

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND
CONCERN:EAP**

THIS AGREEMENT, entered into this _____ day of _____, 2012 by and between the COUNTY OF SAN MATEO, hereinafter called "County," and CONCERN:EAP, hereinafter called "Contractor";

W I T N E S S E T H:

WHEREAS, pursuant to Government Code, Section 31000, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof;

WHEREAS, it is necessary and desirable that Contractor be retained for the purpose of administering the County's Employee Assistance Program (EAP) for County employees.

**NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO
AS FOLLOWS:**

1. Exhibits and Attachments

The following exhibits and attachments are included hereto and incorporated by reference herein:

Exhibit A—Services and Exclusions

Exhibit B—Payments and rates

Attachment H—HIPAA Business Associate requirements

Attachment I—§ 504 Compliance

2. Services to be performed by Contractor

In consideration of the payments set forth herein and in Exhibit "B," Contractor shall perform services for County in accordance with the terms, conditions and specifications set forth herein and in Exhibit "A."

3. Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions and specifications set forth herein and in Exhibit "A," County shall make payment to Contractor based on the rates and in the manner specified in Exhibit "B." The County reserves the right to withhold payment if the County determines that the quantity or quality of the work performed is unacceptable. In no event shall the County's total fiscal obligation under this Agreement exceed Four Hundred and Fifteen Thousand Dollars, \$415,000, nor shall the rate per Active Employee per month exceed Two Dollars and Nine Cents, \$2.09.

4. Term and Termination

Subject to compliance with all terms and conditions, the term of this Agreement shall be from January 1st, 2013 through December 31st, 2015.

This Agreement may be terminated by Contractor, the Director of Human Resources or his/her designee at any time without a requirement of good cause upon thirty (30) days' written notice to the other party.

In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereafter referred to as materials) prepared by Contractor under this Agreement shall become the property of the County and shall be promptly delivered to the County. Upon termination, the Contractor may make and retain a copy of such materials. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that portion of the full payment which is determined by comparing the work/services completed to the work/services required by the Agreement.

5. Availability of Funds

The County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon unavailability of Federal, State, or County funds, by providing written notice to Contractor as soon as is reasonably possible after the County learns of said unavailability of outside funding.

6. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent Contractor and not as an employee of the County and that Contractor acquires none of the rights, privileges, powers, or advantages of County employees.

7. Hold Harmless

Contractor shall indemnify and save harmless County, its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description, brought for, or on account of: (A) injuries to or death of any person, including Contractor, or (B) damage to any property of any kind whatsoever and to whomsoever belonging, (C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, or (D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County, its officers, agents, employees, or servants, resulting from the performance of any work required of Contractor or payments made pursuant to this Agreement, provided that this shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

8. Assignability and Subcontracting

Contractor shall not assign this Agreement or any portion thereof to a third party or subcontract with a third party to provide services required by contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without the County's prior written consent shall give County the right to automatically and immediately terminate this Agreement.

9. Insurance

The Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this paragraph has been obtained and such insurance has been approved by Risk Management, and Contractor shall use diligence to obtain such insurance and to obtain such approval. The Contractor shall furnish the County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending the Contractor's coverage to include the contractual liability assumed by the Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to the County of any pending change in the limits of liability or of any cancellation or modification of the policy.

- (1) **Worker's Compensation and Employer's Liability Insurance** The Contractor shall have in effect during the entire life of this Agreement Workers' Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, the Contractor certifies, as required by Section 1861 of the California Labor Code, that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and will comply with such provisions before commencing the performance of the work of this Agreement.
- (2) **Liability Insurance** The Contractor shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him/her while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from contractors operations under this Agreement, whether such operations be by himself/herself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than the amount specified below.

