shall be paid by County to Contractor only:

(a) For State adjudicated approved SD/MC, MAA and/or HF claims less any of such State approved claims that have been voided by Contractor from the County's claims processing information system.

(b) For SD/MC and HF during the time the Contractor is certified as a Title XIX SD/MC provider.

(c) For MAA during the time the Contractor is certified as a Title XIX SD/MC provider and is also approved by the State to participate in the MAA program.

(d) To the extent that this Agreement's applicable Maximum Contract Amount (MCA) has eligible State and/or County local funds which qualify

pursuant to the Code of Federal Regulations as the match funds for the SD/MC, MAA and HF expenditures, thusly permitting the FFP reimbursement.

(e) County will proceed prior to the receipt from the State of the FFP and EPSDT-SGF funds for State approved adjudicated claims to make provisional payments using CGF to Contractor as follows:

(i) In an amount equal to that of the adjudicated approved SD/MC and HF claim lines totals and/or State approved MAA claims less any of such State approved claims that have been voided by Contractor from the County's claims processing information system.

(ii) Such amount is also subject to any State adjustments pursuant to this Paragraph H, Subparagraph (8) (c).

(iii) Such provisional payment using CGF shall not exceed the limitation for total SD/MC, MAA and/or HF claims specified in this Paragraph H (5) (d).

(iv) County recovery of provisional payments using CGF that are in excess of the State approved claims less any of such claims that have been voided by Contractor from the County's claims processing system will be made consistent with this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph D, Subparagraph (6) (b) and (c), and this Paragraph H, Subparagraphs (6), (7) and (16), and Paragraphs M, N and O.

(6) The Maximum Contract Amount (MCA) of this Agreement shall include FFP and/or EPSDT-SGF solely to assist the County in expeditiously processing and initially paying Contractor (because of the internal accounting necessity for appropriation authority) for such claims. This will establish legal authorization by the Board of Supervisors to make payment of the expenditures for the services/activities identified on The Rate Summary (Attachment III, Financial Summary(ies), and Service Exhibit(s)) of this Agreement, pending reimbursement by the State. Each Fiscal Year of the term of this Agreement, County shall pay to Contractor for State adjudicated approved claims for Title XIX Short-Doyle/Medi-Cal services and/or Medi-Cal Administrative Activities, and/or Title XXI Healthy Families services only to the extent required by federal laws, regulations, manuals, guidelines, and directives. With the exception of this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph F (Shift of County General Funds) to the extent

Contractor exceeds the FFP and/or EPSDT-SGF amount(s) included in this Agreement, such excess will be paid by County to Contractor only upon Contract Amendment approved by the Board of Supervisors, or from an Appropriation Account set up by County to record the Board's specific authorization to spend EPSDT-SGF and FFP in excess of the Maximum Contract Amount(s), otherwise such FFP and EPSDT-SGF funds will be remitted by County back to the State.

(7) Contractor understands and agrees that County's actions in providing assistance in processing claims, as the Mental Health Plan for the State and Federal governments, and initially paying for FFP and EPSDT-SGF prior to the receipt of the funds from the State in accordance with the above, is subject to reimbursement from the State and does not render County in any way responsible for the substantive obligation to be ultimately fiscally responsible for payment for Contractor's claims for payment for these Title XIX Short-Doyle/Medi-Cal and/or Medi-Cal Administrative Activities and/or Title XXI Healthy Families services. Contractor's ability to retain the Title XIX Short-Doyle/Medi-Cal, and/or Medi-Cal Administrative Activities and/or Title XXI Healthy Families payment for such State approved claimed services and/or activities is entirely dependent upon compliance with the law and regulations related to same.

(8) Each Fiscal Year of the term of this Agreement, the federal and local match reimbursement for Title XIX Short-Doyle/Medi-Cal and/or Medi-Administrative Activities, and/or Title XXI Healthy Families services, shall be made as on the basis of the State's notification to County of the applicable respective federally published Federal Medical Allowance Percentages (FMAPs) at the time of the date of the service.

(a) The FFP and eligible local match funds are part of the applicable Maximum Contract Amount of this Agreement.

(b) Local Match and FFP: The State and other local match funds that qualify under Federal requirements as the local share of eligible Title XIX Short-Doyle/Medi-Cal and/or Medi-Cal Administrative Activities, and/or Title XXI Healthy Families medical assistance expenditures are identified on the Financial Summary. The Contractor shall provide the local share of the Title XIX Short-Doyle/Medi-Cal and/or Medi-Cal Administrative Activities, and/or Title XXI Healthy Families medical assistance expenditures from eligible funds that are part of the applicable Maximum Contract Amount

of this Agreement. The Financial Summary also identifies the amount of eligible local match public funds that are restricted to be the local share of Medi-Cal, Healthy Families and MAA expenditures. With the exception of this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph F (Shift of County General Funds), the funds identified as local match cannot be reallocated as either local match funds for another payer and/or to non-match services/activities authorized under this Agreement unless such redirection is fully compliant with the terms and conditions of the payer that is the source of the funds and approved in writing by the County.

(c) The eligible EPSDT-SGF and CGF local match funds for eligible expenditures resulting from services/activities rendered to Short-Doyle/Medi-Cal beneficiaries participating in the federal EPSDT service are determined in accordance to the FMAP and the State's distribution of local match State General Funds (EPSDT-SGF). The State will make its provisional payment to County of EPSDT-SGF local match based on adjustments for the State's EPSDT baseline, growth and to allow for historical error between the estimated provisional payment and the settled actual costs. County will make its payment to Contractor of EPSDT Title XIX Medi-Cal services on an interim basis in an amount determined by County which shall not be less than 95% of expected final reimbursement for such services not to exceed the Maximum Contract Amount. To the extent that this Paragraph H (8) (c) results in County payment to Contractor of less than 100% of the Contractor's approved EPSDT contract amount, County will provide Contractor with 60 days prior written notice.

(9) If Title XIX Short-Doyle/Medi-Cal services, and/or Medi-Cal Administrative Activities, and/or Title XXI Healthy Families services are provided under this Agreement, Contractor authorizes County to serve as the Mental Health Plan for State claiming and reimbursement and to act on Contractor's behalf with SDMH and/or SDHS in regard to claiming. Contractor shall certify annually in writing that all necessary documentation exists at the time any such claims for Title XIX Short-Doyle/Medi-Cal services and/or Medi-Cal Administrative Activities, and/or Title XXI Healthy Families are submitted by Contractor to County.

(10) Contractor shall be solely liable and responsible for all service data and information submitted by Contractor. County shall submit as the Mental Health Plan to

SDMH and/or SDHS Title XIX Short-Doyle/Medi-Cal services and/or Medi-Cal Administrative Activities, and/or Title XXI Healthy Families claims and shall timely make available to Contractor any subsequent State approvals or denials of such claims. Contractor shall submit to County all Title XIX Short-Doyle/Medi-Cal and/or Medi-Cal Administrative Activities, and/or Title XXI Healthy Families claims or other State required claims data within the time frame(s) prescribed by the State and Federal governments. County shall have no liability for Contractor's failure to comply with State and Federal time frames.

(11) Notwithstanding any other provision of this Agreement, Contractor shall hold County harmless from and against any loss to Contractor resulting from any such State denials caused by Contractor, unresolved EOB claims, and/or any Federal and/or State audit disallowances caused by Contractor for such Title XIX Short-Doyle/Medi-Cal services and/or Medi-Cal Administrative Activities, and/or Title XXI Healthy Families.

(12) As the State designated Title XIX Short-Doyle/Medi-Cal and Medi-Cal Administrative Activities, and Title XXI Healthy Families Mental Health Plan, County shall submit reimbursement claims to the State in a timely manner only for those services/activities identified and entered by Contractor into the County claim processing information system and/or into the Medi-Cal Administrative Activities data base system as appropriate claims compliant with State and federal requirements. Contractor shall comply with all written instructions provided by County and/or State to Contractor regarding Title XIX Short-Doyle/Medi-Cal and/or Medi-Cal Administrative Activities, and/or Title XXI Healthy Families claiming and documentation.

(13) Contractor shall maintain an audit file documenting all Title XIX Short-Doyle/Medi-Cal services and/or Medi-Cal Administrative Activities, and/or Title XXI Healthy Families services, as instructed by County for a period of seven (7) years from the end of the Fiscal Year in which such services were provided or until final resolution of any audits, whichever occurs later.

(14) County may modify the claiming systems for Title XIX Short-Doyle/Medi-Cal services and/or Medi-Cal Administrative Activities, and/or Title XXI Healthy Families, at any time in order to comply with changes in, or interpretations of,

State or Federal laws, rules, regulations, manuals, guidelines, and directives. County shall notify Contractor in writing of any such modification and the reason, if known, for the modification and the planned implementation date of the modification within five (5) business days of County's knowledge of such change.

(15) Title XIX Short-Doyle/Medi-Cal Reconciliation Report: Contractor shall complete and certify, in accordance with State and County instructions, and provide DMH with two (2) copies of an accurate and complete Title XIX Short-Doyle/Medi-Cal Reconciliation Report at the legal entity level If Contractor does not so provide County with the Title XIX Short-Doyle/Medi-Cal Reconciliation Report by the due date, then Director or his designee, in his sole discretion, shall determine which State approved Short-Doyle/Medi-Cal services shall be used by County for completion of the Title XIX Short-Doyle/Medi-Cal Reconciliation Report. The due date is set by the State and is approximately 16 months after the close of the fiscal year.

(16) Title XIX Short-Doyle/Medi-Cal and/or Medi-Cal Administrative Activities, and/or Title XXI Healthy Families Overpayment Recovery Procedures: Contractor shall repay to County the amount, if any, paid by County to Contractor for State approved Title XIX Short-Doyle/Medi-Cal and/or Medi-Cal Administrative Activities, and/or Title XXI Healthy Families services/activities which are subsequently disallowed by the County, State, and/or Federal governments unless the disallowance was based on written County guidelines. In no event shall County be liable or responsible to Contractor for any State approved Title XIX Short-Doyle/Medi-Cal and/or Medi-Cal Administrative Activities, and/or Title XXI Healthy Families services/activities that are subsequently disallowed by County, State, and/or Federal governments unless the disallowance was based on written County guidelines.

