

**INDIGENT BEHAVIORAL HEALTH SERVICES AGREEMENT
BETWEEN NORTH TEXAS BEHAVIORAL HEALTH AUTHORITY AND**

THIS AGREEMENT is made and entered into this **1st Day of January 2017**, by and between North Texas Behavioral Health Authority (“NTBHA” or “Authority”), the Local Behavioral Health Authority under the provisions of Chapter 534 of the Texas Health & Safety Code Ann. (Vernon 1992), as amended, (the “Local Authority”) and **[REDACTED]** (the “Provider”), for the purpose of providing substance abuse services currently not available to the Local Authority through its present staff of employees.

RECITALS

WHEREAS, North Texas Behavioral Health Authority is the Texas Department of State Health Services (DSHS) designated behavioral health local authority established to plan, coordinate, develop policy, develop and allocate resources, supervise, and ensure the provision of behavioral health services for the residents of Dallas, Ellis, Navarro, Hunt, Kaufman, and Rockwall Counties, Texas; and

WHEREAS, Local Authority desires to assemble and maintain a network of participating providers to provide certain behavioral health services funded by the Local Authority’s General Revenue (the “Network”); and

WHEREAS, Provider is an individual or individuals who is or are duly licensed or certified to provide the behavioral health services as described in this Agreement;

WHEREAS, this Agreement sets forth the terms and conditions evidencing the agreement of the parties hereto;

NOW THEREFOR, in consideration of the mutual covenants, rights and obligations set forth herein, the benefits to be derived therefrom, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

WHEREAS, pursuant to **[REDACTED]**, submission to Request for Application RFA# 2016-001 in accordance with TAC §412.58 and 412.761 for the provision of behavioral health and substance abuse services in Dallas, Ellis, Navarro, Hunt, Kaufman, and Rockwall Counties dated April 15, 2016, Provider is qualified to perform the services referred to herein and is willing to do so upon and subject to the terms and conditions hereof.

I. DEFINITIONS

1. **Assessment:** The clinical process of looking at a person’s mental health or substance abuse and medical history, his or her functioning, relationships, and development to determine their need for treatment.
2. **Authorization/Authorization Number.** All Covered may include a unique identifying number which is given by Authority to the Provider for Covered Services to a Consumer.
3. **Case Rate:** A predetermined amount of money paid to a Provider to cover the average costs of all services deemed clinically appropriate.
4. **Clinically Appropriate.** Covered Services are authorized by a Plan of Care, which are determined to be Medically Necessary and include all of the following:

- a. An adequate and essential therapeutic response provided for evaluation or treatment consistent with the assessed needs, proper diagnosis and treatment appropriate for the individual's specific illness, disease or conditions;
 - b. Reasonably expected to improve the illness, condition or level of functioning;
 - c. Safe and effective according to nationally accepted practices and standards of evidence generally recognized by licensed professionals or publications;
 - d. The appropriate and cost-effective level of service that can safely be provided for the specific intensity of need in accordance with the professional and technical standards adopted by the Utilization Management and Quality Management Departments of Authority; and
5. **Consumer.** Individuals residing in Dallas, Ellis, Navarro, Hunt, Kaufman, and Rockwall Counties who have been determined by Authority to meet the definition of Priority Population.
6. **Covered Individual.** Individuals residing in Dallas, Ellis, Navarro, Hunt, Kaufman, and Rockwall Counties, who meet the DSHS definition of priority population and are authorized by the Authority to receive services.
7. **Individually Identifiable Health Information.** Information collected from an individual that is created by or received by either party and relates to a past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual or the past, present or future payment for health care, and which identifies the individual and with respect to which there is a reasonable basis to believe the information can be used to identify the individual. This information includes, but is not limited to, a Consumer's medical record, graphs, or charts; statements made by the Consumer, either orally or in writing, while receiving Covered Services; photographs, videotapes, etc., and any acknowledgment that a person is or has been a Consumer of the facility, center or other designated provider.
8. **Medically Necessary.** Medically Necessary means that Covered Services: (a) are reasonable and necessary for the treatment of a behavioral health disorder or to improve or prevent deterioration of functioning resulting from such a disorder; (b) are in accordance with accepted standards of practice in behavioral health care; (c) are furnished in the most appropriate and least restrictive setting in which Covered Services can be safely provided; (d) are the most appropriate level or supply of service which can be safely provided; and (e) could not have been omitted without adversely affecting the Consumer's mental and/or physical health or the quality of care rendered
9. **Non-Covered Services.** Any not specified in the Plan of Care and for which Provider has not obtained an Authorization.
10. **Plan of Care.** A written plan that a Consumer develops in collaboration with a provider in accordance with the State standards applicable to a specific Consumer. The Plan of Care, based on a Consumer's choices and assessments, addresses the problems, goals, and direction of service delivery.
11. **Prior Authorization/Pre-Authorization:** A determination made by NTBHA to prospectively approve or deny payment for a service or course of treatment of a specific duration and scope to a member prior to the provider's initiating provision of the requested service.
12. **Priority Population.** Provider shall not restrict or expand the definition of priority population or any other Consumer defined in this Agreement. The definition of the priority population for Provider is as follows:
 - a. Adults: who have severe and persistent mental illness such as schizophrenia, major depression, bipolar disorder, or other severely disabling mental disorders, which require crisis resolution or ongoing and long-term support and treatment.
 - b. Child and Adolescent: Children ages 3 through 17 with a diagnosis of mental illness (excluding a single diagnosis of substance abuse, mental retardation, autism or pervasive development disorder) who exhibit serious emotional, behavioral or mental disorders and

- who: • Have a serious functional impairment; or • Are at risk of disruption of a preferred living or child care environment due to psychiatric symptoms; or • Are enrolled in a school system's special education program because of serious emotional disturbance.
13. **Protected Health Information (“PHI”).** Individually Identifiable Health Information that is or has been electronically transmitted or maintained by either party and includes such information in any other form.
 14. **Provider:** An entity that delivers direct behavioral health services to an enrollee.
 15. **Provider Manual:** Resources to policy guidelines with explanations for working with the North Texas Behavioral; Health Authority.

II.

INDEPENDENT CONTRACTOR RELATIONSHIP BETWEEN THE PARTIES

1. **Independent Contractor.** The relationship between the Local Authority and Provider will be that of an independent contractor. The parties agree that none of the provisions of this Agreement are intended to create, nor will be deemed or construed to create, any relationship between the Local Authority and Provider other than that of independent parties contracting with each other to carry out this Agreement. It is expressly agreed that Provider and Provider's personnel, if any, may not for any purposes be deemed to be an officer, employee, agent, partner, joint ventures, ostensible or apparent agent, servant or borrowed servant of the Local Authority. Provider agrees that it will not hold itself out as an agent of the Local Authority to individuals served under this Agreement or to any other persons. Provider understands and agrees that:
 - a. Local Authority will not:
 - 1) withhold on Provider's behalf any sums for income tax, unemployment insurance, social security, or any other withholding under any law or requirement of any governmental body relating to Provider; or
 - 2) make available to Provider any benefits afforded to employees of Local Authority.
 - b. All the payments, withholdings, and benefits, if any, are Provider's sole responsibility regarding reimbursement under this Agreement; and
 - c. Provider will indemnify and hold Local Authority harmless from any and all loss or liability arising with respect to the payments, withholdings, and benefits, if any, described in this Agreement.
 - d. In the event the Internal Revenue Service should question or challenge Provider's independent contractor status, the parties mutually agree that all parties to this Agreement will have the right to participate in any discussion or negotiation occurring with the Internal Revenue Service.
2. **Professional Judgment.** In the performance of all services under this Agreement, Provider is at all times acting as an independent contractor engaged in the delivery of professional services. Provider and its personnel, if any, will employ their own means and methods and exercise their own professional judgment in performing the services under this Agreement. The sole concern of the Local Authority under this Agreement is that, irrespective of the means selected, the services will be performed in a competent, efficient, and satisfactory manner in compliance with the policies and procedures of the Local Authority and DSHS.
3. **Liability for Treatment or Service.** Nothing in this Agreement shall be deemed to change or alter any relationship which exists or may come to exist between the Provider and the person served. Provider shall have and be subject to the same duties, liabilities and responsibilities

toward the Local Authority's persons' served as exist generally between Provider and its other clients. Further, the Utilization Review and Quality Management Procedures of the Local Authority shall not diminish the Provider's obligation to render individuals served consistently with the applicable standards of care.