Such insurance shall include:

- | | |
|---|-------------|
| (a) Comprehensive General Liability | \$1,000,000 |
| (b) Motor Vehicle Liability Insurance | \$1,000,000 |
| (c) Professional Liability | \$1,000,000 |

County and its officers, agents, employees and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that the insurance afforded thereby to the County, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, and that if the County or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, the County of San Mateo at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

10. Compliance with laws; payment of Permits/Licenses

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances and regulations, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and the Federal Regulations promulgated thereunder, as amended, and will comply with the Business Associate requirements set forth in Attachment "H," and the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended and attached hereto and incorporated by reference herein as Attachment "I," which prohibits discrimination on the basis of handicap in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including, but not limited to, appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and State, Federal, County, or municipal law or regulations, the requirements of the applicable law will take precedence over the requirements set forth in this Agreement. Further, Contractor certifies that the Contractor and all of its subcontractors will adhere to all applicable provisions of Chapter 4.106 of the San Mateo County Ordinance Code, which regulates the use of disposable food service ware.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

11. Non-Discrimination and Other Requirements

- A. *Section 504 applies only to Contractors who are providing services to members of the public.* Contractor shall comply with § 504 of the Rehabilitation Act of 1973, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement.
- B. *General non-discrimination.* No person shall, on the grounds of race, color, religion, ancestry, gender, age (over 40), national origin, medical condition (cancer), physical or mental disability, sexual orientation, pregnancy, childbirth or related medical condition, marital status, or political affiliation be denied any benefits or subject to discrimination under this Agreement.

- C. *Equal employment opportunity.* Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County of San Mateo upon request.
- D. *Violation of Non-discrimination provisions.* Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to
- i) termination of this Agreement;
 - ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
 - iii) liquidated damages of \$2,500 per violation;
 - iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this section, the County Manager shall have the authority to examine Contractor's employment records with respect to compliance with this paragraph and/or to set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint, and a description of the circumstance. Contractor shall provide County with a copy of their response to the Complaint when filed.

- E. *Compliance with Equal Benefits Ordinance.* With respect to the provision of employee benefits, Contractor shall comply with the County Ordinance which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse.
- F. The Contractor shall comply fully with the non-discrimination requirements required by 41 CFR 60-741.5(a), which is incorporated herein as if fully set forth.

12. Compliance with Contractor Employee Jury Service Ordinance

Contractor shall comply with the County Ordinance with respect to provision of jury duty pay to employees and 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 days of regular pay for actual jury service in San Mateo County. The policy may provide that employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the employees' regular pay the fees received for jury service.

13. Retention of Records, Right to Monitor and Audit

(a) CONTRACTOR shall maintain all required records for three (3) years after the COUNTY makes final payment and all other pending matters are closed, and shall be subject to the examination and/or audit of the County, a Federal grantor agency, and the State of California.

(b) Reporting and Record Keeping: CONTRACTOR shall comply with all program and fiscal reporting requirements set forth by appropriate Federal, State and local agencies, and as required by the COUNTY.

(c) CONTRACTOR agrees to provide to COUNTY, to any Federal or State department having monitoring or review authority, to COUNTY's authorized representatives, and/or their appropriate audit agencies upon reasonable notice, access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules and regulations, and this Agreement, and to evaluate the quality, appropriateness and timeliness of services performed.

14. Merger Clause

This Agreement, including the Exhibits attached hereto and incorporated herein by reference, constitutes the sole Agreement of the parties hereto and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement or specification set forth in this body of the agreement conflicts with or is inconsistent with any term, condition, provision, requirement or specification in any exhibit and/or attachment to this agreement, the provisions of this body of the agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the parties.

15. Controlling Law and Venue

The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation, and performance of this Agreement shall be governed by the laws of the State of California. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

16. Notices

Any notice, request, demand, or other communication required or permitted hereunder shall be deemed to be properly given when both (1) transmitted via facsimile to the telephone number listed below and (2) either deposited in the United State mail, postage prepaid, or when deposited for overnight delivery with an established overnight courier that provides a tracking number showing confirmation of receipt, for transmittal, charges prepaid, addressed to:

In the case of County, to:

Donna Vaillancourt, Human Resources Director
455 County Center, 5th Floor
Redwood City, CA 94063-1663

In the case of Contractor, to:

CONCERN:EAP
Cecile Currier, CEO
1503 Grant Road, Ste. 120
Mountain View, CA 94040