(17) Amount Negotiated Rates Exceed Actual Costs: Negotiated rate reimbursements are subject to a partial recovery by State of State General Fund local match for EPSDT Medi-Cal services and Federal Financial Participation (FFP) if actual costs are less than the reimbursement under negotiated rates. Additionally, negotiated rate reimbursements are subject to a partial recovery by County for County General Fund local match used to draw down the FFP, if any, recovered by the State. This partial recovery is a retrospective cost settlement which shares equally with the Federal, State

and County governments the portion of the negotiated rate reimbursement that exceeds actual cost in the aggregate by legal entity.

(a) The State will use the Short-Doyle/Medi-Cal Cost Report MH 1968 at the time of the process described in this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph M (Pre-Audit Final Cost Report Settlement) to identify the preliminary partial recovery amounts owed back to the Centers for Medicare and Medicaid Services (CMS) and the State for such recovery of State General Fund local match for EPSDT Medi-Cal and FFP payments respectively.

i. The State requires 25 percent (25%) of the gross FFP reimbursement amount in excess of actual cost be recaptured for the Federal government pursuant to the State's Medi-Cal Plan.

ii. The County will recapture from Contractor any State recovery from County of said FFP reimbursement amount in excess of actual costs and remit the recovery amount to State.

iii. The State may also make a partial recovery of State General Funds used as local match for the FFP reimbursement amount in excess of actual costs that is recovered by the State, in which case County shall recover such amount from Contractor and remit the recovery amount to State.

(b) The County may make a partial recovery of County General Funds used as local match for the FFP reimbursement amount in excess of actual costs. County will use the State's preliminary calculation of FFP to be recovered, as described in this Subparagraph (17) (a) (Amount Negotiated Rates Exceed Actual Costs), to identify the preliminary amount of County General Fund (CGF) used as local match for the FFP that the State will preliminarily recover. This CGF local match amount, if any, will remain with the Contractor for payment of other Medi-Cal local match needs and/or uncompensated care subject to this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph F (Shift of County General Funds (CGF)) unless an amendment to reduce the CGF Maximum Contract Amount of this Agreement is made as described in this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph U (Delegated Authority).

(c) The State and the County will adjust as appropriate the FFP, State General Funds and County General Funds calculated pursuant to this Paragraph H

(General Administration Requirements for Title XIX Short-Doyle/Medi-Cal and Medi-Cal Administrative Activities, and Title XXI Healthy Families), Subparagraph (17) (a) and (b) (Amount Negotiated Rates Exceed Actual Costs) to final amounts at the time of the process described at this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph N (Audits, Audit Appeals and Post-Audit Short-Doyle/Medi-Cal Final Settlement).

(d) The amount recovered will be subtracted from the total adjudicated approved claims amount before contract limit comparison is applied.

I. **GOVERNMENT FUNDING RESTRICTIONS:** This Agreement shall be subject to any restrictions, limitations, or conditions imposed by State, including, but not limited to, those contained in State's Budget Act, which may in any way affect the provisions or funding of this Agreement. This Agreement shall also be subject to any additional restrictions, limitations, or conditions imposed by the Federal government which may in any way affect the provisions or funding of this Agreement.

J. **PATIENT/CLIENT ELIGIBILITY, UMDAP FEES, THIRD PARTY REVENUES, AND INTEREST:**

(1) Contractor shall comply with all County, State, and Federal requirements and procedures relating to:

(a) The determination and collection of patient/client fees for services hereunder based on UMDAP.

(b) The eligibility of patients/clients for Short-Doyle/Medi-Cal, Medicare, private insurance, or other third party revenue, and the collection, reporting and deduction of all patient/client and other revenue for patients/clients receiving services hereunder. Contractor shall pursue and report collection of all patient/client and other revenue.

(2) All fees paid by patients/clients receiving services under this Agreement and all fees paid on behalf of patients/clients receiving services hereunder shall be utilized by Contractor only for the delivery of mental health service units specified in this Agreement.

(3) Contractor may retain unanticipated revenue, which is not shown in Contractor's Negotiation Package for this Agreement, for a maximum period of one Fiscal Year, provided that the unanticipated revenue is utilized for the delivery of mental health

services/activities specified in this Agreement. Contractor shall report the expenditures for the mental health services/activities funded by this unanticipated revenue in the Annual Cost Report submitted by Contractor to County.

(4) Contractor shall not retain any fees paid by any resources for or on behalf of Medi-Cal beneficiaries without having those fees deducted from the cost of providing the mental health services from which the fees were derived.

(5) Contractor may retain any interest and/or return which may be received, earned or collected from any funds paid by County to Contractor, provided that Contractor shall utilize all such interest and return only for the delivery of mental health services/activities specified in this Agreement.

(6) Failure of Contractor to report in all its monthly claims and in its Annual Cost Report all fees paid by patients/clients receiving services hereunder, all fees paid on behalf of patients/clients receiving services hereunder, all fees paid by third parties on behalf of Medi-Cal beneficiaries receiving services and/or activities hereunder, all unanticipated revenue not shown in Contractor's Negotiation Package for this Agreement, and all interest and return on funds paid by County to Contractor, shall result in:

(a) Contractor's submission of a revised claim statement showing all such nonreported revenue.

(b) A report by County to SDMH of all such nonreported revenue including any such unreported revenue paid by any resources for or on behalf of Medi-Cal beneficiaries.

(c) Any appropriate financial adjustment to Contractor's reimbursement.

K. CASH FLOW ADVANCE IN EXPECTATION OF SERVICES/ACTIVITIES TO BE RENDERED:

(1) The Maximum Contract Amount for each period of this Agreement includes Cash Flow Advance which is repayable through cash and/or appropriate services/activities and/or actual and allowable costs incurred under this Agreement.

(2) For each month of each fiscal year of this Agreement, County will reimburse Contractor based upon the County and/or State and/or Federal government(s) processing of the reimbursement claims for rendered services/activities submitted by

Contractor to the County subject to claim edits, and future settlements and audit processes. However, for each month of each fiscal year not to exceed three (3) or five (5) consecutive months, or portion thereof, as described below, and for such month the County and/or State and/or Federal government(s) have not made payment, and/or such payment is less than $1/12^{th}$ of the Maximum Contract Amount, Contractor may request in writing from County a monthly County General Fund Cash Flow Advance as herein described.

(3) Cash Flow Advance shall consist of, and shall be payable only from, the Maximum Contract Amount appropriation approved by County's Board of Supervisors for the particular fiscal year in which the costs are to be incurred and upon which the request(s) is (are) based.

(4) Cash Flow Advance is intended to provide cash flow to Contractor pending Contractor's rendering and billing of eligible services/activities, as identified in DMH Legal Entity Agreement Paragraph 3 (DESCRIPTION OF SERVICES/ACTIVITIES) of this Agreement, to the County and/or State and/or Federal government(s), and the County and/or State and/or Federal government(s) have made payment for such services/activities. Contractor may request each monthly Cash Flow Advance only for such services/activities and only when there is no reimbursement from other public or private sources for such services/activities.

(5) No Cash Flow Advance will be given if a Contractor has not been certified as an eligible Medi-Cal service provider unless otherwise agreed to by County.

(6) Cash Flow Advance Request Letter: For each month for which Contractor is entitled to request and receive Cash Flow Advances (CFA) a request letter from Contractor must be received by County on or before the 15th of that month in order to receive a full month's payment (i.e., for the month of July, the request must be received by July 15). Any CFA request letter received by County from Contractor after the 15th of the month will only receive a partial CFA payment for that month; the payment will be prorated for the number of days remaining in that month (i.e., the CFA payment for the month of July will only be for 11 days for a request letter received on July 20th). The signed request letter must be sent via fax or e-mail (PDF file) to Financial Services Bureau – Accounting Division, Provider Reimbursement Unit (PRU). PRU staff will determine full

or partial payment amount based on the date the request letter actually arrives at PRU and not the date on the request letter. There will be no retroactive CFA payments under any circumstance if the request letter for CFA payments is received after the end of the month for which a CFA is being requested.

(7) Reduction of Cash Flow Advance Amount by Actual Adjudicated Claims: The Cash Flow Advance amount for any particular month will be reduced by County payments of actual reimbursement claims received by County from the Contractor. The County's claims payment process is initiated immediately upon County receipt from Contractor of a reimbursement claim. If such Contractor reimbursement claim is received at any time during either the initial three (3) or two (2) additional consecutive months, the monthly payment to Contractor will include the payment for such actual reimbursement claim thereby reducing the Cash Flow Advance disbursement amount for that particular month.

(8) Business Rules for the Determination of the Maximum Amount of the Cash Flow Advance Request:

(a) Each month of each fiscal year not to exceed three (3) consecutive months, or portion thereof, that this Agreement is in effect, Contractor may request, separately for each month, in writing from County a monthly County General Fund Cash Flow Advance for any funds which may be part of the Maximum Contract Amount for such fiscal year as identified on the Financial Summary Page. Contractor shall specify in their request the amount of the monthly Cash Flow Advance not to exceed **$Pending** per month and the total Cash Flow Advance for the three (3) months shall not exceed **$Pending**. The Cash Flow Advance monthly amount is $1/12^{th}$ of Maximum Contract Amount as identified on the Financial Summary Page, annualized Maximum Contract Amount if a partial year.

(b) A Contractor providing EPSDT Short-Doyle/Medi-Cal services as part of this Agreement, may for two (2) additional consecutive months, or portion thereof, that this Agreement is in effect, request, separately for each month, in writing from County a monthly County General Fund Cash Flow Advance for any EPSDT Title XIX Medi-Cal funds which may be part of the Maximum Contract Amount for such fiscal year as shown on the Financial Summary Page. Contractor shall specify in their request the

amount of the monthly Cash Flow Advance not to exceed $**Pending** per month for each of the two (2) additional consecutive months and the total Cash Flow Advance for the two (2) additional consecutive months shall not exceed $**Pending**.

(9) Upon receipt of a request, Director or his designee, in his sole discretion, shall determine whether to approve the Cash Flow Advance request and, if approved, whether the request is approved in whole or in part. Director or his designee will notify Contractor within 10 business days if the Cash Flow Advance is not approved including the reason(s) for non-approval. Thereafter, Contractor may, within 15 calendar days, request reconsideration of the County's decision.