III. OBLIGATIONS OF THE PROVIDER

1. **Provision of Covered Services.** Provider agrees to provide Covered Services to the eligible residents of Dallas, Ellis, Navarro, Hunt, Kaufman, and Rockwall Counties, Texas to Local Authority's designated individuals in accordance with the terms of this Agreement and the Provider Manual. Provider will render services to all Covered Individuals in the same manner, subject to the same standards, and within the same time availability as offered to Provider's other patients or clients. Provider will not discriminate on the basis of payment source in matters involving the provision of Covered Services to said individuals. Provider will not refuse to accept or continue to serve any individual unless the individual does not meet Priority Population, or Provider and Local Authority admission criteria.
 - (a) The professional services to be provided by Provider will be provided in accordance with the Plans of Care/Treatment Plans of persons.
 - (b) Provider agrees that no person who is eligible for services under this Agreement will be denied services solely on the basis of the person's arrest, charge, fine, probation, indictment, incarceration, deferred adjudication, community supervision, sentencing or conviction of a criminal offense.
 - (c) Provider agrees that it may not restrict or expand the definitions of priority population or any other consumer/individual served defined in this Agreement.
 - (d) Provider agrees that it will not deny services to a consumer served under this Agreement because of consumer's inability to pay.
 - (e) **Authorization of Covered Services.** All authorizations for the provision of Covered Services will be approved by Local Authority or its designee by means of an Authorization Number.
2. **Non-Exclusivity.** Nothing contained in this Agreement shall be construed to confer upon the Provider the exclusive right to render services to Consumers in any geographic area and Local Authority explicitly reserves the right to contract with any other Provider in the geographic area of the Local Authority, Dallas, Ellis, Navarro, Hunt, Kaufman and Rockwall counties, Texas.
3. **Referrals.** Consistent with sound medical practice and in accordance with accepted community standards, as otherwise described in Policies and Procedures, or as otherwise required by law, Provider agrees to coordinate Covered Services, planning with Authority staff to assure continuity of Covered Services during and following Covered Services delivery. Failure to obtain preauthorization, as defined in the provider manual per service from Local Authority may result in Provider liability for charges incurred. In no event shall Provider seek compensation from the Consumer (or representative of the Consumer), Local Authority, or any payor for Provider's failure to obtain preauthorization of services.
4. **Continuity of Care.** Provider agrees to participate in treatment planning with Local Authority staff through Care Management Manager and/or Utilization Manager to assure continuity of services for each Covered Individual.

5. **Quality Management and Utilization Management Programs.** Provider agrees to participate in, cooperate with, and comply with Local Authority Quality Management (“QM”) and Utilization Management (“UM”) activities and standards. Provider will be required to have a written QM Plan; identified quality related goals with supportive objectives; and implementation of processes to show progress towards goal attainment. Provider shall allow Local Authority to have access to the treatment records of its Consumers as permitted by state and federal confidentiality laws. Provider understands that sanctions for noncompliance with Local Authority requirements may involve termination of this Agreement. Provider understands that Local Authority will actively evaluate and oversee QM measures to ensure that measures meet Local Authority expectations and standards. Provider agrees to implement continuous QM to gain and to hold improvement in service delivery processes. Provider shall:
- a. Develop a Quality Management Plan and conduct QM activities including organizational self-assessments and measures of satisfaction as specified by the Local Authority.
 - b. Establish and conduct corporate compliance reviews, assessments, and implement remedies for identified areas of improvement.
 - c. Comply with the Local Authority’s monitoring procedures, including submission of reports and data and other information requested.
 - d. Conduct monthly reviews to ensure that documentation of services are in compliance with the DSHS Data Verification definitions.
 - e. Adhere to quality of care indicators including but not limited to the following:
 - o Appropriateness of admission/discharge to the program
 - o Unusual incidents trends
 - o Unauthorized absences and outcomes
6. **Response to Contract Monitoring.** The Local Authority is responsible for routine monitoring of this Agreement to ensure the Provider complies with the terms of this Agreement and to ensure that outcomes are appropriately managed. Upon no less than ten (10) days prior written notice by Local Authority, Provider shall participate in an audit which may include on-site inspection of current records conducted by a representative of Local Authority to verify that Provider is complying with Local Authority standards.
7. **Covered Individual Appeals and Complaints.** Provider agrees to abide by, and cooperate with, Local Authority’s complaint, grievance, and appeal processes maintained fairly and expeditiously to resolve an Individual’s and/or Provider’s concerns pertaining to any service provided by Provider and/or to allow an Individual or Provider to appeal determinations that a service was not authorized. Provider agrees to cooperate with and participate in Local Authority’s procedures and those of other Payors to resolve any complaints by Individuals regarding Provider’s services. Provider agrees to inform in writing Individuals served by the Provider of the right to file a complaint regarding Provider in accordance with Local Authority’s complaint process. Provider agrees to take such corrective action as required by Local Authority to resolve any complaint related to its provision of services pursuant to this Agreement.
- Covered Individual(s) can initiate complaints via the Local Authority’s Client Rights Officer or his/her case manager.
8. **Transfer to Another Provider.** Provider shall furnish such current administrative policies and procedures, data and/or documentation as Local Authority or its designee may reasonably request. In the event deficits are found, Local Authority reserves the right to re-audit Provider’s site to ensure remedial efforts for improvement have been implemented. Following on-site audits, Local Authority will deliver to the provider a list of comments with regard to the manner in

which services are being provided. Failure to provide a plan of improvement, and correction (or justification for lack of action) within a reasonable time as specified by the Local Authority may result in sanctions. Providers aware of individuals wishing to transfer/change providers after services have already begun must notify provide the covered individuals with appropriate referrals and coordination to complete transfer to desired provider.

9. **Marketing.** Provider hereby authorizes Local Authority to identify Provider in Local Authority's provider directory. This identification may only include Provider's name, address, telephone number, Provider profile with a description of Provider's services and facilities. Notwithstanding the provider directory, Provider additionally authorizes Local Authority to maintain and make available to consumers and potential consumers, current information on Provider as would be available for each Provider of community services participating in the network. Provider is aware that material may include results from consumer satisfaction surveys. In all other respects, Local Authority and Provider reserve the right to control the use of their respective names, symbols, trademarks and service marks existing or established during the term of this Agreement. Provider will obtain prior approval in writing to use Local Authority's name in any promotional materials. Any use of the Local Authority's name in advertising or any other promotional material by the Provider must be approved by the Local Authority in writing prior to distribution of materials.
10. **Qualifications.** Necessary documentation regarding Provider's professional and educational qualifications and any additional required qualification documentation are set forth in Exhibit A.
11. **Authority Approval of Provider Personnel.** Provider agrees not to subcontract any services until approval of such subcontractors are approved by Local Authority in writing. Any subcontractors or employees of Provider are the direct responsibility of Provider. Provider further agrees to secure from any assignee or subcontractor their written agreement to comply with all of the terms and conditions, including without limitation the representations and warranties made herein, of this Agreement. Provider further understands and agrees that the subcontracting or assignment of any of the terms or conditions of this agreement does not release or excuse the Provider from its obligations to perform under this Agreement.

Further, the services of any officer, employee or agent to whom Provider delegates the delivery of designated services are the direct responsibility of Provider and Provider agrees to indemnify and hold harmless Local Authority, its employees, agents, officers, and assigns from any claim of liability arising from the negligent or wrongful acts of officer, employee, or agent to whom Provider delegated the delivery of designated services.
12. **Representations and Warranties.**
 - a. Provider represents and warrants at all times during this Agreement, that it, its officers, employees and agents will comply with:
 - 1). all applicable policies of the Local Authority as specified in the Provider Manual; and
 - 2). All applicable local, state, and federal laws, rules, regulations, handbooks, standards and guidelines now in effect and that become effective during the term of this Agreement including but not limited to all applicable standards set forth by DSHS and found in Title 25 of the Texas Administrative Code, Chapter 412, Subchapter G and Title 40 of the Texas Administrative Code, Chapter 5, a

current copy of which may be requested from the Local Authority or may be obtained at the following website address: www.sos.state.tx.us/tac/index.