In the event that the facsimile transmission is not possible, notice shall be given both by United States mail and an overnight courier as outlined above.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO

By: _____
President, Board of Supervisors, San Mateo County

Date: _____

ATTEST:

By: _____
Clerk of Said Board

CONCERN:EAP


Contractor's Signature

Date: 11/8/2012

Long Form Agreement/Business Associate v 8/19/08

Exhibit "A"

In consideration of the payments set forth in Exhibit "B", Contractor shall provide the following services:

COVERED SERVICES

BENEFIT SCHEDULE

CONCERN: EAP shall provide the following Covered Services:

A. EAP Assessment, referral to community resources and Medical Emergency Care, and short-term counseling. CONCERN: EAP offers counseling services for a wide range of personal problems and immediate response for Crisis situations. Each Member and his or her Covered Dependents shall be limited to a maximum of Five (5) Visits for each problem per twelve-month period, beginning with the date of the case opening. For the purpose of this provision, the word "problem" means a specific type of matter, situation or issue of concern to a Member for which the Member requests EAP services for purposes of obtaining assistance in arriving at a solution. If a Member is referred for unsatisfactory work performance by means of a Supervisor Referral, or if a Member or Covered Dependent is assessed as having a chemical dependency problem, the maximum number of visits shall be ten (10). Supervisor Referrals will require the standard CONCERN: EAP process is followed, including the completion of a Supervisor Referral form, customized for the County, for each case. Only cases that meet CONCERN's supervisor referral criteria will be eligible for the extended counseling visits. CONCERN provides counseling for the following "problem" issues:

- (i) marital and family problems,
- (ii) difficulty with relationships,
- (iii) emotional distress,
- (iv) job stress,
- (v) communications or conflict issues,
- (vi) substance abuse issues and
- (vii) loss and death issues.

B. CONCERN: EAP provides a problem-focused form of individual or family outpatient counseling that

- (i) seeks resolution of problems in living rather than basic character changes;
- (ii) emphasizes the Member's skills, strengths and resources;
- (iii) involves setting and maintaining realistic goals that are achievable in a one to five month period; and
- (iv) encourages the Member to practice behavior outside the counseling Visits to promote therapeutic goals.

C. CONCERN: EAP's services will provide Members with confidential EAP Assessment, Crisis Intervention, short-term counseling and referral to community resources. CONCERN: EAP can also refer Members to programs, services, or individuals who provide parenting and childcare resources, eldercare resources, legal consultations, financial services and convenience referrals.

D. Upon reaching the maximum number of Visits per problem, a Member may continue to receive services by CONCERN: EAP Provider, but at the Member's expense. Upon each case opening, CONCERN: EAP shall inform the Member of the number of Visits he or she is entitled to receive.

E. A Plan Provider will also refer a Member to community resources for assistance for non-Covered Services. In the event of such referral, the Member shall be advised by CONCERN: EAP and CONCERN: EAP Provider that the Member is responsible for payment of costs and fees for services provided.

F. CONCERN: EAP Provider shall also obtain from a Member a consent form prior to the release of any information concerning said Member, except as required by law. A Plan Provider shall explain such form to each Member.

G. Upon request, CONCERN: EAP shall provide up to Sixteen (16) hours per contract year of on-site educational seminars and crisis response. Seminars are to be selected from a list of topics provided by CONCERN: EAP. Cancellations of educational seminars within three business days (72 business hours) of their scheduled time shall be counted as used on-site hours, or subject to a late cancellation billing of Two Hundred Fifty Dollars (\$250), whichever applies. Additional on-site hours may be purchased by The Group at the price of \$350 per hour. Modest customization of existing seminar content developed for requesting departments will be charged at a flat fee per customized presentation of \$500. There will be no additional charges incurred for these customized departmental outreach services, such as reimbursement for travel or incidental expenses. Upon request, the Plan shall provide up to Twenty (20) hours of telephonic and/or on-site consultation / counseling services per each critical incident.