(10) Recovery of Cash Flow Advances: If Contractor has received any Cash Flow Advance pursuant to this Paragraph K (Cash Flow Advances In Expectation of Services/Activities To Be Rendered), then recovery from Contractor's monthly claims shall be made, through cash payment by Contractor and/or County offsets to County payment(s) of Contractor's approved adjudicated claim(s) as follows:

(a) Generally, when Contractor is meeting contractual levels, County initiates recovery of the CFA balance, if any, for a particular Fiscal Year in July following the close of such Fiscal Year.

(b) County will recover all CFA balances, if any, for a particular Fiscal Year no later than September 30 following the close of such Fiscal Year. September 30 is the date by which all or the substantive portion of the Contractor's prior Fiscal Year's claims should have been received from Contractor and processed by County.

(c) However, should the CFA balance for a particular Fiscal Year not be fully repaid by Contractor to County by September 30 following the close of such Fiscal Year, Contractor repayment shall be conducted as specified in this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph O (Method of Payments for Amounts Due to County) unless otherwise agreed to by County.

(d) If County at mid-year determines that Contractor's units of service and State FFP and EPSDT-SGF approvals are not going to meet contracted levels by Fiscal Year End, County will give Contractor 30 calendar days written notice of its intent to initiate recovery of Cash Flow Advance (CFA) if necessary, including the reason(s) for

the intended actions, to ensure Contractor completes repayment of the Cash Flow Advance with units of services by the time all, or the substantive portion of the Contractor's prior Fiscal Year's claims are received by and processed by County no later than September 30 following the Fiscal Year close. Contractor may, within 15 calendar days of the receipt of County's written notice, request reconsideration of the County's decision.

(12) When Contractor's Cash Flow Advance balance is zero in any fiscal year of the Term of this Agreement, any County and/or State and/or Federal government(s) approved Contractor reimbursement claims for eligible services/activities will be disbursed in accordance with the terms and conditions of this Agreement.

(13) Should Contractor request and receive Cash Flow Advance, Contractor shall exercise cash management of such Cash Flow Advance in a prudent manner.

(14) Cash Flow Advance for IMD, PHF and Mental Health Rehabilitation Center Contractors Only: The amount of a Cash Flow Advance payment shall be based on the average daily census for the last two available months of the preceding fiscal year.

L. ANNUAL COST REPORTS:

(1) For each Fiscal Year or portion thereof that this Agreement is in effect, Contractor shall provide County with two copies of an accurate and complete annual cost report, with a statement of expenses and revenue.

(2) An accurate and complete annual cost report (annual cost report) shall be defined as a cost report which is completed to the best of the ability of Contractor and is based on the best available data.

(3) The annual cost report will be comprised of a separate set of forms for the County and State for the Financial Summary within each legal entity.

(4) The annual cost report will be due on September 15th for the fiscal year ending on the previous June 30th or 75 days following the expiration or termination date of this Agreement, whichever occurs earlier. Should the due date fall on a weekend, such report will be due on the following business day.

(a) Failure to submit an annual cost report by 30 calendar days after the applicable due date specified in this Paragraph L (Annual Cost Reports), Subparagraph (4) above shall constitute a breach of Contract. In such instance that

Contractor does not submit an annual cost report(s) by such 30 calendar days after the applicable due date specified in Paragraph L (Annual Cost Reports), Subparagraph (4), then all amounts covered by the outstanding annual cost report(s) and paid by County to Contractor in the Fiscal Year for which the annual cost report(s) is (are) outstanding shall be due by Contractor to County. Contractor shall pay County according to the method described in this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph O (Method of Payments for Amounts Due to County).

(b) If Contractor fails to submit an annual cost report(s) by the due date specified in this Subparagraph (4), and if this Agreement is automatically renewed as provided in DMH Legal Entity Agreement Paragraph 1 (TERM), then County may opt to not make any further payments to Contractor under this Agreement until the annual cost report(s) is (are) submitted. County shall give Contractor at least 15 business days written notice of its intention to withhold payments hereunder, including the reason(s) for its intended action. Thereafter, Contractor shall have 15 business days either to correct any deficiencies, or to request reconsideration of the decision to withhold payment. Payment to Contractor shall not be withheld pending the correction of deficiencies, or if reconsideration is requested, pending the results of the reconsideration process.

(c) It is mutually understood and agreed that failure of Contractor to submit an annual cost report(s) by the due date specified in this Subparagraph (4) will result in damages being sustained by County; that the nature and amount of such damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for Contractor's breach. Therefore, in the event of Contractor's failure to submit an annual cost report(s) by the due date specified in this Subparagraph (4), County may, in its sole discretion, assess liquidated damages in the amount of ONE HUNDRED DOLLARS ($100) for each day that the annual cost report(s) is (are) not submitted. Contractor may request that liquidated damages not be assessed by sending a request to the attention of Director or his designee no later than thirty (30) days prior to the County's Cost Report filing due date specified in this Subparagraph (4) to allow ample time to process. Liquidated damages shall be assessed separately on each outstanding annual

cost report. Liquidated damages shall be assessed commencing beginning September 16th or on the seventy-sixth day following the expiration or termination date of this Agreement and shall continue until the outstanding annual cost report(s) is(are) received.

(5) Each such annual cost report shall be prepared by Contractor in accordance with the Centers for Medicare and Medicaid Services' Publications #15-1 and #15-2, "The Provider Reimbursement Manual Parts 1 and 2", the State's Cost Reporting/Data Collections (CR/DC) Manual, and for organizational providers in the Mental Health Specialty Services Mental Health Plan' service provider network, the "Los Angeles County DMH Organizational Provider's Manual for Specialty Mental Health Services under the Rehabilitation Option and Targeted Case Management", and any other written guidelines which shall be provided to Contractor at the Cost Report training, requiring mandatory attendance by Contractor, to be conducted by County by June 30 of the Fiscal Year for which the Annual Cost Report is to be prepared. County may, in its sole discretion, assess liquidated damages in the amount of ONE HUNDRED DOLLARS ($100) for Contractor's non-attendance at the Cost Report training.

(6) If Contractor fails to correct inaccuracies in annual cost report within thirty (30) calendar days after receipt of written notification from the Director or his designee and said inaccuracies result in the loss of reimbursement to the County for claimable amounts that were paid to Contractor, Contractor must return back to the County the amount of the loss of reimbursement that the County could have claimed if the inaccuracy was corrected by Contractor.

(7) Contractor shall be solely responsible for any loss incurred by County due to Contractor's failure to comply with County and State cost report requirements.

M. PRE-AUDIT FINAL COST REPORT SETTLEMENT: Based on the Annual Cost Report(s) submitted pursuant to this Financial Exhibit A (FINANCIAL PROVISIONS) Paragraph L (Annual Cost Reports), at the end of each Fiscal Year or portion thereof that this Agreement is in effect and Paragraph H (General Administration Requirements for Title XIX Short-Doyle/Medi-Cal and Medi-Cal Administrative Activities, and Title XXI Healthy Families), Subparagraph (15) (Title XIX Short-Doyle/Medi-Cal Reconciliation Report), the State and County will perform a pre-audit final cost report settlement. Such settlement will be subjected to the terms and conditions of this Agreement and any other

applicable State and/or federal statutes, regulations, policies and procedures requirements pertaining to cost reporting and settlements for Title XIX Short-Doyle/Medi-Cal and Medi-Cal Administrative Activities, and Title XXI Healthy Families, and other applicable federal and/or State programs.

(1) Reimbursement to Contractor shall not exceed the Maximum Contract Amount shown in the Financial Summary(ies) (Attachment III) except as provided for in this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph F (Shift of County General Funds). For purposes of this part, Federal Financial Participation (FFP) for Title XIX Short-Doyle/Medi-Cal and Medi-Cal Administrative Activities, and Title XXI Healthy Families services/activities will be considered by County in the Legal Entity's aggregate total when applying the Maximum Contract Amount limitation by payer. However, the FFP reimbursement by County to Contractor for Title XIX Short-Doyle/Medi-Cal and/or Medi-Cal Administrative Activities, and/or Title XXI Healthy Families services/activities respectively shall be limited to the maximum FFP for which there is sufficient CGF/State local match funds, as required by federal statute and regulation, in the applicable Maximum Contract Amount. State FFP reimbursement to County for Contractor's State approved Title XIX Short-Doyle/Medi-Cal and Medi-Cal Administrative Activities, and Title XXI Healthy Families services/activities that is in excess of the FFP amount for which the Contractor's Maximum Contract Amount has sufficient CGF/State local match funds will be handled as specified in this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph H (General Administrative Requirements for Title XIX Short-Doyle/Medi-Cal and Medi-Cal Administrative Activities, and Title XXI Healthy Families), Subparagraph (6).

(2) County's issuance of its pre-audit cost report settlement findings shall take place no later than 120 calendar days after the receipt by County from the State of the State's Final Cost Report Settlement package for a particular fiscal year.

(3) In the event that Contractor adjustments based on any of the above methods indicate an amount due the County, Contractor shall pay County according to the method described in this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph O (Method of Payments for Amounts Due to County).

N. AUDITS, AUDIT APPEALS AND POST-AUDIT SHORT-DOYLE/MEDI-CAL FINAL SETTLEMENT:

(1) At any time during the term of this Agreement or after the expiration or termination of this Agreement, in accordance with State and federal law including but not limited to the California Welfare and Institutions Code (WIC) Sections 14170 and sequence, authorized representatives from the County, State or Federal governments may conduct an audit of Contractor regarding the mental health services/activities provided hereunder.

(2) Settlement of the audit findings will be conducted according to the auditing party's procedures in place. In the case of a State Short-Doyle/Medi-Cal (SD/MC) audit the State and County will perform a post-audit Short-Doyle/Medi-Cal settlement that is based on State audit findings. Such settlement will take place when the State initiates its settlement action which customarily is after the issuance of the audit report by the State and before the State's audit appeal process. However, if the responsible auditing party stays its collection of any amounts due or payable because of the audit findings , County will also stay its settlement of the same amounts due or payable until the responsible auditing party initiates its settlement action with County.

(a) County recovery from Contractor of Federal overpayment shall be made in accordance with all applicable Federal laws, regulations, manuals, guidelines, and directives.