- b. Provider represents and warrants that the Provider and Provider's officers, employees and agents are duly licensed, certified, registered and possess other legally necessary and recognized credentials necessary to perform the Covered Services to be provided under this Agreement in accordance with the laws of the State of Texas.
- c. Provider, its officers, employees and agents, will maintain, as applicable to service delivery, any certifications, registrations, or licenses, set forth in the Provider Manual and applicable law, and required to remain in good standing in its profession during this Agreement's term. Additionally, Provider must inform the Local Authority immediately of any changes -- including any termination, reduction, revocation or suspension -- to any certifications, registrations, or licenses held by the Provider, its officers, employees or agents. Provider shall report to Local Authority any allegation that a professional licensed or certified by the State of Texas and employed by the Provider has committed an action that constitutes grounds for the denial or revocation of the certification or licensure. If Provider's employee has such a denial or revocation, and Provider fails to remove such employee, then this agreement may be immediately terminated without prior notice.
- d. Provider will ensure the performance of services within the standards and scope of its profession and in a manner designed to assist in the Local Authority's efficient operation of the Local Authority. Provider agrees to interact with Local Authority staff, other Providers with the Local Authority, and consultants in a cooperative manner. The adequacy of the performance of this obligation will be determined at the Local Authority's sole discretion.
- e. The Provider represents and warrants that the execution and performance of this Agreement by Provider will not conflict with or create a default under any agreement, contract, instrument, order or judgment to which Provider is a party or otherwise subject.
- f. The Provider represents and warrants that AIDS/HIV workplace guidelines, similar to those adopted by DSHS, and AIDS/HIV confidentiality guidelines, consistent with state and federal law, will be adopted and implemented by the Provider.
- g. The Provider represents and warrants that at the time of executing this Agreement, neither Provider, its officers nor directors are currently held in abeyance or barred from the award of a federal, state or county contract. Provider agrees to disclose this information in the event such abeyance occurs at any time during the term of this Agreement. Such disclosure shall include when Provider:
 - i. is currently held in abeyance from or barred from the award of a federal, state or county contract or if this occurs anytime during this Agreement's term;
 - ii. has been convicted of a criminal offense related to any county, state or federally funded program; or
 - iii. is placed on "vendor hold" status for any county, state, or federally funded Local Authority or program.
- h. The Provider represents and warrants that it has full power and authority to enter into this Agreement.
- i. Provider represents and warrants that it is not more than 30 days delinquent in child support payments and is eligible to receive payments from state funds as required by Texas Family Code §231.006.
- j. Provider represents and warrants that he/she is not currently an employee of the Local Authority.

- k. Provider represents that Provider is currently in good standing for state tax, pursuant to the Texas Business Corporation Act, Texas Civil Statutes, Article 2.45.
13. **Receipts and Records.** Provider agrees to provide the Local Authority upon request with original receipts for the purchases of all goods and services involving the use of Local Authority funds as well as all other financial and supporting documents and statistical records. Provider shall retain these and any other records pertinent to the services for which a claim or cost report was submitted to the Local Authority, including Plans of Service, for a period of six (6) years.
14. **Immigration Reform and Control Act.** Provider agrees to maintain appropriate identification and employment eligibility documents to meet requirements of the Immigration Reform and Control Act of 1986.
15. **Reports of Abuse and Neglect.** Provider must report to the Local Authority's Quality Management Manager at 214-366-9407 and Department of Family and Protective Services ("TDFPS") (at 800-252-5400) allegations of abuse, neglect, and exploitation in compliance with federal and state law, and Local Authority policies and procedures. Reporting to the Local Authority's Quality Management Manager shall include those allegations, confirmed or otherwise, which effects all individuals being served by the Provider whether under this Agreement or not. Provider further agrees to cooperate in all TDFPS investigations, according to TDFPS rules, guidelines and procedures.
16. **Required Information for Criminal Conviction Checks.**
- a. Provider shall provide to the Local Authority proof that criminal history record checks have been conducted on Provider /subcontractor's applicants or employees, whose duties place them in direct contact with consumers, pursuant to Texas Health and Safety Code, Section 533.007 and Chapter 250, the Texas Government Code, Section 411.115, and Chapter 414, Subchapter K of the Texas Administrative Code.
 - b. If an applicant or employee of the Provider /subcontractor has a criminal history relevant to his or her employment as described in Chapter 414, Subchapter K. of the Texas Administrative Code, then the Provider /subcontractor will take appropriate action with respect to the applicant or employee, including terminating or removing the employee from direct contact with persons with a mental disability served by the Provider /subcontractor; and
 - c. If Provider's employee has such a conviction, and Provider fails to remove such employee, then this contract may be terminated without prior notice.
 - d. Provider shall provide the Local Authority a letter of assurance 30 days prior to any renewal year that an annual criminal background check (such as the Texas DPS criminal check) has been conducted on any Provider/subcontractor's employees who have direct contact with consumers. Failure to provide requested information may result in suspension of contract services.
17. **Provider's Governing Body.** Provider agrees to provide Local Authority with a list of the members of Provider's governing body, if applicable.
18. **Retention of Records.** Provider agrees to retain all records pertinent to the Agreement, including appropriate treatment plans, for a period of six (6) years. Provider shall retain for six years following the later date of the expiration or termination of this Contract or the termination of Services, or for a longer period if required by statute or regulation, PHI and all records,

reports, and source documentation related to services and treatment sufficient to support an audit concerning expenses and services.

19. **Optimizing Revenue.** Contactor agrees to optimize earned revenues and ensure best cost value through coordination of insurance benefits and third party revenues.
20. **Responsibility for Consumer Funds.** If Provider assumes responsibility for the funds of a consumer, Provider will abide by written policies approved by the Local Authority and will protect and account for such funds in accordance with generally accepted accounting principles.
21. **Medical Care.** If a person receiving services from Provider requires immediate and/or emergency medical attention during the delivery of the services, Provider agrees to provide or procure appropriate hospital, surgical, medical, and dental care for the individual as specified in provider's emergency policy and procedures.
22. **Solicitation prohibitions involving Potential Consumers.** Provider agrees and is aware that Provider is prohibited from:
 - a. Offering any gift with a value in excess of \$10 to potential consumers.
 - b. Soliciting potential consumers in person, through direct-mail, by telephone or other means of communication.Violation of this prohibition will cause immediate termination of this Agreement.
23. **Managed Care Organizations.** Provider shall make a reasonable effort to join a managed care network as a provider. Failure to make such effort is grounds for immediate termination of this Agreement.
24. **Credentialing.** Provider agrees and ensures that its licensed staff and other appropriate staff (such as (QMHP-CS) will be credentialed before services are delivered to consumers by such provider and staff. Local Authority will review all of the Provider staff, employees and agents at the professional level (i.e. licensed staff). Provider will maintain completed credentialing application forms and submit updated rosters to the Local Authority for each licensed professional providing services to Covered Individuals. These files and rosters are subject to audit by Local Authority. Provider must make modifications to its own credentialing process to meet or exceed standards set forth by Local Authority's Credentialing Policies and Procedures.
25. **Assignment.** Provider assigns to Local Authority any and all claims for overcharges associated with this contract arising under the antitrust laws of the United States 15 U.S.C.A Section 1, et seq. (1973), as amended, and the antitrust laws of the State of Texas, Tex. Bus. & Comm. Code Ann. Sec. 15.01 et seq. (1967), as amended.
26. **Telemedicine Medical Services.** If Provider provides telemedicine medical services, Provider shall ensure that the services are implemented in accordance with written procedures and using protocol approved by the Authority's medical director that includes the following requirements:
 - (a) Clinical oversight by Provider's Chief Medical Officer or designated physician responsible for medical leadership;
 - (b) Contraindication considerations for telemedicine use;
 - (c) Priority in scheduling the system for clinical care of consumers;
 - (d) Quality oversight and monitoring of satisfaction of the consumers served; and

(e) Management of information and documentation for services that ensures timely access to accurate information between the two sites.

27. **Training.** Provider agrees to obtain and/or maintain training as required by the Quality Management Department, and as required and approved by the Local Authority. Proof of all required training shall be submitted to the Local Authority within thirty (30) calendar days of contract start date (all training needs to occur before the Provider serves consumers). Required training may be obtained from the Local Authority or its designee; however, Provider shall not bill Local Authority for said training hours. Failure to obtain and/or keep current required training will be deemed non-compliance and may be considered grounds for termination of this Agreement.