H. CONCERN: EAP shall conduct management orientation sessions for The Group's management and supervisory personnel and employee orientation sessions for The Group's personnel at such times and locations as are mutually agreed upon by CONCERN: EAP and The Group.

I. Upon request, CONCERN: EAP shall consult with The Group's Human Resources staff and individual supervisors and managers regarding potential or actual supervisory referrals and Employee performance issues.

J. CONCERN: EAP shall provide quarterly and annual reports. Such reports shall include statistics on number of Employees using CONCERN: EAP, demographics, referral sources, services used and problem types.

K. DEFINITIONS

1. "Covered Dependent" means the Subscriber's spouse or domestic partner, Subscriber's biological child, or a Subscriber's adopted child. (Coverage for adopted children of a Subscriber begins on the date on which the adoptive child's birth parent or other appropriate legal authority signs a written document, including, but not limited to, a health facility minor release report, a medical authorization form, or a relinquishment form, granting the Subscriber, or the Subscriber's spouse the right to control health care for the adoptive child, or absent a written document, on the date there exists evidence of the Subscriber's or Subscriber's spouse's right to control the health care of the child placed for adoption.) The Plan shall not deny enrollment of a Subscriber's child on any of the following grounds: (1) the child was born out of wedlock; (2) the child is not claimed as an exemption on the Subscriber's federal income tax return; or (3) the child does not reside with the Subscriber or within The Plan's service area. Covered Dependent children must be unmarried and under the age of 19. Dependent unmarried children who are enrolled in an institution of higher education may continue as eligible dependents through age 24. Dependent unmarried children who are incapable of self-sustaining employment by reason of mental retardation or physical handicap, or are between the ages of 19 and 24 and dependent upon the Subscriber for more than 50% of support and maintenance, are eligible for continuing membership in The Plan.
2. "Covered Services" means those services, which are provided by The Plan to Members and set forth in Attachment A to this Agreement.
3. "Crisis" means a situation wherein a reasonable person determines there is an immediate need to assess for the possibility of a Medical Emergency Condition or to request services from The Plan relating to an Urgent situation.
4. "Crisis Intervention" means the process of responding to a request for immediate services to determine whether or not a Medical Emergency Condition or Urgent situation exists, and to otherwise

assess the need for short-term counseling, referrals to community resources, and/or referrals to Medical Emergency Care.

5. "Effective Date" means the March 1, 2010.
6. "Employee" means a regular employee working at least 20 hours per week (in any non-terminated status) of The Group.
7. "Employee Assistance Program (EAP) Assessment" means the process of determining, based upon information provided by a Member, the need for either:
 - a. Short-term counseling;
 - b. Referral(s) to community resources; or
 - c. Referral(s) to Medical Emergency Care services or treatment.
8. "Employee Assistance Program (EAP) Benefits" means a systematic program to help employees resolve personal problems, such as family conflict, drug or alcohol abuse, stress, marital discord, and other personal problems, and to provide training, consultation, and other management services relating to the effective utilization of this benefit by employers and their employees.
9. "Group" or "The Group" means the entity identified in the first paragraph of this Agreement that executed this Agreement, and employs Employee.
10. "Medical Emergency Care" means medical screening, examination, and evaluation by a physician, or, to the extent permitted by applicable law, by other appropriate personnel under the supervision of a physician, to determine if a Medical Emergency Condition or active birthing labor exists and, if it does, the care, treatment, and surgery by a physician necessary to relieve or eliminate the Medical Emergency Condition, within the capability of the facility. This definition also includes additional screening, examination, and evaluation by a physician, or other personnel to the extent permitted by applicable law and within the scope of their licensure and clinical privileges, to determine if a psychiatric Medical Emergency Condition exists, and the care and treatment necessary to relieve or eliminate the psychiatric Medical Emergency Condition, within the capability of the facility.
11. "Medical Emergency Condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical

attention could usually be expected to result in any of the following:

- a. Placing the patient's health in serious jeopardy.
 - b. Serious impairment to bodily functions.
 - c. Serious dysfunction of any bodily organ or part.
- 12. "Medicare" means programs for medical coverage set forth in Title XVIII of the Social Security Act (Section 1801 et seq., 42 U.S.C. Section 1385 et seq.) and all amendments thereto.
 - 13. "Member" means a person who is enrolled in The Plan and eligible to receive Covered Services.
 - 14. "Plan" or "The Plan" means CONCERN: Employee Assistance Program.
 - 15. "Plan Provider" means a person who has entered into a Plan Provider contract with The Plan to provide Covered Services to Members, and who is licensed in California as either a psychologist, clinical social worker, or marriage and family therapist; or who practices with the equivalent licensure in other states or provinces.
 - 16. "Premium" or "Prepayment Fees" means the periodic Premiums or Prepayment Fees set forth in Attachment B, which The Group agrees to pay The Plan for Covered Services.
 - 17. "Serious Personal Problem or Condition" means circumstances wherein a Member believes he or she requires Covered Services to resolve a Crisis, important or complex matter.
 - 18. "Subscriber" means an Employee of The Group who: (a) meets all applicable eligibility requirements of the Agreement; and (b) on whose behalf The Group has paid, and The Plan has received, any applicable Premium payments or Prepayment Fees in accordance with the enrollment requirements of the Agreement.
 - 19. "Urgent" means a situation in which it is determined that no Medical Emergency Condition exists, however, the Member is in need of immediate telephone support and/or a face-to-face appointment with a Plan Provider within 24-48 hours to resolve a Serious Personal Problem or Condition.
 - 20. "Visit" means a session between a Plan Provider and Member of approximately one hour in length wherein the Member, individually or with others, discusses problems with a Plan

Provider in order to resolve the problem. The Member's problems may consist of family conflict, drug or alcohol abuse, stress, marital discord and other personal problems.

EXCLUSIONS

The following services are specifically excluded from Covered Services provided under this Agreement. All denials, modifications, and delays of requested services are subject to CONCERN: EAP's grievance review process.

- (a) Services not listed as Covered Services.
- (b) Medical Emergency Care.
- (c) Acupuncture.
- (d) Aversion therapy.
- (e) Biofeedback and hypnotherapy.
- (f) Services required by court order, or as a condition of parole or probation, not, however, to the exclusion of services to which the Member would otherwise be entitled.
- (g) Services for remedial education including evaluation or medical treatment of learning disabilities or minimal brain dysfunction; developmental and learning disorders; behavioral training; or cognitive rehabilitation.
- (h) Medical treatment or diagnostic testing related to learning disabilities, developmental delays, or educational testing or training.
- (i) Experimental or investigational procedures.
- (j) Services for the medical treatment of mental retardation or defects and deficiencies of functional nervous disorders, including chronic mental illness.
- (k) Services received from a non-Plan Provider, unless pre-approved by The Plan.
- (l) Psychological testing. (psychological testing is not necessary to determine an appropriate referral to a Plan Provider to receive Covered Services, or alternatively, to determine appropriate referrals to community resources for non-covered services)
- (m) Sleep therapy.

- (n) Examinations and diagnostic services in connection with the following: obtaining or continuing employment; obtaining or maintaining any license issued by a municipality, state or federal government; securing insurance coverage; foreign travel or school admissions.
- (o) Medical treatment of congenital and/or organic disorders associated with permanent brain dysfunction, including without limitation, organic brain disease, Alzheimer's disease and autism.
- (p) Medical treatment for speech and hearing impairments. (A speech or hearing impaired Member is entitled to Covered Services. Treatment for speech and hearing impairment is not necessary to determine an appropriate referral to a Plan Provider to receive Covered Services, or alternatively, to determine appropriate referral to community resources for non-covered services.)
- (q) IQ testing. (IQ testing is not necessary to determine an appropriate referral to a Plan Provider to receive Covered Services, or alternatively, to determine appropriate referral to community resources for non-covered services.)
- (r) Medical treatment for chronic pain.
- (s) Services involving medication management or medication consultation with a psychiatrist.

Exhibit "B"

In consideration of the services provided by Contractor in Exhibit "A", County shall pay Contractor based on the following fee schedule:

B.1 Compensation. County of San Mateo shall pay Two Dollars and Nine Cents (\$2.09) per Employee per month for Covered Services.