(b) County shall issue an invoice to Contractor for any amount due County no later than forty (40) calendar days after the State issues an audit report. The amount on the County invoice is due by Contractor to County thirty (30) calendar days from the date of the invoice.

(3) Contractor may appeal any such audit findings in accordance with the audit appeal process established by the party performing the audit.

(a) For Federal audit exceptions, Federal audit appeal process shall be followed.

(b) Contractor may appeal the State audit findings in conformance with provisions of Sections 51016 and sequence, Title 22, of the California Code of Regulations. Such appeals must be filed through County. County shall notify Contractor of State appeal time deadlines upon County's receipt from State of the audit report. The first level of appeal is the Informal Conference. The second appeal level is the Formal

Hearing should Contractor appeal the Informal Conference appeal finding(s). The Formal Hearing audit appeal concludes with a Report of Findings which is final.

(c) In accordance with the Formal Hearing Report of Findings the State will proceed to recompute the final settlement of the Short-Doyle/Medi-Cal cost report for a particular year and settle with the County. The County will perform a post-audit Short-Doyle/Medi-Cal recomputed final settlement based upon the State's settlement with the County.

(4) Notwithstanding any other provisions of this Agreement, if Contractor appeals any audit report, the appeal shall not prevent the County from recovering from Contractor any amount owed by Contractor that the State has recovered from County.

(5) Should the auditing party be the County, Contractor will have thirty (30) calendar days from the date of the audit report within which to file an appeal with County. County will issue an invoice for any amount due County fifteen calendar days (15) after County has notified Contractor of the County's audit appeal findings. The amount on the County invoice is due thirty (30) calendar days from the date of the invoice.

(6) Contractor shall pay County according to Paragraph O (Method of Payments for Amounts Due to County).

(7) If the post-contract audit and/or post-audit appeal Formal Hearing process conducted by County, State, and/or Federal personnel determines that the County payments to Contractor hereunder are less than the amounts reimbursable pursuant to this Agreement, then the difference shall be paid by County to Contractor, provided that in no event shall County's Maximum Contract Amount for the applicable Fiscal Year, as shown in this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraphs B (Reimbursement for the Initial Period) and C (Reimbursement if Agreement is Automatically Renewed), be exceeded, except as provided for in this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph F (Shift of County General Funds). County will remit payment to Contractor within thirty (30) calendar days of receiving Board authorization to make the payment. County will seek such Board authorization within 30 calendar days after completion of the post-audit and recomputed final settlement Short-Doyle/Medi-Cal processes described in this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph N (Audits, Audit Appeals and Post-Audit Short-Doyle/Medi-Cal

Final Settlement).

O. METHOD OF PAYMENTS FOR AMOUNTS DUE TO COUNTY: Within ten (10) business days after written notification by County to Contractor of any amount due by Contractor to County, Contractor shall notify County as to which of the following six payment options Contractor requests be used as the method by which such amount shall be recovered by County. Any such amount shall be: (1) paid in one cash payment by Contractor to County, (2) deducted from future claims over a period not to exceed three months, (3) deducted from any amounts due from County to Contractor whether under this Agreement or otherwise, (4) paid by cash payment(s) by Contractor to County over a period not to exceed three months, or (5) a combination of any or all of the above. If Contractor does not so notify County within such ten days, or if Contractor fails to make payment of any such amount to County as required, then Director, in his sole discretion, shall determine which of the above six payment options shall be used by County for recovery of such amount from Contractor.

P. INTEREST CHARGES ON DELINQUENT PAYMENTS: If Contractor, without good cause as determined in the sole judgment of Director, fails to pay County any amount due to County under this Agreement within 60 calendar days after the due date, as determined by Director, then Director, in his sole discretion and after written notice to Contractor, may assess interest charges at a rate equal to County's Pool Rate, as determined by County's Auditor-Controller, per day on the delinquent amount due commencing on the sixty-first calendar day after the due date. Contractor shall have an opportunity to present, to Director, information bearing on the issue of whether there is a good cause justification for Contractor's failure to pay County within 60 calendar days after the due date. The interest charges shall be: (1) paid by Contractor to County by cash payment upon demand and/or (2) at the sole discretion of Director or his designee, deducted from any amounts due by County to Contractor whether under this Agreement or otherwise.

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Q. FINANCIAL SOLVENCY: Contractor shall maintain adequate provisions against the risk of insolvency. Such provisions shall minimally meet the solvency/working capital criteria specified in the DMH's financial responsibility requirements policy.

R. LIMITATION OF COUNTY'S OBLIGATION DUE TO NONAPPROPRIATION OF FUNDS: Notwithstanding any other provision of this Agreement, County shall not be obligated for Contractor's performance hereunder or by any provision of this Agreement during this or any of County's future fiscal years unless and until County's Board of Supervisors appropriates funds for this Agreement in County's Budget for each such fiscal year. Should County, during this or any subsequent fiscal year impose budgetary restrictions which appropriate less than the amount provided for in this Financial Exhibit A (FINANCIAL PROVISIONS), Paragraph B (Reimbursement For Initial Period) and Paragraph C (Reimbursement If Agreement Is Automatically Renewed) of this Agreement, County shall reduce services under this Agreement consistent with such imposed budgetary reductions. In the event funds are not appropriated for this Agreement, then this Agreement shall terminate as of June 30 of the last fiscal year for which funds were appropriated. County shall notify Contractor of any such changes in allocation of funds at the earliest possible date.

S. BUDGET REDUCTIONS: In the event that the County's Board of Supervisors adopts, in any fiscal year, a County Budget which provides for reductions in County contracts, the County reserves the right to reduce its payment obligation under this Agreement to implement such Board reductions for that fiscal year and any subsequent fiscal year during the term of this Agreement (including any extensions), and the services to be provided by the Contractor under this Agreement shall also be reduced correspondingly. The County's notice to the Contractor regarding said reduction in payment obligation shall be provided within thirty (30) calendar days of the Board's approval of such action. Except as set forth in the preceding sentence, the Contractor shall continue to provide all of the services set forth in this Agreement.

T. CONTRACTOR REQUESTED CHANGES:

(1) If Contractor desires any change in the terms and conditions of this Agreement, Contractor shall request such change in writing prior to April 1 of the Fiscal Year, unless otherwise agreed to by County and Contractor, for which the change would be applicable, and all changes shall be made by an amendment pursuant to DMH Legal Entity Agreement Paragraph 39 (ALTERATION OF TERMS).

(2) If Contractor requests to increase or decrease any Maximum Contract

Amount, such request and all reports, data, and other information requested by DMH's Contracts Development and Administration Division, shall be received by DMH's Contracts Development and Administration Division for review prior to April 1 of the Fiscal Year in which the increase or decrease has been requested by Contractor.

U. DELEGATED AUTHORITY: Notwithstanding any other provision of this Agreement, County's Department of Mental Health Director may, without further action by County's Board of Supervisors, prepare and sign amendments to this Agreement during the remaining term of this Agreement, under the following conditions.

(1) County's total payments to Contractor under this Agreement, for each Fiscal Year of the term of this Agreement, shall not exceed an increase of more than the Board-approved percentage of the applicable Maximum Contract Amount; and

(2) Any such Maximum Contract Amount amendment increase or amendment change shall only be used for additional services or to reflect program and/or policy changes that affect this Agreement; and

(3) County's Board of Supervisors has appropriated sufficient funds for all changes described in each such amendment to this Agreement; and

(4) Approval of County Counsel and the Chief Administrative Officer or their designee is obtained prior to any such amendment to this Agreement; and

(5) County and Contractor may by written amendment reduce programs or services and revise the applicable Maximum Contract Amount. The Director or his designee shall provide 15 business days prior written notice of such funding changes to Contractor, including any changes in the amount of services to be received by County, to Contractor, DMH Contracts Development and Administration Division, and to County's Chief Administrative Officer. Any such change in any applicable Maximum Contract Amount shall be effected by an administrative amendment to this Agreement by Director or his designee; and

(6) Notwithstanding this Paragraph U (Delegated Authority), Subparagraph (5), if the County in its sole discretion determines from a review of Contractor's service and billing records that a significant portion of the funds provided for services under this Agreement will be underutilized in any period of the Agreement term, then the Director or his designee shall provide 15 business days prior written notification to

Contractor of County's intent to reallocate underutilized funds by the moving of such funds into another program budget category for the same period on the Financial Summary (Attachment II) within this Agreement, and/or reallocate such funds into another DMH Legal Entity Agreement with another contract provider that readily provides for the efficient use of such funds before the expiration of the same period in this Agreement. This written notification is to include an explanation of how the County reached the conclusion that Contractor is underutilizing funds; copies of relevant data, such as but not limited to County information system reports that County used in making this decision; the nature and amount of funding changes to Contractor; and any changes in the amount of services to be received by County.

In the event Contractor believes that an adjustment authorized under this provision is unjustified, Contractor may, within the 15 business day notice period, so notify the Director or his designee in writing, and request a meeting with County to review County's documentation that Contractor will be underutilizing a significant portion of its Maximum Contract Amount. Any such meeting shall be held within 30 calendar days of the initial written notification. If Contractor fails to meet with County in this period of time, Contractor is deemed to have waived its opportunity to meet with County and accepts County recommended changes to its Maximum Contract Amount.

If, thereafter, it is still determined that a significant portion of the Maximum Contract Amount will be underutilized the County shall reallocate such funds, as provided above. Director or his designee shall provide final prior written notice of such funding changes to Contractor, including any changes in the amount of services to be received by County, to Contractor, DMH Contracts Development and Administration Division, and to County's Chief Administrative Office and the determination of the Director or his designee will be final. Any such change in any applicable Maximum Contract Amount shall be effected by an administrative amendment to this Agreement by Director or his designee. Changes that are based on one-time circumstances will be applicable to the current contract year only and shall not result in reductions (or increases) of Maximum Contract Amounts in subsequent years, while changes that are based on clearly documented ongoing historical trends may result in ongoing reductions (or increases) of Maximum Contract Amounts in subsequent years.