IV. REIMBURSEMENT OF SERVICES

1. **Bills for Payment.** Provider will submit bills for service to the office listed in the Provider Manual, as may be amended from time to time.
2. **Acceptance of Payment** Provider will accept payment received from Local Authority in accordance with the Reimbursement Schedule set forth in the Exhibit A as payment in full for Covered Services provided pursuant to this Agreement. Provider will not submit a claim or bill or collect compensation from a consumer. Further, Provider will not submit a claim or bill or collect compensation from Local Authority for any Non-Covered Service.
3. **Reimbursement.** Provider will accept payment received from Local Authority in accordance with the Schedule set forth in Exhibit A as payment in full for Covered Services provided pursuant to this Agreement. Provider will not submit a claim or bill or collect compensation from an Individual. Further, Provider will not submit a claim or bill or collect compensation from Local Authority for any Non-Covered Service.
4. **Coordination of Covered Individual's Benefits.** Provider agrees to cooperate with Local Authority in coordination of Covered Individuals' benefits, to provide Local Authority any relevant information that Provider may reasonably have relating to any other coverage held by an Individual, and to abide by the coordination of benefits, subrogation and duplicate coverage policies as set forth in the Provider Manual. Provider acknowledges that Local Authority is considered the Payor of Last Resort and that all other funding sources must be exhausted prior to billing Local Authority for authorized Covered Services. It is the obligation of the Provider to submit written evidence documenting its efforts to collect fees from any and all payment sources prior to submitting claims to Local Authority.
5. **Non-Covered Services.** Provider agrees that compensation for providing Non-Covered Services will be solely between the individual and the Provider and that the Individual must be informed in writing, before such services are provided and that Local Authority is not responsible for payment for such services. Prior to the provision of any non-covered services to any Individual, Provider shall, in writing, advise the Individual (a) of the nature of the service; (b) that the service is a non-Covered Service for which a Payor will not pay; and (c) that the Individual will be responsible for paying for the service. Provider shall request Individual to sign such writing and return to Provider.

6. Payment may be made on a monthly basis and shall be based upon the services provided by Provider and documented on the required billing forms and approved either by the Executive Director, or by the Local Authority employee(s) authorized to approve billing(s) Financial Director.
7. **Overpayment.** IN THE EVENT PROVIDER RECEIVES OVERPAYMENT OF SERVICES PROVIDED. PROVIDER AND LOCAL AUTHORITY MUTUALLY AGREE THAT SUCH IDENTIFIED OVERPAYMENT WILL BE DEDUCTED IN TOTAL FROM THE NEXT MONTH'S REIMBURSEMENT UNLESS OTHERWISE AGREED UPON IN WRITING BY LOCAL AUTHORITY'S LEGAL AFFAIRS DEPARTMENT.
8. **Referrals and Utilization.** The Local Authority **does not** guarantee utilization of the covered services to be provided under this Agreement. Provider acknowledges that there is no warranty or guarantee that Provider will be utilized by an individual or any number of Covered Individuals. Provider further acknowledges that the parties do not intend to create an exclusive arrangement by this Agreement.
9. **Franchise Tax.** If Provider is a corporation and is or becomes delinquent in the payment of its Texas franchise tax, then payments to the Provider due under this contract may be withheld until such delinquency is remedied.

V. **RESPONSIBILITIES OF LOCAL AUTHORITY**

1. **Provider Manual.** Local Authority will provide Provider with a Provider Manual. Local Authority reserves the right to amend the Provider Manual, and will afford Provider 15 days to accept or appeal any changes, in accordance with XI.4 of this Agreement.
2. **Payment.** Local Authority will pay Provider for charges verified and billed for which Local Authority has authorized and is liable. In consideration of the obligations undertaken by Provider, Authority projects to pay Provider for charges submitted by Provider for the provision of Covered Services, for an amount not to exceed [REDACTED] for the fiscal year and until termination of this contract. NTBHA reserves the right to adjust this amount as necessary. This projection in no way guarantees a maximum amount or utilization of Provider by a Consumer or any number of Consumers. *This Agreement is at all times contingent upon the approval of DSHS and the availability and receipt of state or federal funds, and if funds for this contract become unavailable during any budget period, this Agreement may be immediately terminated or reduced at the discretion of the Local Authority.*
3. **Provider Relations.** All Provider questions, issues, and comments regarding the management of this Agreement shall be directed to:
North Texas Behavioral Health Authority
ATTN: NTBHA Contracts Coordinator
214-366-9407
9114 LBJ Frwy. Ste 350
Dallas TX 75243
5. **Freedom of Choice.** Local Authority shall allow consumers to choose freely any participating provider within the network without influence by any Local Authority staff or representative.

VI. RECORDS, CONFIDENTIALITY AND ACCESS

1. **Disclosure Under the Texas Public Information Act.** The Local Authority operating under the Texas Public Information Act is required upon written request to release information regarding Provider which may include Provider Profile or other documents. Information deemed proprietary by Provider must be clearly indicated as such and may still be subject to disclosure depending on a ruling from the Attorney General's Office. Provider shall be solely responsible for the contesting or defending the release of any information it deems to be proprietary and hereby releases the Local Authority from any duty, responsibility, or liability with regard to the release of any information delivered to the Local Authority by Provider.
2. **Records.** Provider will create and maintain records in accordance with the Provider Manual. Provider will retain records for a minimum of six (6) years after the termination of services to the individual or after the termination of this agreement whichever comes last.
3. **Confidentiality of Records of Covered Individuals Served by This Agreement.** Provider agrees to comply with all applicable Health Insurance Portability and Accountability Act regulations including the Business Associate Attachment (Exhibit B) incorporated by reference to this Agreement. In accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Privacy Rule (45 CFR Parts 160 and 164):
 - (a) Provider agrees and acknowledges that in receiving, storing, processing, or otherwise dealing with client information, if any, accessed or generated during services as a Provider for the Local Authority that Provider and its officers, employees, agents and subcontractors are bound by the provisions of laws, statutes, and regulations protecting the confidentiality of this information.
 - (b) Provider agrees and acknowledges that in receiving, storing, processing or otherwise dealing with information, if any, pertaining to or about a person with respect to alcohol or drug abuse, Provider and its officers, employees and agents are bound by the provisions of 42 C.F.R. Part 2.
 - (c) Provider agrees to follow, undertake, or institute appropriate procedures of safeguarding client information, if any, with particular reference to client identifying information or protected health information. The term "client identifying information" and/or "protected health information" includes, but is not limited to, a client's medical record, graphs, or charts; statements made by the client, either orally or in writing, while receiving services; photographs, videotapes, etc., and any acknowledgment that a person is or has received services at the facility, center, or other designated provider.
 - (d) Provider agrees to resist in judicial proceedings any efforts to obtain access to information pertaining to clients except as expressly stated in applicable laws, rules and regulations. Provider agrees to inform the Local Authority of any attempts to gain access to information pertaining to clients.
 - (e) Provider agrees to report to Local Authority any use or disclosure of protected health information not provided for by this agreement of which it becomes aware. As well as to mitigate, to the extent practicable, any harmful effect that it is aware of that results from a use or disclosure of protected health information by it in violation of the requirements of this Agreement.
 - (f) Provider agrees to make available to the Secretary of State or its designee its internal practices, books, and records and policies and procedures or those of Local Authority

used by Provider related to the use and disclosure of protected health information for the purpose of determining Provider's compliance with the Privacy Rule.

- (g) Provider agrees to maintain documentation of and information related to its uses and disclosures of protected health information to permit Local Authority to provide an accounting of disclosures as prescribed by 45 CFR §164.528.
- (h) Provider acknowledges that Local Authority is not permitted to enter into any agreement with a Provider to, create, receive, maintain, use, disclose, have access to or transmit Confidential Information, on behalf of Local Authority without requiring that Provider to first execute the Subcontractor Agreement Form, which ensures that the Provider (Subcontractor) will comply with the identical terms, conditions, safeguards and restrictions as contained in the Data Use Agreement for PHI executed between the Local Authority and HHSC. A copy of the executed DUA is available upon request.