B.2 Invoices. CONCERN: EAP will invoice County of San Mateo monthly based on an accurate headcount of all Employees covered by CONCERN: EAP, to be provided by County of San Mateo at the beginning of each month. All amounts due under this Agreement shall be paid to CONCERN: EAP within 30 days of invoice date. Payment shall be remitted to:

CONCERN: EAP
Department 33079
P.O. Box 39000
San Francisco, CA 94139-3079

All invoices for services are due upon receipt. In the event that payment is not received within 30 days of receipt of invoice, a finance charge of 1.5% (18% annually) will be applied.

Tax I.D. number for CONCERN: EAP is 77-0528349.

Attachment H
Health Insurance Portability and Accountability Act (HIPAA)
Business Associate Requirements

Definitions

Terms used, but not otherwise defined, in this Schedule shall have the same meaning as those terms are defined in 45 Code of Federal Regulations section 160.103 164.304 and 164.501. (All regulatory references in this Schedule are to Title 45 of the Code of Federal Regulations unless otherwise specified.)

- a. *Designated Record Set*. "Designated Record Set" shall have the same meaning as the term "designated record set" in Section 164.501.
- b. *Electronic Protected Health Information*. "Electronic Protected Health Information" ("EPHI") means individually identifiable health information that is transmitted or maintained in electronic media, limited to the information created, received, maintained or transmitted by Business Associate from or on behalf of Covered Entity.
- c. *Individual*. "Individual" shall have the same meaning as the term "individual" in Section 160.103 and shall include a person who qualifies as a personal representative in accordance with Section 164.502(g).
- d. *Privacy Rule*. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 Code of Federal Regulations Part 160 and Part 164, Subparts A and E.
- e. *Protected Health Information*. "Protected Health Information" shall have the same meaning as the term "protected health information" in Section 160.103 and is limited to the information created or received by Contractor from or on behalf of County.
- f. *Required By Law*. "Required by law" shall have the same meaning as the term "required by law" in Section 164.103.
- g. *Secretary*. "Secretary" shall mean the Secretary of the United States Department of Health and Human Services or his or her designee.
- h. *Security Incident*. "Security Incident" shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system, but does not include minor incidents that occur on a daily basis, such as scans, "pings", or unsuccessful random attempts to penetrate computer networks or servers maintained by Business Associate
- i. *Security Rule*. "Security Rule" shall mean the Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 160 and Part 164, Subparts A and C.

Obligations and Activities of Contractor

- a. Contractor agrees to not use or further disclose Protected Health Information other than as permitted or required by the Agreement or as required by law.

- b. Contractor agrees to use appropriate safeguards to prevent the use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- c. Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Protected Health Information by Contractor in violation of the requirements of this Agreement.
- d. Contractor agrees to report to County any use or disclosure of the Protected Health Information not provided for by this Agreement.
- e. Contractor agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Contractor on behalf of County, agrees to the same restrictions and conditions that apply through this Agreement to Contractor with respect to such information.
- f. If Contractor has protected health information in a designated record set, Contractor agrees to provide access, at the request of County, and in the time and manner designated by County, to Protected Health Information in a Designated Record Set, to County or, as directed by County, to an Individual in order to meet the requirements under Section 164.524.
- g. If Contractor has protected health information in a designated record set, Contractor agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the County directs or agrees to make pursuant to Section 164.526 at the request of County or an Individual, and in the time and manner designed by County.
- h. Contractor agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Contractor on behalf of, County available to the County or to the Secretary, in a time and manner designated by the County or the Secretary, for purposes of the Secretary determining County's compliance with the Privacy Rule.
- i. Contractor agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.