The determination by the Director or his designee shall be effective upon the receipt of such final prior written notice by Contractor and the changes to funding and services shall be incorporated into this Agreement as of the date of receipt. Contractor understands and agrees that its Maximum Contract Amount may be reduced as a result of the adjustments authorized by this provision, and further acknowledges that County has relied upon this flexibility in establishing the Maximum Contract Amount for this Agreement. By executing this Agreement, Contractor specifically consents to the prospective adjustments set forth in this provision.

(7) Director shall notify County's Board of Supervisors of all Agreement changes in writing within 30 calendar days following execution of any such amendment(s). If the County determines from a review of Contractor's service and billing records that a significant portion of the funds provided for services under this Agreement shall be underutilized over the period of the Agreement term, then the Director or his designee shall provide 15 business days prior written notification to Contractor (as referenced in this Paragraph U, Subparagraph (5) above) of County's intent to reallocate such funds into another DMH Legal Entity Agreement before the expiration of this Agreement's term. This written notification must include both an explanation of how County reached the conclusion that Contractor is underutilizing funds, and also copies of any relevant data, such as but not limited to County information system reports that County used in making this decision.

Within the 15 business day notice period, Contractor may request a meeting with County to review County's documentation that Contractor will be underutilizing a significant portion of its Maximum Contract Amount. Any such meeting shall be held within 30 calendar days of the initial written notification. If Contractor fails to meet with County in this period of time, Contractor is deemed to have waived its opportunity to meet with County and accepts County recommended changes to its contract amount.

Contractor Name: Exceptional Children's Foundation
Legal Entity Number: 01184
Agreement Period: July 1, 2007 through June 30, 2010
Fiscal Year: 2007-08

DMH Legal Entity Agreement
Attachment III
The Financial Summary -

	COLUMNS	1	Sum of 2 + 3 + 4 + 5+ 6 = 1				
LINE #	DESCRIPTION	MAXIMUM CONTRACT ALLOCATION TOTALS	2 LOCAL MHP NON MEDI-CAL	3 DCFS STOP SGF 70% County Local 30%	4 MAA and NON-EPSDT MEDI-CAL PROGRAMS FFP 50% County Local 50%	5 EPSDT MEDI-CAL PROGRAM FFP 50% SGF - EPSDT 42.68% County Local 7.32%	6 HEALTHY FAMILIES FFP 65% County Local 35%
				Categorical Restricted CGF	Local Match share for claiming Certified Public Expenditure Categorically Restricted Local Funds** (see footnote)		
1	A. Contractual Limitation By Responsible Financial Party:						
2	CGF*	$ 60,749		-	-	58,999	1,750
3	CGF - Psychiatric Emergency Services (PES) (NCC)	-					
4	CGF - Transitional Residential Program (NCC)	-					
5	SAMHSA, CFDA #93.958	-					
6	SAMHSA - Child Mental Health Initiative, CFDA #93.104	-					
7	SAMHSA - Targeted Capacity Expansion, CFDA #93.243	-					
8	PATH, CFDA #93.150	-					
9	CalWORKs - Flex Fund	-					
10	CalWORKs - Mental Health Services (MHS)	-					
11	CalWORKs - Community Outreach Services (COS)	-					
12	CalWORKs - Families Project - Client Support Services	-					
13	CalWORKs - Families Project - MHS & Targeted Case Management	-					
14	CalWORKs - Families Project - COS	-					
15	DPSS - GROW	-					
16	DCFS AB 2994	-					
17	DCFS Family Preservation	-					
18	DCFS Star View Life Support PHF	-					
19	DCFS Independent Living	-					
20	DCFS STOP (70%)	-		-			
21	DCFS Medical Hubs	-					
22	DCFS Basic MH Services Enhanced Specialized Foster Care	-					
23	DCFS Intensive In-Home Enhanced Specialized Foster Care	-					
24	DCFS - Multidisciplinary Assessment and Treatment (MAT)	-					
25	Probation - Mentally Ill Offender Crime Reduction Program (MIOCR)	-					
26	Schiff-Cardenas - M.H. Screening, Assessment, and Treatment (MHSAT)	-					
27	Schiff-Cardenas - Multi-Systemic Therapy Program (MST)	-					
28	Sheriff Dept - Mentally Ill Offender Crime Reduction Program (MIOCR)	-					
29	AB 34/AB 2034	-					
30	ADPA AB 34/AB 2034 Housing	-					
31	DHS-OAPP HIV/AIDS	-					
32	DHS Dual Diagnosis	-					
33	DHS Social Model Recovery	-					
34	DHS LAMP	-					
35	HIV AIDS	-					
36	IDEA (AB 3632 - SEP), CFDA #84.027	-					
37	SB 90 (AB 3632 - SEP)	-					
38	AB3632 - SEP (SB 1807)	-					
39	Mental Health Services Act (MHSA)	-					
40	Mental Health Services Act (MHSA) - Plan I:						
41	A. Child						
42	One Time Cost	-					
43	Client Supportive Services (Flex Funds)	-					
44	Mental Health Services	-					
45	B. TAY						
46	One Time Cost	-					
47	Client Supportive Services (Flex Funds)	-					
48	Mental Health Services	-					
49	C. Adult						
50	One Time Cost	-					
51	Client Supportive Services (Flex Funds)	-					
52	Mental Health Services	-					
53	D. Older Adult						
54	One Time Cost	-					
55	Client Supportive Services (Flex Funds)	-					
56	Mental Health Services	-					

Contractor Name: Exceptional Children's Foundation
Legal Entity Number: 01184
Agreement Period: July 1, 2007 through June 30, 2010
Fiscal Year: 2007-08

DMH Legal Entity Agreement
Attachment III
The Financial Summary -

	COLUMNS	1	2	3	4	5	6
					Sum of 2 + 3 + 4 + 5+ 6 = 1		
LINE #	DESCRIPTION	MAXIMUM CONTRACT ALLOCATION TOTALS	LOCAL MHP NON MEDI-CAL	DCFS STOP SGF 70% County Local 30%	MAA and NON-EPSDT MEDI-CAL PROGRAMS FFP 50% County Local 50%	EPSDT MEDI-CAL PROGRAM FFP 50% SGF - EPSDT 42.68% County Local 7.32%	HEALTHY FAMILIES FFP 65% County Local 35%
				Categorical Restricted CGF	Local Match share for claiming Certified Public Expenditure Categorically Restricted Local Funds** (see footnote)		
57	Mental Health Services Act (MHSA) - Plan II						
58	A. Child						
59	Integrated MH/COD Services	-					
60	Family Crisis Services - Respite Care	-					
61	One Time Cost	-					
62	B. TAY						
63	Drop-In Centers	-					
64	Probation Camps	-					
65	One Time Cost	-					
66	C. Adult						
67	Wellness Centers - Non Client Run	-					
68	Wellness Centers - Client Run	-					
69	IMD Step Down	-					
70	Safe Haven	-					
71	One Time Cost	-					
72	D. Older Adult						
73	Field Capable Clinical Services						
74	One Time Cost	-					
75	Client Supportive Services (Flex Funds)	-					
76	Mental Health Services	-					
77	Older Adult Service Extenders	-					
78	Older Adult Training	-					
79	One Time Cost	-					
80	E. Cross-Cutting						
81	Urgent Care	-					
82	Enriched Residential Services	-					
83	One Time Cost	-					
84	Mental Health Services Act (MHSA) - Plan III	-					
85	Mental Health Services Act (MHSA) - AB 2034 Services	-					
86	Medi-Cal, Healthy Families, or MAA FFP	406,250			-	403,000	3,250
87	SGF - EPSDT	344,001				344,001	
88	***Maximum Contract Amount (A)***	$ 811,000	-		-	806,000 0.50	5,000
89	**B. Third Party:**						
90	Medicare	-					
91	Patient Fees	-					
92	Insurance	-					
93	Other	-					
		-					
94	***Total Third Party (B)***	-	-	-	-	-	-
95	**GROSS PROGRAM BUDGET (A+B)**	$ 811,000	-	-	-	806,000	5,000

Footnote

* The Department is developing the parameters for authorizing the shift of CGF among the various programs identified in columns 2, 3, 4, 5, and 6. These parameters will be incorporated by a separate contract amendment during the year.

** These Local Funds are restricted in compliance with specific statutory, regulatory, and contractual requirements and obligations that are conditions for Medi-Cal reimbursement of Short-Doyle Medi-Cal claims. California Code of Regulations Title 9, Division 1, Chapter 11, Subchapter 4, Article 1, paragraph 1840.112 MHP Claims Certification and Program Integrity and Federal Code of Regulations, Title 42, Section 438.608.

Revised: 5/29/07

Contractor Name: Exceptional Children's Foundation
Legal Entity No.: 01184
Agreement Period: July 1, 2007 through June 30, 2010
Fiscal Year: 2007-08

DMH Legal Entity Agreement
The Rate Summary

MENTAL HEALTH SERVICES		Mode of Service	Service Function Code (SFC) Range	Provisional Rates Negotiated NR	Provisional Rates Cost Reimb. CR	Provider Numbers
A. 24 - HOUR SERVICES:						
Hospital Inpatient		05	10 - 18			
Hospital Administrative Day		05	19			
Psychiatric Health Facility (PHF)		05	20 - 29			
SNF Intensive		05	30 - 34			
IMD/STP Basic (No Patch)	Beds 1-59	05	35			
	Beds 60 & over	05	35			
Patch for IMD		05	36 - 39			
Mentally Ill Offenders	Regular	05	36 - 39			
	Indigent	05	36 - 39			
IMD - Like		05	36 - 39			
IMD (w/Patch) Sub-Acute (60 days)		05	38			
Adult Crisis Residential		05	40 - 49			
Residential Other		05	60 - 64			
Adult Residential		05	65 - 79			
Semi - Supervised Living		05	80 - 84			
Independent Living		05	85 - 89			
MH Rehab Centers		05	90 - 94			
B. DAY SERVICES:						
Vocational Services		10	30 - 39			
Socialization		10	40 - 49			
SNF Augmentation		10	60 - 69			
Day Treatment Intensive: Half Day		10	81 - 84			
Day Treatment Intensive: Full Day		10	85 - 89			
Day Rehabilitation: Half Day		10	91 - 94			
Day Rehabilitation: Full Day		10	95 - 99			
C. OUTPATIENT SERVICES:						
Targeted Case Management Services (TCMS), formerly Case Management Brokerage		15	01 - 09		$1.65	7537
Mental Health Services		15	10 - 19/ 30 - 59		$2.12	7537
Therapeutic Behavioral Services (TBS)		15	58			
Medication Support		15	60 - 69		$3.95	7537
Crisis Intervention		15	70 - 79			
D. OUTREACH SERVICES:						
Mental Health Promotion		45	10 - 19			
Community Client Services		45	20 - 29			
E. SUPPORT SERVICES:						
Life Support/Board & Care		60	40 - 49			
Case Management Support		60	60 - 69			
Client Supportive Services (Cost Reimbursement)		60	64 70 - 79			
F. Medi-Cal Administrative Activities (MAA):						
MAA		55	01 - 35			