- 4. **Access to Facilities, Books and Records by Local Authority or DSHS.** Pursuant to Health and Safety Code §534.061, Provider agrees to allow the Local Authority or other authorized governmental agencies unrestricted access during usual business hours to all facilities, service providers, individuals served, records, data, and other information as necessary to enable DSHS and the Local Authority or other authorized agencies to audit, monitor, and review all financial or programmatic activities and services associated with this Agreement. Provider authorizes Local Authority and DSHS or their designated agents to make copies of, at no charge, Provider's medical, financial and administrative books, documents, and records related to the provision of services to Covered Individuals and the cost thereof, subject to applicable laws and regulations.
- 5. **Right of Audit and Recovery.** Provider hereby authorizes Local Authority to conduct retrospective audits of Provider's claims and other records related to any service rendered to an Covered Individual for a period of up to two (2) years following payment to Provider. In the event such an audit reveals that Provider was paid by Local Authority for services not rendered or properly documented, Local Authority may recover any compensation paid to Provider for such services and Provider agrees to pay Local Authority on demand, but not later than 30 days, any such amount determined by the Local Authority to have been paid for services not rendered or not properly documented.

VII. INSURANCE

A. General Policy Requirements:

1. Policies, Coverages, and Endorsements.

Provider agrees to maintain the following insurance policies, with the specified coverages and limits, to protect and insure the Local Authority and Provider against any claim for damages arising in connection with Provider's responsibilities or the responsibilities of Provider's personnel under this Agreement and all extensions and amendments thereto.

A: Commercial General Liability	
General Aggregate	\$1,000,000
Products/Completed Operations Aggregate	\$500,000
Each Occurrence	\$500,000
Fire Legal Liability	\$50,000

Note: Limits shown above shall apply to Abuse and Molestation claims without sub-limits or exclusions.

B: Professional Liability		
General Aggregate		\$1,000,000
Each Occurrence		\$500,000
C: Business Automobile if transporting our consumers		
Combined Single Limit Bodily Injury & Property Damage		\$500,000
D: Workers' Compensation & Employers' Liability		
Medical & Indemnity		Statutory Requirements
Bodily Injury by Accident		\$500,000 Each Accident
Bodily Injury by Disease		\$500,000 Each Employee
Bodily Injury by Disease		\$500,000 Policy Limit
E: Medical Malpractice Insurance for Physicians if applicable		
General Aggregate		\$3,000,000
Each Occurrence		\$100,000

F: Providers that are self-insured through their own Self-Insurance Program must adhere to the insurance regulations applicable to the Provider and shall furnish appropriate evidence to the Local Authority of the existence of such coverage for the services being provided to the Local Authority.

2. Insured Parties. All policies **excluding professional liability and worker's compensation** shall contain a provision naming the Local Authority (and its officers, agents and employees) as Additional Insured parties and the Certificate Holder on the original policy and all renewals or replacements during the term of this Agreement.

3. Subrogation. All policies must contain a Waiver of Subrogation endorsement to the effect that the issuer waives any claim or right in the nature of subrogation to recover against the Local Authority, its officers, agents or employees.

4. Proof of Insurance. The policies, coverages and endorsements required by this provision shall be shown on a Certificate of Insurance on which the Local Authority must be listed as an **Additional Insured Party (excluding professional liability) and the Certificate Holder** and which should be furnished to the Local Authority prior to the commencement of this Agreement. All such insurance shall be secured and maintained with an insurance company, or companies, licensed to do business in the State of Texas. The Local Authority may withhold payments under the terms of this Agreement until the Provider furnishes the Local Authority copies of all Certificates of Insurance from the insurance carrier, or carriers, showing that such insurance is in full force and effect.

5. Cancellation. New Certificates of Insurance shall be furnished to the Local Authority at the renewal date of all policies named on these Certificates. Provider shall give the Local Authority thirty (30) days prior written notice of any proposed cancellation of any of the above described insurance policies.

6. Providers that are self-insured through their own Self-Insurance Program must comply with all regulations applicable to the Provider and shall furnish appropriate evidence to the Local

Authority of the existence of such coverage for the services being provided to the Local Authority.

7. If Provider is a Texas State Agency or governmental entity, including an institution of higher education of the State of Texas, subject to Chapters 101 and 104 of the Texas Civil Practice and Remedies Code, it shall not be required to maintain the insurance coverage set forth in Part V, section 1, above. In lieu of such coverages, Provider agrees to maintain a self insurance Plan for Professional Liability Insurance pursuant to Chapter 59, section 59.01 of the Texas Education Code and a self-insured Workers Compensation Insurance Plan pursuant to Texas Labor Code Chapter 502, 503 or 504 as applicable. Such Providers authorized under section 59.01 of the Texas Education Code must comply with all regulations applicable to the Provider and shall furnish appropriate evidence to the Local Authority of the existence of such coverage for the services being provided to the Local Authority.

VIII. INDEMNIFICATION

TO THE EXTENT ALLOWED BY LAW, PROVIDER WILL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE LOCAL AUTHORITY AND ITS OFFICERS AND EMPLOYEES, FROM AND AGAINST ALL CLAIMS, ACTIONS, SUITS, DEMANDS, PROCEEDINGS, COSTS, DAMAGES, AND LIABILITIES, INCLUDING ATTORNEYS' FEES AND COURT COSTS ARISING OUT OF, OR CONNECTED WITH, OR RESULTING FROM:

- PROVIDER'S PERFORMANCE OF THE CONTRACT, INCLUDING ANY NEGLIGENT ACTS OR OMISSIONS OF PROVIDER, OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF PROVIDER, OR ANY THIRD PARTY UNDER THE CONTROL OR SUPERVISION OF PROVIDER, IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT; OR
- ANY BREACH OR VIOLATION OF A STATUTE, ORDINANCE, GOVERNMENTAL REGULATION, STANDARD, RULE, OR BREACH OF CONTRACT BY PROVIDER, ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF PROVIDER, OR ANY THIRD PARTY UNDER THE CONTROL OR SUPERVISION OF PROVIDER, IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT; OR
- EMPLOYMENT OR ALLEGED EMPLOYMENT, INCLUDING CLAIMS OF DISCRIMINATION AGAINST PROVIDER, ITS OFFICERS, OR ITS AGENTS; OR
- WORK UNDER THIS CONTRACT THAT INFRINGES OR MISAPPROPRIATES ANY RIGHT OF ANY THIRD PERSON OR ENTITY BASED ON COPYRIGHT, PATENT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS.

PROVIDER WILL COORDINATE ITS DEFENSE WITH THE LOCAL AUTHORITY AND ITS COUNSEL, IF REQUESTED BY Local AUTHORITY. THIS PARAGRAPH IS NOT INTENDED TO AND WILL NOT BE CONSTRUED TO REQUIRE PROVIDER TO INDEMNIFY OR HOLD HARMLESS THE Local AUTHORITY FOR ANY CLAIMS OR LIABILITIES RESULTING SOLELY FROM THE GROSS NEGLIGENCE OF THE LOCAL AUTHORITY OR ITS EMPLOYEES. THE PROVISIONS OF THIS SECTION WILL SURVIVE TERMINATION OF THIS CONTRACT.

IX. TERM AND TERMINATION

1. **Term.** This Agreement is effective from January 1, 2017 to August 31, 2017, in the event Local Authority and Provider are negotiating, preparing, and/or reviewing the services or Provider for renewal on the August 31, 2017 termination date, this agreement shall automatically extend for 90 days or until such time as a renewal agreement is approved by the Local Authority's Board of Trustees whichever comes first.