- j. Contractor agrees to provide to County or an Individual in the time and manner designated by County, information collected in accordance with Section (i) of this Schedule, to permit County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.
- k. Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that Contractor creates, receives, maintains, or transmits on behalf of County.
- l. Contractor shall conform to generally accepted system security principles and the requirements of the final HIPAA rule pertaining to the security of health information.
- m. Contractor shall ensure that any agent to whom it provides EPHI, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect such EPHI.
- n. Contractor shall report to County any Security Incident within 5 business days of becoming aware of such incident.
- o. Contractor shall make its policies, procedures, and documentation relating to the security and privacy of protected health information, including EPHI, available to the Secretary of the U.S. Department of Health and Human Services and, at County's request, to the County for purposes of the Secretary determining County's compliance with the HIPAA privacy and security regulations.

Permitted Uses and Disclosures by Contractor

Except as otherwise limited in this Schedule, Contractor may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, County as specified in the Agreement; provided that such use or disclosure would not violate the Privacy Rule if done by County.

Obligations of County

- a. County shall provide Contractor with the notice of privacy practices that County produces in accordance with Section 164.520, as well as any changes to such notice.
- b. County shall provide Contractor with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect Contractor's permitted or required uses and disclosures.
- c. County shall notify Contractor of any restriction to the use or disclosure of Protected Health Information that County has agreed to in accordance with Section 164.522.

Permissible Requests by County

County shall not request Contractor to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by County, unless the Contractor will use or disclose Protected Health Information for, and if the Agreement provides for, data aggregation or management and administrative activities of Contractor.

Duties Upon Termination of Agreement

- a. Upon termination of the Agreement, for any reason, Contractor shall return or destroy all Protected Health Information received from County, or created or received by Contractor on behalf of County. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Contractor. Contractor shall retain no copies of the Protected Health Information.
- b. In the event that Contractor determines that returning or destroying Protected Health Information is infeasible, Contractor shall provide to County notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, Contractor shall extend the protections of the Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Contractor maintains such Protected Health Information.

Miscellaneous

- a. *Regulatory References.* A reference in this Schedule to a section in the Privacy Rule means the section as in effect or as amended, and for which compliance is required.
- b. *Amendment.* The Parties agree to take such action as is necessary to amend this Schedule from time to time as is necessary for County to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191.
- c. *Survival.* The respective rights and obligations of Contractor under this Schedule shall survive the termination of the Agreement.
- d. *Interpretation.* Any ambiguity in this Schedule shall be resolved in favor of a meaning that permits County to comply with the Privacy Rule.
- e. *Reservation of Right to Monitor Activities.* County reserves the right to monitor the security policies and procedures of Contractor

(rev. 8/08)

ATTACHMENT

Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973, as Amended

The undersigned (hereinafter called the "Contractor(s)") hereby agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended, all requirements imposed by the applicable DHHS regulation, and all guidelines and interpretations issued pursuant thereto.

The Contractor(s) gives/give this assurance in consideration of for the purpose of obtaining contracts after the date of this assurance. The Contractor(s) recognizes/recognize and agrees/agree that contracts will be extended in reliance on the representations and agreements made in this assurance. This assurance is binding on the Contractor(s), its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Contractor(s).

The Contractor(s): (Check a or b)

☐ a. Employs fewer than 15 persons.

☒ b. Employs 15 or more persons and, pursuant to section 84.7 (a) of the regulation (45 C.F.R. 84.7 (a), has designated the following person(s) to coordinate its efforts to comply with the DHHS regulation.

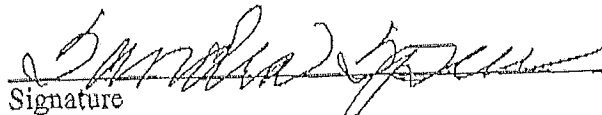
Sandra Speer
Name of 504 Person - Type or Print

El Camino Hospital
Name of Contractor(s) - Type or Print

2500 Grant Road
Street Address or P.O. Box

Mountain View, CA 94040
City, State, Zip Code

I certify that the above information is complete and correct to the best of my knowledge.


Signature

Manager of Employee and Labor
Relations
Title of Authorized Official

12/3/12
Date

*Exception: DHHS regulations state that:

"If a recipient with fewer than 15 employees finds that, after consultation with a disabled person seeking its services, there is no method of complying with (the facility accessibility regulations) other than making a