Contractor Name: Exceptional Children's Foundation
Legal Entity Number: 01184
Agreement Period: July 1, 2007 through June 30, 2010
Fiscal Year: 2008-09

DMH Legal Entity Agreement
Attachment III
The Financial Summary -

	COLUMNS	1	2	3	4	5	6
LINE #	DESCRIPTION	MAXIMUM CONTRACT ALLOCATION TOTALS	LOCAL MHP NON MEDI-CAL	DCFS STOP SGF 70% County Local 30%	MAA and NON-EPSDT MEDI-CAL PROGRAMS FFP 50% County Local 50%	EPSDT MEDI-CAL PROGRAM FFP 50% SGF - EPSDT 42.68% County Local 7.32%	HEALTHY FAMILIES FFP 65% County Local 35%
				Sum of 2 + 3 + 4 + 5+ 6 = 1			
				Categorical Restricted CGF	Local Match share for claiming Certified Public Expenditure Categorically Restricted Local Funds** (see footnote)		
1	**A. Contractual Limitation By Responsible Financial Party:**						
2	CGF*	$ 60,749		-	-	58,999	1,750
3	CGF - Psychiatric Emergency Services (PES) (NCC)	-					
4	CGF - Transitional Residential Program (NCC)	-					
5	SAMHSA, CFDA #93.958	-					
6	SAMHSA - Child Mental Health Initiative, CFDA #93.104	-					
7	SAMHSA - Targeted Capacity Expansion, CFDA #93.243	-					
8	PATH, CFDA #93.150	-					
9	CalWORKs - Flex Fund	-					
10	CalWORKs - Mental Health Services (MHS)	-					
11	CalWORKs - Community Outreach Services (COS)	-					
12	CalWORKs - Families Project - Client Support Services	-					
13	CalWORKs - Families Project - MHS & Targeted Case Management	-					
14	CalWORKs - Families Project - COS	-					
15	DPSS - GROW	-					
16	DCFS AB 2994	-					
17	DCFS Family Preservation	-					
18	DCFS Star View Life Support PHF	-					
19	DCFS Independent Living	-					
20	DCFS STOP (70%)	-		-			
21	DCFS Medical Hubs	-					
22	DCFS Basic MH Services Enhanced Specialized Foster Care	-					
23	DCFS Intensive In-Home Enhanced Specialized Foster Care	-					
24	DCFS - Multidisciplinary Assessment and Treatment (MAT)	-					
25	Probation - Mentally Ill Offender Crime Reduction Program (MIOCR)	-					
26	Schiff-Cardenas - M.H. Screening, Assessment, and Treatment (MHSAT)	-					
27	Schiff-Cardenas - Multi-Systemic Therapy Program (MST)	-					
28	Sheriff Dept - Mentally Ill Offender Crime Reduction Program (MIOCR)	-					
29	AB 34/AB 2034	-					
30	ADPA AB 34/AB 2034 Housing	-					
31	DHS-OAPP HIV/AIDS	-					
32	DHS Dual Diagnosis	-					
33	DHS Social Model Recovery	-					
34	DHS LAMP	-					
35	HIV AIDS	-					
36	IDEA (AB 3632 - SEP), CFDA #84.027	-					
37	SB 90 (AB 3632 - SEP)	-					
38	AB3632 - SEP (SB 1807)	-					
39	Mental Health Services Act (MHSA)	-					
40	Mental Health Services Act (MHSA) - Plan I:						
41	A. Child						
42	One Time Cost	-					
43	Client Supportive Services (Flex Funds)	-					
44	Mental Health Services	-					
45	B. TAY						
46	One Time Cost	-					
47	Client Supportive Services (Flex Funds)	-					
48	Mental Health Services	-					
49	C. Adult						
50	One Time Cost	-					
51	Client Supportive Services (Flex Funds)	-					
52	Mental Health Services	-					
53	D. Older Adult						
54	One Time Cost	-					
55	Client Supportive Services (Flex Funds)	-					
56	Mental Health Services	-					

Contractor Name: Exceptional Children's Foundation
Legal Entity Number: 01184
Agreement Period: July 1, 2007 through June 30, 2010
Fiscal Year: 2008-09

DMH Legal Entity Agreement
Attachment III
The Financial Summary -

LINE #	COLUMNS / DESCRIPTION	1 MAXIMUM CONTRACT ALLOCATION TOTALS	2 LOCAL MHP NON MEDI-CAL	3 DCFS STOP SGF 70% County Local 30% Categorical Restricted CGF	4 MAA and NON-EPSDT MEDI-CAL PROGRAMS FFP 50% County Local 50% Local Match share for claiming Certified Public Expenditure Categorically Restricted Local Funds** (see footnote)	5 EPSDT MEDI-CAL PROGRAM FFP 50% SGF - EPSDT 42.68% County Local 7.32% Local Match share for claiming Certified Public Expenditure Categorically Restricted Local Funds** (see footnote)	6 HEALTHY FAMILIES FFP 65% County Local 35% Local Match share for claiming Certified Public Expenditure Categorically Restricted Local Funds** (see footnote)
				Sum of 2 + 3 + 4 + 5+ 6 = 1			
57	Mental Health Services Act (MHSA) - Plan II						
58	A. Child						
59	Integrated MH/COD Services	-					
60	Family Crisis Services - Respite Care	-					
61	One Time Cost	-					
62	B. TAY						
63	Drop-In Centers	-					
64	Probation Camps	-					
65	One Time Cost	-					
66	C. Adult						
67	Wellness Centers - Non Client Run	-					
68	Wellness Centers - Client Run	-					
69	IMD Step Down	-					
70	Safe Haven	-					
71	One Time Cost	-					
72	D. Older Adult						
73	Field Capable Clinical Services						
74	One Time Cost	-					
75	Client Supportive Services (Flex Funds)	-					
76	Mental Health Services	-					
77	Older Adult Service Extenders	-					
78	Older Adult Training	-					
79	One Time Cost	-					
80	E. Cross-Cutting						
81	Urgent Care	-					
82	Enriched Residential Services	-					
83	One Time Cost	-					
84	Mental Health Services Act (MHSA) - Plan III	-					
85	Mental Health Services Act (MHSA) - AB 2034 Services	-					
86	Medi-Cal, Healthy Families, or MAA FFP	406,250			-	403,000	3,250
87	SGF - EPSDT	344,001				344,001	
88	***Maximum Contract Amount (A)***	$ 811,000	-			806,000	5,000
					-	0.50	
89	**B. Third Party:**						
90	Medicare	-					
91	Patient Fees	-					
92	Insurance	-					
93	Other	-					
		-					
94	***Total Third Party (B)***	-	-	-	-	-	-
95	**GROSS PROGRAM BUDGET (A+B)**	**$ 811,000**	-	-	-	**806,000**	**5,000**

Footnote

* The Department is developing the parameters for authorizing the shift of CGF among the various programs identified in columns 2, 3, 4, 5, and 6. These parameters will be incorporated by a separate contract amendment during the year.

** These Local Funds are restricted in compliance with specific statutory, regulatory, and contractual requirements and obligations that are conditions for Medi-Cal reimbursement of Short-Doyle Medi-Cal claims. California Code of Regulations Title 9, Division 1, Chapter 11, Subchapter 4, Article 1, paragraph 1840.112 MHP Claims Certification and Program Integrity and Federal Code of Regulations, Title 42, Section 438.608.

Revised: 5/29/07

Contractor Name: Exceptional Children's Foundation
Legal Entity No.: 01184
Agreement Period: July 1, 2007 through June 30, 2010
Fiscal Year: 2008-09

DMH Legal Entity Agreement
The Rate Summary

MENTAL HEALTH SERVICES		Mode of Service	Service Function Code (SFC) Range	Provisional Rates Negotiated NR	Provisional Rates Cost Reimb. CR	Provider Numbers
A. 24 HOUR SERVICES:						
Hospital Inpatient		05	10 - 18			
Hospital Administrative Day		05	19			
Psychiatric Health Facility (PHF)		05	20 - 29			
SNF Intensive		05	30 - 34			
IMD/STP Basic (No Patch)	Beds 1-59	05	35			
	Beds 60 & over	05	35			
Patch for IMD		05	36 - 39			
Mentally Ill Offenders	Regular	05	36 - 39			
	Indigent	05	36 - 39			
IMD - Like		05	36 - 39			
IMD (w/Patch) Sub-Acute (60 days)		05	38			
Adult Crisis Residential		05	40 - 49			
Residential Other		05	60 - 64			
Adult Residential		05	65 - 79			
Semi - Supervised Living		05	80 - 84			
Independent Living		05	85 - 89			
MH Rehab Centers		05	90 - 94			
B. DAY SERVICES:						
Vocational Services		10	30 - 39			
Socialization		10	40 - 49			
SNF Augmentation		10	60 - 69			
Day Treatment Intensive: Half Day		10	81 - 84			
Day Treatment Intensive: Full Day		10	85 - 89			
Day Rehabilitation: Half Day		10	91 - 94			
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C. OUTPATIENT SERVICES:						
Targeted Case Management Services (TCMS), formerly Case Management Brokerage		15	01 - 09		$1.65	7537
Mental Health Services		15	10 - 19/ 30 - 59		$2.12	7537
Therapeutic Behavioral Services (TBS)		15	58			
Medication Support		15	60 - 69		$3.95	7537
Crisis Intervention		15	70 - 79			
D. OUTREACH SERVICES:						
Mental Health Promotion		45	10 - 19			
Community Client Services		45	20 - 29			
E. SUPPORT SERVICES:						
Life Support/Board & Care		60	40 - 49			
Case Management Support		60	60 - 69			
Client Supportive Services (Cost Reimbursement)		60	64 70 - 79			
F. Medi-Cal Administrative Activities (MAA):						
MAA		55	01 - 35			