2. **Immediate Termination.** Local Authority may terminate this Agreement immediately if (a) Local Authority does not receive the funding to pay for designated services under this Agreement from the Texas Legislature, DSHS, or DADS (***Fund Availability**); (b) Local Authority has cause to believe that termination of the Agreement is in the best interests of the health and safety of the persons with mental disability served under this Agreement; (c) Provider has become ineligible to receive Local Authority funds; (d) Provider or its employees has its Texas license or certification suspended or revoked; (e) in the case of Providers providing direct services to clients, failure to disclose a criminal conviction; (f) if the Provider submits falsified documents or fraudulent billings, or if the Provider makes false statements; and (g) Provider violates III.21 of this Agreement.
* **Fund Availability.** This Agreement is at all times contingent upon the availability and receipt of state or federal funds that Local Authority has allocated to this Agreement, and if funds for this contract become unavailable during any budget period, this Agreement may be immediately terminated or reduced at the discretion of the Local Authority.
3. **Termination upon Default.** Upon written Notice of Default of any of the obligations to be performed under the terms of this Agreement, the defaulting party will have fifteen (15) calendar days in which to correct or cure the default to the reasonable satisfaction of the non-defaulting party. If, at the end of such fifteen (15) calendar days cure period, such default remains uncorrected, then and in such event, the non-defaulting party shall have the right to terminate this Agreement upon an additional fifteen (15) business days written Notice of Termination to the defaulting party.
4. **Termination by Mutual Consent.** This Agreement may be terminated with thirty (30) days written notice by the parties' mutual consent or by the parties' inability to agree to amendments as provided in XI.4 of this Agreement.
5. **Termination for Failure to Disclose Criminal Conviction.** The Local Authority may immediately terminate this Agreement at its sole discretion if it determines that the Provider did not fully and accurately disclose the following information concerning persons convicted of crimes:
 - a. The identity of any employee, officer, or other person directly or indirectly involved in this Agreement who has been convicted of any criminal offense related to any state or federally funded program; or
 - b. The identity of any employee, officer, or other person directly or indirectly involved in this Agreement who is in direct contact with persons served and who has been convicted of a crime including any sexual offense, drug-related offense, homicide, theft, assault, battery, or any other crime involving personal injury or threat to another person.
 - 1) Should any person have a conviction described above, Provider will immediately remove the individual from direct contact with persons served.
 - 2) If the Provider has a conviction described above, this Agreement may be terminated immediately.
6. **Termination due to HIPAA/Privacy Rule Violation.** Local Authority shall have the right to take the following step in the event that it becomes aware of a material breach by Provider of the Local Authority's Privacy Policy, Procedures, and/or Practices or becomes aware that Provider has violated a material provision of the HIPAA Privacy Rule:
 - (a) Provide the Provider with the opportunity to cure the breach or violations, or

- (b) Immediately terminate the Agreement if Provider is unable or unwilling to cure the breach or violations, or
 - (c) If neither termination nor cure is feasible, the Local Authority shall report the violation to Health and Human Services.
7. **Effect Upon Notice of Termination.** Upon notice of termination, Provider will cooperate fully with Local Authority in the transfer of Individuals to other providers. Provider recognizes that during any notice period preceding the effective date of termination, Local Authority, may at its sole discretion, deny authorization to Individuals to receive Covered Services.
8. **Effect upon Termination.** Upon termination, the rights of Local Authority and Provider under this Agreement will terminate, except that termination will not release the parties of their respective obligations with respect to:
- a. Payments accrued for **authorized** Covered Services by Provider prior to termination;
 - b. Provider's agreement not to seek compensation from Individuals for Covered Services prior to termination of this Agreement;
 - c. The continuation of Provider's service(s) for Individuals receiving Covered Services from Provider until continuation of the Individuals' service can be arranged by Local Authority. Local Authority will reimburse Provider for such service pursuant to the terms of this Agreement; and
 - d. Requirements of this Agreement regarding confidentiality and record retention will survive this Agreement.
9. **Dispute Resolution.** All disputes or controversies arising under or related to this Agreement shall first be attempted to be resolved through good faith efforts in accordance with the Policies and Procedures. In the event the parties are unable to resolve the dispute within sixty (60) days, either party may initiate binding arbitration in accordance with the procedures set forth in the Texas General Arbitration Act, and the American Arbitration Association Rules. Disputes relating to compensation rates shall not be subject to binding arbitration.

X. NON-COMPLIANCE BY THE PROVIDER

1. **Penalties/Sanctions.** The failure of the Provider to perform any responsibility set forth in this Agreement, its exhibits or attachments, or any law, regulation, rule or requirement incorporated by reference may result in any one or more of the following penalties to be imposed or taken by the Local Authority, subject to notice as provided herein:
- a. Submission of a Plan of Correction to the Local Authority;
 - b. Return funds to the Local Authority:
 - 1) For serving unauthorized persons with funds subject to this Agreement and
 - 2) For using funds for unauthorized purposes
 - c. Withholding by the Local Authority, in whole or in part, any payments due and owing to the Provider until the Provider has cured the breach to the satisfaction of the Local Authority;
 - d. Legal action to protect or remove Consumers when the life, health, welfare, or safety of one or more Consumers is endangered, or could be endangered or if the Local Authority has a reasonable belief that the Provider has engaged in the misuse of state or federal funds, fraud, or illegal acts;
 - e. If Local Authority is able to demonstrate a direct link between a sanction or penalty imposed upon Local Authority by DSHS or any other state agency due to Provider's

performance, Provider will refund/reimburse/remit to Local Authority those portions of the sanction/penalty assessed to Local Authority. Examples of such instances would be documentation chart audits, CARE accuracy, failure to report accurate and timely information/data, and etc.

2. **Imposition of Sanctions.** Authority, may, at its own discretion, impose remedies and sanctions for noncompliance with requirements of this Agreement. Authority retains sole discretion to determine which situations constitute noncompliance, and will determine appropriate remedies and sanctions on a case-by-case basis.

Appeals. Any Provider receiving a “Notice of Penalties” may appeal the imposition by filing a “Notice of Appeal” with the Local Authority’s Executive Director within fifteen (15) business days of the date of receipt of the “Notice of Penalties”.

XI. MISCELLANEOUS

1. **Nondiscrimination.** Each party to this Agreement agrees that no person, on the basis of race, color, national origin, religion, sex, age, handicap, or political affiliation, will be excluded from participation, be denied the benefits of, or be subject to discrimination in the provision of any services hereunder. The parties hereto agree to comply with the Civil Rights Act of 1991 and Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794); Americans with Disabilities Act of 1990 (42 U.S.C. §12101 *et seq.*); Age Discrimination Act of 1975 (42 U.S.C. §§6101-6107); Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681-1688); Food and Nutrition Act of 2008 (7 U.S.C. §2011 *et seq.*); and all amendments to each and all requirements imposed by the regulations issued pursuant to these acts.
2. **Corporate Compliance.** Local Authority has an ongoing commitment to ensure that its affairs are conducted in accordance with applicable law and sound ethical business practice. Provider agrees to adopt and implement a Business Code of Conduct and Corporate Compliance Plan, if applicable, similar to those adopted by Local Authority and consistent with state and federal law. Provider shall develop and implement a process for its employees, volunteers and Providers to report possible compliance issues including a process for such reports to be fully and independently reviewed.
3. **Professional Conduct.** During the term of this Agreement, Provider shall not engage in a business, calling, treatment, conduct or enterprise which is or may be, in Local Authority’s sole discretion, contrary to the interest, benefit, or reputation of Local Authority. Provider will conduct his/her relationships with Local Authority and its employees and consumers referred by Local Authority in a professional and positive manner and not make untruthful or otherwise disparaging statements regarding his/her relationship with Local Authority, its employees or persons served.
3. **Lobbying and Political Activity.** Provider shall not use funds received under this contract to pay any person for influence or attempting to influence an officer or employee or any agency, federal or state, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any contract or grant or the extension, continuation, renewal, amendment, or modification or any contract or grant.

4. **Amendment.** Unless otherwise specifically provided herein, this Agreement may be amended or changed only by mutual written consent of an authorized representative of the Local Authority and Provider. However, the Local Authority may amend the Provider Manual by written notice to Provider. Failure of Provider to object in writing to any such proposed amendment within ten (10) business days of receipt of notice shall constitute acceptance.
5. **Entire Agreement.** This Agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings, written or oral agreement between the parties respecting the subject matter herein.
6. **Additional Requirements/Renegotiation.** If Provider is required to comply with an additional requirement pursuant to compliance with standards, regulations, resolutions, settlements, or plans, and compliance results in a material change in Provider's rights or obligations under the contract or places a significant financial burden on the Provider, the Provider may, upon giving sixty (60) days notice of such intention, be entitled to renegotiate in good faith to amend the Agreement.
7. **Governing Law and Venue.** This Agreement shall be construed and enforced in accordance with the laws of the State of Texas, and venue shall lie in Dallas County, Texas.
8. **Notices.** Any required notice shall be in writing and shall be sent, postage prepaid, by certified mail, return receipt requested, to Local Authority or Provider at the address below. The notice shall be effective on the date of delivery indicated on the return receipt.