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	COLUMNS	1	2	3	4	5	6
				Sum of 2 + 3 + 4 + 5+ 6 = 1			
LINE #	DESCRIPTION	MAXIMUM CONTRACT ALLOCATION TOTALS	LOCAL MHP NON MEDI-CAL	DCFS STOP SGF 70% County Local 30%	MAA and NON-EPSDT MEDI-CAL PROGRAMS FFP 50% County Local 50%	EPSDT MEDI-CAL PROGRAM FFP 50% SGF - EPSDT 42.68% County Local 7.32%	HEALTHY FAMILIES FFP 65% County Local 35%
				Categorical Restricted CGF	Local Match share for claiming Certified Public Expenditure Categorically Restricted Local Funds** (see footnote)		
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88	***Maximum Contract Amount (A)***	$ 811,000	-		-	806,000 0.50	5,000
89	**B. Third Party:**						
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91	Patient Fees	-					
92	Insurance	-					
93	Other	-					
		-					
94	***Total Third Party (B)***	-	-	-	-	-	-
95	**GROSS PROGRAM BUDGET (A+B)**	$ 811,000	-	-	-	806,000	5,000

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Mentally Ill Offenders	Regular	05	36 - 39			
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Client Supportive Services (Cost Reimbursement)		60	64 70 - 79			
F. Medi-Cal Administrative Activities (MAA):						
MAA		55	01 - 35			

DMH LEGAL ENTITY AGREEMENT
ATTACHMENT IV

Service Delivery Site Exhibit

CONTRACTOR NAME: Exceptional Children's Foundation

LEGAL ENTITY NO.: _____ **PERIOD:** February 1, 2007 through June 30, 2010

*DESIGNATED PROGRAM OFFICE	SERVICE EXHIBIT NO.	PROV. NO.	SERVICE DELIVERY SITE(S)	M.H. SERVICE AREA(S) SERVED	SITE SUP. DISTRICT
C	1,2,3		5350 Machado Road Culver City, CA 90230	5	2

*Legend: Adult Systems of Care (A)
Child, Youth and Family Program Administration (C)
Critical Care (CC)
Court Programs (CP)
Older Adult Program (OA)
Transition Age Youth (TAY)
Homeless (H)
Managed Care (MC)

SERVICE EXHIBITS

A duplicate original of the Service Exhibit(s) will be on file in the Department of Mental Health's Contracts Development and Administration Division and is deemed incorporated herein by reference as though fully set forth, and will be made available to interested persons upon request.

DESCRIPTION	CODES	
Targeted Case Management Services (Rehab. Option)	104-A	1
Short-Term Crisis Residential Services (Forensic)	201	
Crisis Stabilization Services (Rehab. Option)	202-A	
Vocational Services	304-A	
Day Rehabilitation Services (Adult) (Rehab. Option)	308-B	
Day Rehabilitation Services (Children/Adolescents) (Rehab. Option)	309-B	
Day Treatment Intensive Services (Adult) (Rehab. Option)	310-B	
Day Treatment Intensive Services (Children/Adolescents) (Rehab. Option)	311-B	
Mental Health Services (Rehab. Option)	402	2
Medication Support Services (Rehab. Option)	403	3
Crisis Intervention Services (Rehab. Option)	404-A	
Mental Health Service Treatment Patch (La Casa)	405	
Therapeutic Behavioral Services	406-A	
Outreach Services	501-A	
Outreach Services (Suicide Prevention Services)	502-A	
Intensive Skilled Nursing Facility Services	601	
Mental Health Rehabilitation Centers (La Casa Mental Health Rehabilitation Center)	602	
Intensive Skilled Nursing Facility Services (La Paz)	603	
Intensive Skilled Nursing Facility Services Forensic Treatment	604	
Skilled Nursing Facilities (Psychiatric Services)	605	
Skilled Nursing Facility – Special Treatment Program Services (SNF-STP/Psychiatric Services)	608	
Intensive Skilled Nursing Facility Services – Enhanced Treatment Program (ETP)	609	
Socialization Services	701-A	
Life Support Service	801	
Case Management Support Services	802-A	
Case Management Support Services (Forensic)	803-A	
Case Management Support Services (Children & Youth)	804-A	
Life Support Services (Forensic)	805	
Independent Living Services	901	

1	Local Hospital Services	902	
2	Semi-Supervised Living Services	904	
3	Adult Residential Treatment Services (Transitional)	912	
4	Adult Residential Treatment Services (Long Term)	913	
5	Non-Hospital Acute Inpatient Services (La Casa PHF)	914	
6	Comprehensive Adult Residential Treatment Services (Bio-Psycho-Social Services)	915	
7	Assertive Community Treatment Program (ACT)	921	
8	Psychiatric Inpatient Hospital Services	930	
9	Primary Linkage and Coordinating Program	1001	
10	AB 34 Housing and Personal/Incidental Services	1002	
11	Service Provisions (Organizational Provider Only)	1003	
12	Consumer Run/Employment Program	1005	
13	AB 2034 State Demonstration Program (Housing Expenses)	1008	
14	AB 2034 State Demonstration Program (Personal and Incidental Expenses)	1009	
15	Client Supportive Services (***Includes Attachment A Reimbursement Procedures***	1010-A	
16	***and Attachment B Monthly Claim for Cost Reimbursement***)		
17	Mental Health 24-Hour Services Interim Placement Funding for Basic Care Services	1011	
18	Mental Health 24-Hour Services Children Under Age 18 Basic Services	1012	
19	Supportive Services – Residential Programs (***Includes Attachment A***	1013	
20	***(Reimbursement Procedures and Attachment B- (Monthly Claim for***		
21	***Cost Reimbursement)***		
22	Client Supportive Services-Mental Health Services Act Programs (***Includes***	1014-A	
23	***Attachment A - Reimbursement Procedures and Attachment B - (Monthly***		
24	***Claim for Cost Reimbursement)***		
25	Full Service Partnership (FSP)	1015	
26	Supportive Services – Intensive Residential Program (***Includes Attachment A-***	1016	
27	***Reimbursement Procedures and Attachment B - (Monthly Claim for***		
28	***Cost Reimbursement)***		
29	One-Time Expenses Associated with Starting a new MHSA Program (**Includes**	1017	
30	***Attachment A-Reimbursement Procedures and Attachment B – Monthly***		
31	***Claim for Cost Reimbursement)***		
32	Client Supportive Services (New Directions) (***Includes Attachment A***	1018	
33	***Reimbursement Procedures and Attachment B Monthly Claim for Coat***		
34	***Reimbursement***)		
35	Family Support Services	1019	

1	Service Extender Stipend Program Mental Health Services Act Programs	1020	
2	***(Includes Attachment A Reimbursement Procedures and Attachment B***		
3	***Monthly Claim for Cost Reimbursement)***		
4	Client Supportive Services Field Capable Clinical Services (FCCS) for Older	1021	
5	Adults Mental Health Services Act Programs ***(Includes Attachment A***		
6	***Reimbursement Procedures and Attachment B Monthly Claim for Cost***		
7	***Reimbursement)***		

ATTESTATION REGARDING FEDERALLY FUNDED PROGRAMS

In accordance with the DMH Legal Entity Agreement's Paragraph 53 (CONTRACTOR'S EXCLUSION FROM PARTICIPATION IN A FEDERALLY FUNDED PROGRAM):

I, the undersigned certify that I am not presently excluded from participation in federally funded health care programs, nor is there an investigation presently pending or recently concluded of me which is likely to result in my exclusion from any federally funded health care program, nor am I otherwise likely to be found by a federal or state agency to be ineligible to provide goods or services under the federally funded health care programs.

I further certify as the official responsible for the administration of Exceptional Children's Foundation (hereafter "Contractor") that all of its officers, employees, agents and/or sub-contractors are not presently excluded from participation in any federally funded health care programs, nor is there an investigation presently pending or recently concluded of any such officers, employees, agents and/or sub-contractors which is likely to result in an exclusion from any federally funded health care program, nor are any of its officers, employees, agents and/or sub-contractors otherwise likely to be found by a federal or state agency to be ineligible to provide goods or services under the federally funded health care programs.

I understand and certify that I will notify DMH within thirty (30) calendar days, in writing of:

- Any event that would require Contractor or any of its officers, employees, agents and/or sub-contractors exclusion or suspension under federally funded health care programs, or
- Any suspension or exclusionary action taken by an agency of the federal or state government against Contractor, or one or more of its officers, employees, agents and/or sub-contractors, barring it or its officers, employees, agents and/or sub-contractors from providing goods or services for which federally funded healthcare program payment may be made.

Name of authorized official (Official Name) _____
Please print name

Signature of authorized official _____ Date _____

SAFELY SURRENDERED BABY LAW FACT SHEET

(IN ENGLISH AND SPANISH)

No shame.
No blame.
No names.

Newborns can be safely given up at any Los Angeles County hospital emergency room or fire station.

In Los Angeles County:
1-877-BABY SAFE
1-877-222-9723
www.babysafela.org

State of California
Gray Davis, Governor

Health and Human Services Agency
Grantland Johnson, Secretary

Department of Social Services
Rita Saenz, Director

Los Angeles County Board of Supervisors
Gloria Molina, Supervisor, First District
Yvonne Brathwaite Burke, Supervisor, Second District
Zev Yaroslavsky, Supervisor, Third District
Don Knabe, Supervisor, Fourth District
Michael D. Antonovich, Supervisor, Fifth District

This initiative is also supported by First 5 LA and INFO LINE of Los Angeles.

What is the Safely Surrendered Baby Law?

California's Safely Surrendered Baby Law allows parents to give up their baby confidentially. As long as the baby has not been abused or neglected, parents may give up their newborn without fear of arrest or prosecution.

How does it work?

A distressed parent who is unable or unwilling to care for a baby can legally, confidentially and safely give up a baby within three days of birth. The baby must be handed to an employee at a Los Angeles County emergency room or fire station. As long as the child shows no signs of abuse or neglect, no name or other information is required. In case the parent changes his or her mind at a later date and wants the baby back, workers will use bracelets to help connect them to each other. One bracelet will be placed on the baby, and a matching bracelet will be given to the parent.

What if a parent wants the baby back?

Parents who change their minds can begin the process of reclaiming their newborns within 14 days. These parents should call the Los Angeles County Department of Children and Family Services at 1-800-540-4000.

Can only a parent bring in the baby?

In most cases, a parent will bring in the baby. The law allows other people to bring in the baby if they have legal custody.

Does the parent have to call before bringing in the baby?

No. A parent can bring in a baby anytime, 24 hours a day, 7 days a week so long as the parent gives the baby to someone who works at the hospital or fire station.

Does a parent have to tell anything to the people taking the baby?

No. However, hospital personnel will ask the parent to fill out a questionnaire designed to gather important medical history information, which is very useful in caring for the child. Although encouraged, filling out the questionnaire is not required.

What happens to the baby?

The baby will be examined and given medical treatment, if needed. Then the baby will be placed in a pre-adoptive home.

What happens to the parent?

Once the parent(s) has safely turned over the baby, they are free to go.

Why is California doing this?

The purpose of the Safely Surrendered Baby Law is to protect babies from being abandoned by their parents and potentially being hurt or killed. You may have heard tragic stories of babies left in dumpsters or public bathrooms. The parents who committed these acts may have been under severe emotional distress. The mothers may have hidden their pregnancies, fearful of what would happen if their families found out. Because they were afraid and had nowhere to turn for help, they abandoned their infants. Abandoning a baby puts the child in extreme danger. It is also illegal. Too often, it results in the baby's death. Because of the Safely Surrendered Baby Law, this tragedy doesn't ever have to happen in California again.

A baby's story

At 8:30 a.m. on Thursday, July 25, 2002, a healthy newborn baby was brought to St. Bernardine Medical Center in San Bernardino under the provisions of the California Safely Surrendered Baby Law. As the law states, the baby's mother did not have to identify herself. When the baby was brought to the emergency room, he was examined by a pediatrician, who determined that the baby was healthy and doing fine. He was placed with a loving family while the adoption process was started.

Every baby deserves a chance for a healthy life. If someone you know is considering abandoning a newborn, let her know there are other options.

It is best that women seek help to receive proper medical care and counseling while they are pregnant. But at the same time, we want to assure parents who choose not to keep their baby that they will not go to jail if they deliver their babies to safe hands in any Los Angeles County hospital ER or fire station.

Sin pena.
Sin culpa.
Sin peligro.

Los recién nacidos pueden ser entregados en forma segura en la sala de emergencia de cualquier hospital o en un cuartel de bomberos del Condado de Los Angeles.

En el Condado de Los Angeles:
1-877-BABY SAFE
1-877-222-9723
www.babysafela.org

Estado de California
Gray Davis, Gobernador

Agencia de Salud y Servicios Humanos
(Health and Human Services Agency)
Grantland Johnson, Secretario

Departamento de Servicios Sociales
(Department of Social Services)
Rita Saenz, Directora

Consejo de Supervisores del Condado de Los Angeles
Gloria Molina, Supervisora, Primer Distrito
Yvonne Brathwaite Burke, Supervisora, Segundo Distrito
Zev Yaroslavsky, Supervisor, Tercer Distrito
Don Knabe, Supervisor, Cuarto Distrito
Michael D. Antonovich, Supervisor, Quinto Distrito

Esta Iniciativa tambien esta apollada por First 5 LA y INFO LINE de Los Angeles

¿Qué es la Ley de Entrega de Bebés Sin Peligro?

La Ley de Entrega de Bebés Sin Peligro de California permite a los padres entregar a su recién nacido confidencialmente. Siempre que el bebé no haya sufrido abuso ni negligencia, padres pueden entregar a su recién nacido sin temor a ser arrestados o procesados.

¿Cómo funciona?

El padre/madre con dificultades que no pueda o no quiera cuidar de su recién nacido puede entregarlo en forma legal, confidencial y segura, dentro de los tres días del nacimiento. El bebé debe ser entregado a un empleado de una sala de emergencias o de un cuartel de bomberos del Condado de Los Angeles. Siempre que el bebé no presente signos de abuso o negligencia, no será necesario suministrar nombres ni información alguna. Si el padre/madre cambia de opinión posteriormente y desea recuperar a su bebé, los trabajadores utilizarán brazaletes para poder vincularlos. El bebé llevará un brazalete y el padre/madre recibirá un brazalete igual.

¿Qué pasa si el padre/madre desea recuperar a su bebé?

Los padres que cambien de opinión pueden empezar el proceso de reclamar a su recién nacido dentro de los 14 días. Estos padres deberán llamar al Departamento de Servicios para Niños y Familias (Department of Children and Family Services) del Condado de Los Angeles, al 1-800-540-4000.

¿Sólo los padres podrán llevar al recién nacido?

En la mayoría de los casos, los padres son los que llevan al bebé. La ley permite que otras personas lleven al bebé si tienen la custodia legal del menor.

¿Los padres deben llamar antes de llevar al bebé?

No. El padre/madre puede llevar a su bebé en cualquier momento, las 24 horas del día, los 7 días de la semana, mientras que entregue a su bebé a un empleado del hospital o de un cuartel de bomberos.

¿Es necesario que el padre/madre diga algo a las personas que reciben al bebé?

No. Sin embargo, el personal del hospital le pedirá que llene un cuestionario con la finalidad de recabar antecedentes médicos importantes, que resultan de gran utilidad para los cuidados que recibirá el bebé. Es recomendado llenar este cuestionario, pero no es obligatorio hacerlo.

¿Qué ocurrirá con el bebé?

El bebé será examinado y, de ser necesario, recibirá tratamiento médico. Luego el bebé se entregará a un hogar preadoptivo.

¿Qué pasará con el padre/madre?

Una vez que los padres hayan entregado a su bebé en forma segura, serán libres de irse.

¿Por qué California hace esto?

La finalidad de la Ley de Entrega de Bebés Sin Peligro es proteger a los bebés del abandono por parte de sus padres y de la posibilidad de que mueran o sufran daños. Usted probablemente haya escuchado historias trágicas sobre bebés abandonados en basureros o en baños públicos. Es posible que los padres que cometieron estos actos hayan estado atravesando dificultades emocionales graves. Las madres pueden haber ocultado su embarazo, por temor a lo que pasaría si sus familias se enteraran. Abandonaron a sus recién nacidos porque tenían miedo y no tenían adonde recurrir para obtener ayuda. El abandono de un recién nacido lo pone en una situación de peligro extremo. Además es ilegal. Muy a menudo el abandono provoca la muerte del bebé. Ahora, gracias a la Ley de Entrega de Bebés Sin Peligro, esta tragedia ya no debe suceder nunca más en California.

Historia de un bebé

A las 8:30 a.m. del jueves 25 de julio de 2002, se entregó un bebé recién nacido saludable en el St. Bernardine Medical Center en San Bernardino, en virtud de las disposiciones de la Ley de Entrega de Bebés Sin Peligro. Como lo establece la ley, la madre del bebé no se tuvo que identificar. Cuando el bebé llegó a la sala de emergencias, un pediatra lo revisó y determinó que el bebé estaba saludable y no tenía problemas. El bebé fue ubicado con una buena familia, mientras se iniciaban los trámites de adopción.

Cada recién nacido merece una oportunidad de tener una vida saludable. Si alguien que usted conoce está pensando en abandonar a un recién nacido, infórmele qué otras opciones tiene.

Es mejor que las mujeres busquen ayuda para recibir atención médica y asesoramiento adecuado durante el embarazo. Pero al mismo tiempo, queremos asegurarles a los padres que optan por no quedarse con su bebé que no irán a la cárcel si dejan a sus bebés en buenas manos en cualquier sala de emergencia de un hospital o en un cuartel de bomberos del Condado de Los Angeles.

CROSSWALK FACT SHEET

Current Language	New Language
o Health Care Financing Administration (HCFA)	o Centers for Medicare and Medicaid Services (CMS)
o Explanation of Balance (EOB)	o Remittance Advice (RA)
o Mode of Service and Service Function Code (SFC) o Activity Code	o CPT Codes: Current Procedural Terminology published by the American Medical Association is a list of codes representing procedures or services. o **HCPCS Codes (Level II):** HCFA and other Common Procedure Coding System (HCPCS) Codes are used and approved by the Centers for Medicare and Medicaid to describe and accurately report procedures and services. **A crosswalk of HCPCS and CPT Codes to SFC's is available in legacy files.** **UB92:** Refers to coding standards designated by HIPAA.
o DSM IV	o **ICD-9 Codes:** (International Classification of Diseases), 9th Revision Codes, issued and authorized by the Centers for Medicare and Medicaid, to describe and accurately report health related procedures and Diagnoses.
o Clinical Staff and Discipline Code	o Rendering Provider and Taxonomy
o MHMIS or Mental Health Management Information System AND MIS Management Information System	o IS or Integrated System
o References to entering data into the MIS	o Entering data into the IS
o RGMS	o IS

CHARITABLE CONTRIBUTIONS CERTIFICATION

Exceptional Children's Foundation
Company Name

8740 Washington Blvd., Culver City, CA 90230
Address

95-1690988
Internal Revenue Service Employer Identification Number

California Registry of Charitable Trusts "CT" number (if applicable)

The Nonprofit Integrity Act (SB 1262, Chapter 919) added requirements to California's Supervision of Trustees and Fundraisers for Charitable Purposes Act which regulates those receiving and raising charitable contributions.

Check the Certification below that is applicable to your company.

☐ Proposer or Contractor has examined its activities and determined that it does not now receive or raise charitable contributions regulated under California's Supervision of Trustees and Fundraisers for Charitable Purposes Act. If Proposer engages in activities subjecting it to those laws during the term of a County contract, it will timely comply with them and provide County a copy of its initial registration with the California State Attorney General's Registry of Charitable Trusts when filed.

OR

☐ Proposer or Contractor is registered with the California Registry of Charitable Trusts under the CT number listed above and is in compliance with its registration and reporting requirements under California law. Attached is a copy of its most recent filing with the Registry of Charitable Trusts as required by Title 11 California Code of Regulations, sections 300-301 and Government Code sections 12585-12586.

Signature Date

Name and Title of Signer (Official Name, Official Title) Please print