If to the Local Authority:

 Chief Executive Officer
 9441 LBG Frwy, Ste 350
 Dallas TX. 75243
 469-299-9373

If to Provider:

 (____) xxx-xxxx

9. **Severability.** The invalidity or unenforceability of any term or provision hereof shall not affect the validity or enforceability of any other term(s) or provision(s).
10. **Effects of Severable Provision.** In the event that a provision of this Agreement is rendered invalid or unenforceable and its removal has the effect of materially altering the obligations of the parties to this Agreement in the manner as, in the sole judgment of the affected party:
 - (a) will cause serious financial hardship to the affected party; or
 - (b) will cause the affected party to act in violation of law or its corporate Articles or Bylaws, the party so affected will have the right to terminate this Agreement upon thirty (30) calendar days prior written notice to the other party.
11. **Exhibits and Provider Manual.** All Exhibits and the Provider Manual referred to in this Agreement and attached hereto are incorporated into this Agreement by this reference.
12. **Authority to Bind Local Authority.** This Agreement is not binding upon the Local Authority unless and until it has been executed by the Executive Director.

13. **Provider's Authority.** The person or persons executing and signing this Agreement on behalf of the Provider guarantee that they have been fully authorized by the Provider to execute the Agreement and to legally bind the Provider to all the terms and provisions of the Agreement.
14. **No Third-Party Beneficiary.** Unless otherwise specifically stated in this Agreement, nothing in this Agreement is intended to, or shall be deemed or construed to, create any rights or remedies in any third party, including a Consumer. Nothing contained herein shall operate (or be construed to operate) in any manner whatsoever to create any rights of any Consumer or duties or any responsibilities of Provider or Local Authority with respect to such Consumers.
15. **Electronic or Facsimile Signatures and Duplicate Originals.** Pursuant to the requirements of the Uniform Electronic Transactions Act in Chapter 322 of the Texas Business and Commerce Code and the Federal Electronic Signatures in Global and National Commerce Act (beginning at 15 U.S.C. Section 7001), the Parties have agreed that the transactions under this Agreement may be conducted by electronic means. Pursuant to these statutes, this Agreement may not be denied legal effect or enforceability solely because it is in electronic form or because it contains an electronic signature. This Agreement may be executed in duplicate counterparts and with electronic or facsimile signatures with the same effect as if the signatures were on the same document. Each multiple original of this document shall be deemed an original, but all multiple copies together shall constitute one and the same instrument.

Executed this _____ day of _____, 20__

LOCAL AUTHORITY

PROVIDER

Date

Date

I CERTIFY THAT THIS CONTRACT WAS APPROVED BY THE BOARD OF NTBHA IN OPEN MEETING ON THE _____TH DAY OF _____ 20_____.

Secretary to the Board of Directors

Approved as to Legality and Form:

Carvan E. Adkins
General Counsel
North Texas Behavioral Health Authority

Exhibits A-D
Services to be Performed and Payment

DRAFT

- (g) "Individual" shall have the same meaning given to such term as defined in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
- (h) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E respectively.
- (i) "Protected Health Information" or "PHI" shall have the same meaning given to such term as defined in 45 CFR §160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- (j) "Required By Law" shall have the same meaning given such term as defined in 45 CFR§ 164.103 and The Health Information Technology for Economic and Clinical Health Act (HITECH) Division A: Title XIII, Subtitle D.
- (k) "Security" or "Security Measures" encompass all of the administrative, physical, and technical safeguards in an information system specified in subpart C of 45, CFR § 164.
- (l) "Security Rule" shall mean the Standards for Security of Electronic Protected Health Information as specified in subparts A and C in 45 C.F.R. Parts 160 and 164, respectively.
- (m) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his/her designee.

2. Obligations and Activities of Business Associate.

- (a) Business Associate may not use or disclose protected health information other than as permitted or required by the Underlying Agreement or as required by law:
- (b) Business Associate agrees to use appropriate safeguards, including without limitation, administrative, physical and technical safeguards, to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement and to reasonably and appropriately employ the same standards as required by law to, protect the confidentiality, integrity and availability of any electronic Protected Health Information (e-PHI) that it may receive, maintain or transmit on behalf of the Covered Entity in compliance with Subpart C of 45 CFR Part 164.
- (c) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- (d) Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement or any security incident of which it becomes aware, involving Protected Health Information of the Covered Entity as required at 45 CFR 164.410.
- (e) Business Associate must in accordance with 45 CFR §164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors, agents or affiliates of the Business Associate that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree, in writing, to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information. Subject to the United States and State of Texas export control and foreign outsourcing laws, rules and regulations, the Business Associate will require any of its subcontractors and agents either based in the United States or a foreign country, to provide a reasonable assurance, evidenced in writing, that the subcontractor or agent will comply with the same privacy and security obligations as the Business Associate with respect to such PHI either set forth in this Agreement or in applicable law, rules and regulations.
- (f) Business Associate agrees to provide access, at the written request of Covered Entity, and in the time and manner designated by Covered Entity, to Protected Health Information in a Designated Record Set, to Covered Entity in order to meet the requirements under 45 CFR §164.524.

- (g) Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the written request of Covered Entity or an Individual, and in the time and manner designated by Covered Entity.
- (h) Business Associate agrees to make available internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity, or at the request of the Covered Entity to the Secretary, the Texas Office of the Attorney General, or any officer or employee to whom the Secretary or the Texas Attorney General has delegated such authority for the purpose of determining Covered Entity's compliance with the HIPAA Regulations and/or the Texas Medical Records Privacy Act, in a time and manner designated by the Covered Entity or the Secretary or the Texas Attorney General, for purposes of the Secretary or the Texas Attorney General determining Covered Entity's or Business Associate's compliance with the Privacy and Security Rules.
- (i) Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR §164.528.
- (j) Business Associate agrees to provide to Covered Entity or an Individual, in time and manner designated by Covered Entity, information collected in accordance with Section (2)(i) of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR §164.528.
- (k) Business Associate hereby acknowledges and agrees that Covered Entity has notified Business Associate that Business Associate is required to comply with the confidentiality, disclosure and re-disclosure requirements of Texas law to the extent such requirements may be applicable.
- (l) If Business Associate, in performance of the contracted services, extends, renews or continues credit to patients or regularly allows patients to defer payment for services including setting up payment plans in connection with one or more covered accounts, as defined at 16 C.F.R. § 681.2(b)(3), the Business Associate shall comply with the Federal Trade Commission's "Red Flag" Rules, if applicable, or develop and implement a written identity theft prevention program designed to identify, detect, mitigate and respond to suspicious activities that could indicate that identity theft has occurred in the Business Associate practice or business.
- (m) Business Associate understands and agrees that it will not access or use any Protected Health Information of any patient except for those patients whose accounts have been assigned to Business Associate, and it will further limit access to that Protected Health Information that is necessary to the activities undertaken by Business Associate on behalf of Covered Entity.
- (n) Business Associate will, pursuant to the HITECH Act and its implementing regulations, comply with all additional applicable requirements of the Privacy Rule, including those contained in 45 CFR §§ 164.502(e) and 164.504(e)(1)(ii), at such time as the requirements are applicable to Business Associate. Business Associate will not directly or indirectly receive remuneration in exchange for any Protected Health Information, subject to the exceptions contained in the HITECH Act, without a valid authorization from the applicable individual. Business Associate will not engage in any communication which might be deemed to be "Marketing" under the HITECH Act. In addition, Business Associate will, pursuant to the HITECH Act and its implementing regulations, comply with all applicable requirements of the Security Rule, contained in 45 CFR §§ 164.308, 164.310, 164.312, and 164.316, at such time as the requirements are applicable to Business Associate.

3. Permitted Uses and Disclosures by Business Associate.

In case Business Associate obtains or creates Protected Health Information, Business Associate may use or disclose Protected Health Information, or any information derived from that Protected Health Information, only as explicitly permitted in the underlying agreement, and only if such use or disclosure, respectively, is in compliance with each applicable requirement of 45 CFR § 164.504(e). It means that:

- (a) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- (b) Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- (c) Business Associate understands and agrees that its access to Protected Health Information stored in databases and information systems at the Covered Entity is subject to review and audit by the Covered Entity or agents of the State of Texas at any time, that remote audits of such access may occur at any time, that on-site audits of such access will be conducted during regular business hours, and that any review or audit may occur with or without prior notice by the Covered Entity.

4. Responsibilities of the Parties with Respect to Protected Health Information

- (a) Responsibilities of Covered Entity. With regard to the use and/or disclosure of Protected Health Information by the Business Associate, Covered Entity hereby agrees:
 - (1) to inform the Business Associate of any limitations in the form of notice of privacy practices that Covered Entity provides to individuals pursuant to 45CFR §164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
 - (2) to inform the Business Associate of any changes in, or revocation of, the permission by an individual to use or disclose Protected Health Information, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.
 - (3) to notify the Business Associate, in writing and in a timely manner, of any restriction on the use or disclosure of Protected Health Information that Covered Entity has agreed to or is required to abide by under 45 CFR §164.522, to the extent that such restriction may impact in any manner the use and/or disclosure of Protected Health Information by the Business Associate under this Agreement. Except if the Business Associate will use or disclose Protected Health Information for (and the Underlying Agreement includes provisions for) data aggregation or management and administration and legal responsibilities of the Business Associate, Covered Entity will not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy and Security Rule if done by the Covered Entity.

5. Application of Security and Privacy Provisions to Business Associate.

- (a) Security Measures: 45 CFR §164.308, 164.310, 164.312 and 164.316, dealing with the administrative, physical and technical safeguards as well as policies, procedures and documentation requirements that apply to Covered Entity shall in the same manner apply to

- Business Associate as Required By Law. Any additional security requirements contained in Division A Title XIII Health Information Technology of the American Recovery and Reinvestment Act that apply to Covered Entity shall also apply to Business Associate as of February 17, 2010. Business Associates that require access to Covered Entity electronic patient systems and electronic infrastructure systems (either on site or remote) will supply the necessary information of employees to uniquely identify such employees, as employees with a need to access systems and will supply to Covered Entity Information Security Officer a valid state or federal issued photo ID for such employees to receive a unique user name and password to access the system(s).
- (b) Application of Civil and Criminal Penalties- If Business Associate violates any security provision as Required By Law specified in subparagraph (a) above, sections 1176 and 1177 of the Social Security Act 42 U.S.C. §1320d-5, 1320d-6 shall apply to Business Associate with respect to such violation in the same manner that such sections apply to Covered Entity if it violates such security provision.

6. Information Breach Notification Requirements.

- (a) Business Associate expressly recognizes that Covered Entity has certain reporting and disclosure obligations to the Secretary of the Department of Health and Human Services and the Individual in case of a security breach of unsecured Protected Health Information (as defined in 45 CFR §164.402).
- (b) Where Business Associate accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses unsecured Protected Health Information, Business Associate without unreasonable delay and in no case later than thirty (30) days following the discovery of a breach of such information, shall notify Covered Entity of such breach. Such notice shall include the identification of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired or disclosed during the breach.
- (c) Covered Entity and Business Associate recognizes that the Unsecured Protected Health Information may contain the social security numbers, financial account information or driver's license number or non-driver identification card number. Business Associate shall be liable for the costs associated with such breach if caused by the Business Associate's negligent or willful acts or omissions, or the negligent or willful acts or omissions of Business Associate's agents, officers, employees or subcontractors.

7. State Privacy Laws.

Business Associate shall comply with laws of the State of Texas that are More Stringent than HIPAA Regulations because the laws provide greater privacy protections for PHI or provide greater rights to individuals with respect to PHI, including without limitation the Texas Medical Records Privacy Act, chapter 181 of the Texas Health and Safety Code and the Identity Theft Enforcement and Protection Act, chapter 521 of the Texas Business and Commerce Code.

8. Term and Termination.

- (a) Term. The Term of this Agreement shall be effective as of the Effective Date (as defined below), and shall terminate at termination of underlying agreement or on the date Covered Entity terminates this agreement for cause as authorized on paragraph (b) of this section, whichever is sooner.
- (b) Termination for Cause. The parties acknowledge that in the event the Covered Entity learns of a pattern or activity or practice of the Business Associate that constitutes violation of a material term of this Agreement, then the parties promptly shall take reasonable steps to cure

- the violation. If such steps are, in the judgment of the Covered Entity, unsuccessful, ineffective or not feasible, then the Covered Entity may terminate, in its sole discretion, any or all of the Underlying Agreements upon written notice to the Business Associate, if feasible, and if not feasible, shall report the violation to the Secretary of the Department of Health and Human Services.
- (c) Effect of Termination.
- (1) Except as provided in paragraph (2) of this section, upon termination of this Agreement or the Underlying Agreement(s) for any reason, Business Associate shall return or destroy all Protected Health Information pursuant to 45 CFR § 164.504(e)(2)(I) received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
 - (2) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification, in writing, of the conditions that make return or destruction infeasible. Said notification shall include: (i) a statement that the Business Associate has determined that it is not feasible to return or destroy the Protected Health Information in its possession, and (ii) the specific reasons for such determination. The Covered Entity may disagree with the Business Associate's determination. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this 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 Business Associate maintains such Protected Health Information. If it is infeasible for the Business Associate to obtain, from a subcontractor or agent, any Protected Health Information in the possession of the subcontractor or agent, the Business Associate must provide a written explanation to the Covered Entity and require the subcontractors and agents to agree to extend any and all protections, limitations, and restrictions contained in this Agreement to the subcontractors and/or agents' use and/or disclosure of any Protected Health Information retained after the termination of this Agreement, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of Protected Health Information infeasible.
- (d) Automatic Termination. This Agreement will automatically terminate without any further action of the Parties upon termination or expiration of the Underlying Agreement.
- (e) Effective Date. The effective date of this Agreement (the "Effective Date") shall be the date of the last signature below.

9. Insurance and Indemnification.

Indemnification. The Business Associate agrees to indemnify, defend and hold harmless Covered Entity and Covered Entity's employees, directors, officers, subcontractors, agents or other members of its workforce from any costs, damages, expenses, judgments, losses, and attorney's fees arising from any breach of this Agreement by Business Associate, or arising from any negligent or wrongful acts or omissions of Business Associate, including failure to perform its obligations under the Privacy Rule. The Business Associate's indemnification obligation shall survive the expiration or termination of this Agreement for any reason.

10. Miscellaneous.

- (a) Regulatory References. A reference in this Agreement to a section in the Privacy and Security Rules means the section as in effect or as amended, and for which compliance is required.

- (b) Agreement. The Parties agree to take such action as is necessary to amend the Underlying Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy and Security Rules and the Health Insurance Portability and Accountability Act, Public Law §104-191; provided, however, that no Agreement shall be deemed valid unless signed by both parties.
- (c) Amendments / Waiver. This agreement may not be modified, nor shall any provision hereof be waived or amended, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to a waiver of any right or remedy as to subsequent events. The Parties agree to take such actions as is necessary to amend this agreement from time to time as is necessary for compliance with the requirements of the HIPAA rules and any other applicable law.
- (d) Survival. The respective rights and obligations of Business Associate under Section 6(c) of this Agreement shall survive the termination of this Agreement and/or the Underlying Agreements, as shall the rights of access and inspection of Covered Entity.
- (e) No Third Party Beneficiaries. Nothing expressed or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.
- (f) Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the HIPAA Privacy and Security Rules.
- (g) Equitable Relief. Business Associate understands and acknowledges that any disclosure or misappropriation of any PHI in violation of this Attachment will cause Covered Entity irreparable harm, the amount of which may be difficult to ascertain, and therefore agrees that Covered Entity shall have the right to apply to a court of competent jurisdiction for specific performance and/or an order restraining and enjoining any such further disclosure or breach and for such other relief as Covered Entity shall deem appropriate. Such right of Covered Entity is to be in addition to the remedies otherwise available to Covered Entity at law or in equity. Business Associate expressly waives the defense that a remedy in damages will be adequate and further waives any requirement in an action for specific performance or injunction for the posting of a bond by Covered Entity.

11. Governing Law; Conflict.

This Agreement shall be construed and enforced in accordance with the laws of the State of Texas. This Agreement is performable in Dallas, Ellis, Navarro, Hunt, Kaufman, and Rockwall Counties, Texas and venue shall lie in Dallas, Ellis, Navarro, Hunt, Kaufman, and Rockwall Counties, Texas. In the event of a conflict between the terms of this Agreement and the terms of any of the Underlying Agreements, the terms of this Agreement shall control.

NORTH TEXAS BEHAVIORAL HEALTH AUTHORITY

By: _____
Chief Executive Officer

By: _____
Chief Executive Officer

Date: _____

Date: _____



Exhibit XX
CERTIFICATION REGARDING LOBBYING
 Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

* APPLICANT'S ORGANIZATION:	
Printed Name of Authorized Representative	Signature
* Title:	
* SIGNATURE:	* DATE: