

**SALISH BEHAVIORAL HEALTH  
ADMINISTRATIVE SERVICES ORGANIZATION  
(SBHASO)**

**CONTRACT  
FOR PARTICIPATION IN THE  
SBHASO NETWORK**

**WITH**

**Discovery Behavioral Health**

**CONTRACT # KC-013-24**

**January 1, 2024 – December 31, 2024**

## **EXHIBITS**

### **Incorporation of Exhibits**

The Provider shall provide services and comply with the requirements set forth in the following attached exhibits, which are incorporated herein by reference. To the extent that the terms and conditions of any Exhibit conflicts with the terms and conditions of this base contract, the terms of such Exhibit shall control.

Exhibit A – Schedule of Services

Exhibit B- Compensation Schedule

Exhibit C- Sub-Delegation Agreement

Exhibit D- Business Associate Agreement

**CONTRACT FOR PARTICIPATION IN THE  
SBHASO NETWORK**

**THIS CONTRACT FOR THE PARTICIPATION IN THE SBHASO NETWORK** (this “Contract”), pursuant to RCW Chapter 71.24 and all relevant and associated statutes, as amended, is made and entered into by and between the **Salish Behavioral Health Administrative Services Organization (SBHASO)**, through Kitsap County, its administrative entity, and Discovery Behavioral Health (Provider), a Washington Behavioral Health Agency, 884 West Park Ave, PO Box 565, Port Townsend, WA 98368. The effective date of this Contract is January 1, 2024 through December 31, 2024

**I. RECITALS**

**WHEREAS, SBHASO** is a Behavioral Health Administrative Services Organization formed in response to a request for a detailed plan and to contract with the State of Washington to operate as a regional support network until April 1, 2016 and as a behavioral health organization as of April 1, 2016, and as an administrative services organization as of January 1, 2020, as provided for in RCW 71.24.100; and

**WHEREAS**, effective January 1, 2020 SBHASO is contracted with the Washington State Health Care Authority to provide Behavioral Health Administrative Services, including the administration of Crisis Services, in the Salish Regional Service Area; and

**WHEREAS**, Provider is engaged in the provision of behavioral health services, including crisis intervention and/or stabilization services (Crisis Services) within Salish Regional Service Area; and

**WHEREAS**, SBHASO desires to have certain services performed by the Provider as described in Exhibit A, and further desires that Provider provide, market, distribute and otherwise do all things necessary to deliver such services in the Salish Regional Service Area; and

**WHEREAS**, Behavioral Health Providers contracted with SBHASO for participation in the SBHASO Network (Participating Providers) will deliver behavioral healthcare services to clients within the scope of their licensure or accreditation; and

**WHEREAS**, SBHASO will receive payment from MCOs and will facilitate payment to Provider for Crisis Services rendered to Members under the terms of this Contract; and

**WHEREAS**, the parties also wish to enter into a Business Associate Agreement to ensure compliance with the Privacy and Security Rules of the Health Insurance Portability and Accountability Act of 1996 (HIPAA Privacy and Security Rules, 45 CFR Parts 160 and 164);

**NOW THEREFORE**, in consideration of payments, covenants, and agreements hereinafter mentioned, to be made and performed by the parties hereto, the parties mutually agree as follows:

## II. CONTRACT

### ARTICLE ONE – DEFINITIONS

For purposes of this Contract, the following terms shall have the meanings set forth below.

**1.1 Behavioral Health Administrative Service Organization (BH-ASO)**

An entity designated by the Health Care Authority (HCA) to administer behavioral health services and programs, including Crisis Services for residents in a defined Regional Service Area. The BH-ASO administers crisis services for all residents in its defined service area regardless of ability to pay, including Medicaid eligible clients. SBHASO has been designated to serve as the BH-ASO for the Salish Regional Service Area.

**1.2 Centers for Medicare and Medicaid Services (CMS)**

An administrative agency of the United States Government, responsible for administering the Medicaid program.

**1.3 Contract**

This Contract for Participation in the SBHASO Network, entered into between SBHASO and Provider, including all attachments and incorporated documents or materials.

**1.4 Crisis Services (Covered Services)**

Crisis intervention and/or stabilization services, within the normal scope of practice and licensure of Provider and are covered under contract Exhibit A and SBHASO Policies and Procedures between SBHASO and Participating Providers.

**1.5 Critical Incident**

A situation or occurrence that places a client at risk for potential harm or causes harm to a client. Examples include homicide (attempted or completed), suicide (attempted or completed), the unexpected death of a client, or the abuse, neglect, or exploitation of a client by an employee or volunteer.

**1.6 SBHASO Network**

Participating Provider network and SBHASO will operate a behavioral health crisis response network that will provide Crisis Services for the Salish Regional Service Area. SBHASO Network is a reference to the network of behavioral health crisis services providers contracted with the SBHASO, and neither this Contract nor any other understanding among participants is intended to create a separate legal entity.

**1.7 Healthcare Authority (HCA)**

The Washington State Health Care Authority.

**1.8 Health Plan**

A plan that undertakes to arrange for the provision of healthcare services to subscribers or enrollees, or to pay for or to reimburse for any part of the cost for those services, in return for a prepaid or periodic charge paid for by or on behalf subscribers or enrollees.

**1.9 MCO Policies and Procedures**

The MCO's compilation of operating policies, standards, and procedures for Participating Providers including, but not limited to, MCO's requirements for claims submission and payment, credentialing/re-credentialing, utilization review/management, case management, quality assurance/improvement, advance directives, Member rights, grievances and appeals.

**1.10 Managed Care Organization (MCO)**

An organization that combines the functions of health insurance, delivery of care, and administration. For the purposes of this Contract, MCO refers to those businesses identified by contract with the state as designated Medicaid Managed Care Organizations for Integrated Managed Care. As of the Effective Date of this Contract, the MCOs are Amerigroup, Coordinated Care, Community Health Plan of Washington (CHPW), Molina, and United Healthcare (United).

**1.11 Managed Care Organization (MCO) in Salish Regional Service Area**

An organization that combines the functions of health insurance, delivery of care, and administration. For the purposes of this Contract, MCO refers to those businesses identified by contract with the state as designated Medicaid Managed Care Organizations for Integrated Managed Care in the Salish Regional Service Area. As of the Effective Date of this Contract, the MCOs are Amerigroup, Community Health Plan of Washington (CHPW), Coordinated Care, Molina, and United Healthcare (United).

**1.12 Medically necessary service/medical necessity**

A requested service that is reasonably calculated to prevent, diagnose, correct, cure, alleviate, or prevent the worsening of conditions in the recipient that endanger life, cause suffering or pain, result in illness or infirmity, threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the person requesting service. For the purpose of this section, "course of treatment" may include no active intervention at all.

**1.13 Member**

An individual who receives Covered Services pursuant to this Contract, and who is assigned to an MCO.

**1.14 Provider**

The behavioral health care person(s) or agency contracting under this Contract, who meets all minimum criteria of MCO's credentialing plan, including all physicians, clinicians, allied health

professionals, and staff persons who provide health care services to clients by or through this Contract.

**1.15 Payor**

The entity (including company where applicable) that bears direct financial responsibility for paying from its own funds, without reimbursement from another entity, the cost of covered services rendered to clients.

**ARTICLE TWO – NETWORK PROVIDER OBLIGATIONS**

This Contract, SBHASO Policies and Procedures, Contract Exhibits, and their revisions each specify SBHASO’s requirements for the array of services to be provided. Unless otherwise specified, these materials shall be regarded as the source documents for compliance with program requirements. In the event of any inconsistency between the requirements of such documents, the more stringent shall control.

**2.1 Network Participation**

Provider shall participate as part of the SBHASO Network and shall provide for the services specified in this Contract.

Provider agrees that its practice information may be used in MCO, SBHASO and HCA provider directories, promotional materials, advertising and other informational material made available to the public. Such practice information includes, but is not limited to, name, address, telephone number, hours of operation, type of services, and ability to accept new clients. Provider shall promptly notify SBHASO within thirty (30) days of any changes in this information.

**2.2 Standards for Provision of Care.**

**2.2.1 Provision of Covered Services**

Provider shall provide Covered Services to clients, within the scope of Provider’s business and practice. Such services shall be provided in accordance with this Contract; SBHASO Policies and Procedures; MCO, SBHASO and HCA standards; MCO Policies and Procedures; the terms, conditions and eligibility outlined in Contract Exhibits; and the requirements of any applicable government sponsored program.

**2.2.2 Standard of Care**

Provider shall provide services to clients at a level of care and competence that equals or exceeds the generally accepted and professionally recognized standard of practice at the time of treatment, all applicable rules and/or standards of professional conduct, and any controlling governmental licensing requirements.

**2.2.3 Facilities, Equipment, and Personnel**

Provider's facilities, equipment, personnel and administrative services shall be maintained at a level and quality appropriate to perform Provider's duties and responsibilities under this Contract and to meet all applicable SBHASO legal and MCO contractual requirements, including the accessibility requirements of the Americans with Disabilities Act.

**2.2.4 Prior Authorization**

Where required or appropriate, the Provider shall work with SBHASO to obtain the prior MCO authorization in accordance with MCO's Policies and Procedures unless the situation is one involving the delivery of Emergency Services. Upon and following client assignment, the Provider shall coordinate the provision of such Covered Services to clients and ensure continuity of care in accordance with HCA, SBHASO and MCO requirements.

**2.2.5 Appointment Wait Times**

For MCO Members, Provider shall follow the more stringent of any applicable state or federal standards for appointment wait times, including those established by the HCA for Medicaid enrollees.

**2.2.6 Capacity**

Provider shall ensure availability of services for each of the service populations for which it is licensed and/or certified by Washington State Department of Health.

**2.2.7 Emergency Room Referral**

If Provider refers a client to an emergency room for Covered Services, Provider shall provide notification to SBHASO within twenty-four (24) hours of the referral.

**2.2.8 Prescriptions**

Except with respect to prescriptions and pharmaceuticals ordered for in-patient hospital services, Provider shall abide by MCO's drug formularies and prescription policies, including those regarding the prescription of generic or lowest cost alternative brand name pharmaceuticals. Provider shall obtain prior authorization from MCO if Provider believes a generic equivalent or formulary drug should not be dispensed. Provider acknowledges the authority of MCO contracting pharmacists to substitute generics for brand name pharmaceuticals unless counter indicated on the prescription by the Provider.

**2.2.9 Subcontract Arrangements**

Any subcontract arrangement entered into by Provider for the delivery of services to clients shall be in writing and shall bind Provider's subcontractors to the terms and conditions of this Contract including, but not limited to, terms relating to licensure, insurance, and billing of clients for services. SBHASO will provide ongoing monitoring and oversight to any and all subdelegation relationships.

#### **2.2.10 Availability of Services**

Provider shall make arrangements to assure the availability of services to clients on a twenty-four (24) hours a day, seven (7) days a week basis, including arrangement to assure coverage of client visits after hours when required by SBHASO Policies and Procedures. Provider shall meet the applicable standards for timely access to care and services, taking into account the urgency of the need for the services.

#### **2.3 Treatment Alternatives**

Providers shall in all instances obtain informed consent prior to treatment. Without regard to Medicaid Benefit Plan limitations or cost, the Provider shall communicate freely and openly with clients about their health status, and treatment alternatives (including medication treatment options); about their rights to participate in treatment decisions (including refusing treatment); and providing them with relevant information to assist them in making informed decisions about their health care.

#### **2.4 Promotional Activities**

At the request of SBHASO, Provider shall display MCO promotional materials in its offices and facilities as practical, in accordance with applicable law and cooperate with and participate in all reasonable MCO marketing efforts. Provider shall not use any SBHASO contracted MCO's name in any advertising or promotional materials without the prior written permission of SBHASO and applicable MCO.

#### **2.5 Marketing activities for Medicare/Medicaid Population**

Provider shall not undertake any marketing activities to the Medicare or Medicaid population, including but not limited to distribution of publications or promotional materials, without the prior written consent of SBHASO and applicable MCOs. The Provider shall not engage in direct or indirect door-to-door, telephonic, or other cold-call marketing of enrollment with clients or potential clients.

#### **2.6 Licensure, certification and other state and federal requirements**

Provider shall hold all necessary licenses, certifications, and permits required by law for the performance of services to be provided under this Contract. Provider shall maintain its licensure and applicable certifications in good standing, free of disciplinary action, and in unrestricted status throughout the term of this Contract. Provider's loss or suspension of licensure or other applicable certifications, or its exclusion from any federally funded healthcare program, including Medicare and Medicaid, may constitute cause for immediate termination of this Contract. Provider warrants and represents that each employee and subcontractor, who is subject to professional licensing requirements, is duly licensed to provide Behavioral Health Services. Provider shall ensure that each employee and subcontractor have and maintains in good standing for the term of this Contract the licenses, permits, registrations, certifications, and any other governmental authorizations to provide such services.



## 2.7 **Independent medical/clinical judgement**

Provider shall exercise independent medical/clinical judgment and control over its professional services. Nothing herein shall give SBHASO, MCO, or HCA authority over Provider's medical judgment or direct the means by which they practice within the scope of their licensed, certified, and/or registered practice. Provider retains sole responsibility for its relationship with each client it treats, and for the quality of behavioral healthcare services provided to its clients. Provider is solely responsible to each of its client for care provided.

## 2.8 **Nondiscrimination.**

2.8.1 **Enrollment.** Provider shall not differentiate or discriminate in providing services to clients because of race, color, religion, national origin, ancestry, age, marital status, gender identity, sexual orientation, physical, sensory or mental handicap, socioeconomic status, or participation in publicly financed programs of health care services, or any other basis prohibited by law. Provider shall render services to clients in the same location, in the same manner, in accordance with the same standards, and within the same time availability regardless of payor.

2.8.2 **Employment.** Provider shall not differentiate or discriminate against any employee or applicant for employment, with respect to their hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, height, weight, marital status, gender identity, physical, sensory or mental disability, or any other basis prohibited by law unrelated to the person's ability to perform the duties of the particular job or position.

## 2.9 **Data Information System Requirements.**

### 2.9.1 **Provider shall:**

2.9.1.1 Have a health Information System (IS) that complies with the requirements of 42 CFR Part 438.242 and that can report complete and accurate data to SBHASO as specified in the SBHASO P&P;

### 2.9.1.2 **Provider Claims Submission Requirements**

2.9.1.2.1 For claims with no associated third-party liability, provider shall submit 90% of crisis claims within ten (10) business days from date of service, and 100% of crisis claims within thirty (30) calendar days.

2.9.1.2.2 For claims with an identified third-party liability, provider shall submit 90% of crisis claims within ten (10) business days from date of payment or receipt of explanation of benefits (denial), and 100% of crisis claims within thirty (30) calendar days from date of

payment or receipt of explanation of benefits (denial).

- 2.9.1.3 Remedy all data errors within thirty (30) days of receipt of an error report from the SBHASO IS;
- 2.9.1.4 Provide evidence to SBHASO, upon request, that error reports have been addressed;
- 2.9.1.5 Maintain up to date client contact information in the IS; and
- 2.9.1.6 Maintain a written business continuity and disaster recovery plan with an identified update process (at least annually) that insures timely restoration of the IS following total or substantial loss of system functionality. A copy of the plan submitted by the Provider through the credentialing process shall be made available upon request for review and audit by SBHASO, MCO, HCA, Department of Social Human Services (DSHS) or External Quality Review Organization.

## 2.10 Care Coordination.

- 2.10.1 Coordinate medical services. During the delivery of Crisis Services, the Provider shall coordinate all needed services for eligible clients, including but not limited to emergency medical services, behavioral health crisis services and services associated with the social determinants of health as needed.
- 2.10.2 Provision of data and information for purposes of care coordination. Provider shall cooperate with, participate in, and provide information and data in accordance to the Health Insurance Portability and Accountability Act (HIPAA), to support SBHASO's care coordination activities and to meet HCA care coordination obligations.

## 2.11 Behavioral Health Screening and Assessment Requirements

If Provider provides Behavioral Health services, Provider shall utilize the Global Appraisal of Individual Needs-Short Screener (GAIN-SS) and assessment process, including use of the quadrant placement. If the results of the GAIN-SS are indicative of the presence of a co-occurring disorder, Provider shall consider this information in the development of the client's treatment plan, including appropriate referrals. In addition, Provider shall implement, and maintain throughout the term of this Contract, the Integrated Co-Occurring Disorder Screening and Assessment process, including training for applicable staff. If Provider fails to implement or maintain this process, upon request of SBHASO, Provider shall provide a corrective action plan designed to ensure compliance with the requirements of this Section. Such plan shall allow for monitoring of compliance by SBHASO.

## 2.12 Recordkeeping and Confidentiality.

### 2.12.1 Maintaining Client Medical Record

Provider shall maintain a medical record for each client to whom Provider renders behavioral healthcare services. Provider shall establish each client's medical record upon the client's first encounter with Provider. The client's medical record shall contain all information required by state and federal law, generally accepted and prevailing professional practice, applicable government sponsored health programs, and all SBHASO P&Ps and MCO Policies and Procedures. Provider shall retain all such records for at least ten (10) years.

### 2.12.2 Confidentiality of Client Health Information

As of the date of this Contract, each party may be a Covered Entity under the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA"), and must comply with the Administrative Simplification Provisions of HIPAA and with the applicable provisions of the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH Act"), including the Privacy Rule, Security Rule, Breach Notification Rule, and Enforcement Rule (the "HIPAA Rules"). The parties acknowledge that, in their performance under this Contract, each shall have access to and receive from the other party information protected under HIPAA and Chapter 70.02 RCW, the Washington State Health Care Information Access and Disclosure of 1991 ("Protected Health Information" or "PHI").

### 2.12.3 Health Information System

Provider shall implement a documented health information system and a privacy security program that includes administrative, technical and physical safe guards designed to prevent the accidental or unauthorized use or disclosure of client PHI and medical records. The information system and the privacy and security program shall, at a minimum, comply with applicable HIPAA regulations regarding the privacy and security of PHI, including but not limited to 42 CFR § 438.242; 45 CFR § 164.306(a); and 45 CFR § 162.200 as well as the HIPAA privacy provisions in Title 13 of the American Recovery and Reinvestment Act of 2009 ("ARRA").

### 2.12.4 Delivery of Client Care Information and Client Access to Health Information

Provider shall give SBHASO, MCO, HCA and/or clients access to client' health information including, but not limited to, medical records and billing records, for the purpose of inspection, evaluation, and audit, in accordance with the requirements of state and federal law, applicable government sponsored health programs, and SBHASO policies and procedures.

### 2.12.5 Federal Drug and Alcohol Confidentiality Laws

Provider shall comply with 42 CFR Part 2, as applicable. If Provider is a "Part 2 program," as defined under 42 CFR §2.11, Provider shall obtain a signed written consent that complies with the requirements of 42 CFR Part 2 from each client,

prior to disclosing the client's Patient Identifying Information to MCO, SBHASO or HCA. For the purposes of this section, "Patient Identifying Information" shall have the same meaning as under 42 CFR §2.11. Such consent shall explicitly name MCO, SBHASO and/or HCA as an authorized recipient of the client's Patient Identifying Information. Provider shall maintain copies of each client's consent form in accordance with federal law. SBHASO reserves the right to audit Provider's records to ensure compliance with this Section.

## **2.13 Client's copayments, coinsurance, and deductibles.**

### **2.13.1 Third Party Payment**

The Provider shall have a written policy regarding third party payments that complies with provisions of SBHASO's contract with MCOs, as described in SBHASO policies and procedures.

### **2.13.2 Medicaid enrollment**

The Provider shall aggressively work to convert non-Medicaid clients to Medicaid status, including helping families to access health insurance coverage for their children under the provisions of the Children's Health Insurance Program.

### **2.13.3 Payment without delivery of services**

The Provider shall not bill, demand, collect or accept payment or deposit for missed, cancelled, or late appointments from any client receiving certification for medical assistance according to 42 CFR 435.914(a) and defined in WAC, including Title XIX and Medical Care Services.

### **2.13.4 Cost-sharing**

The Provider will not require payment of any cost sharing amounts for Services covered by Medicare Parts A or B, when the client is enrolled in Medicare and Medicaid Programs (Dual Eligible Enrollees) if the applicable Medicaid Program is required to pay. In lieu of collecting cost sharing amounts under the Medicare Program, the Provider will bill Medicaid or forego collecting payments in full.

### **2.13.5 Client financial obligation**

The Provider shall provide notice to clients of their personal financial obligations for non-covered services, and may bill clients for non-covered services only if the Provider has:

- 2.13.5.1 Provided the client with a full written disclosure of Provider's intent to directly bill the client for non-covered services (including a clear statement that client's assigned MCO is not financially obligated or otherwise liable to cover or provide any reimbursement, compensation, or other payment related to such non-covered services); and

2.13.5.2 Obtained a written acknowledgement and acceptance of financial responsibility from the client at the time of denial and prior to services being delivered.

**2.13.6 Client Hold Harmless**

2.13.6.1 Provider hereby agrees that in no event, including, but not limited to nonpayment by SBHASO, SBHASO insolvency, or breach of this contract will Provider bill, charge, collect a deposit from, seek compensation, remuneration, or reimbursement from, or have any recourse against a client or person acting on their behalf, other than SBHASO, for services provided pursuant to this Contract. This provision does not prohibit collection of deductibles, copayments, coinsurance, and/or payment for noncovered services, which have not otherwise been paid by a primary or secondary issuer in accordance with regulatory standards for coordination of benefits, from clients in accordance with the terms of the client's health plan.

2.13.6.2 If applicable, Provider agrees, in the event of SBHASO insolvency, to continue to provide the services promised in this Contract to clients of SBHASO for the duration of the period for which premiums on behalf of the clients were paid to SBHASO or until the client's discharge from inpatient facilities, whichever time is greater.

2.13.6.3 Notwithstanding any other provision of this Contract, nothing in this contract shall be construed to modify the rights and benefits contained in the client's health plan.

2.13.6.4 Provider may not bill the client for covered services (except for deductibles, copayments, or coinsurance) where SBHASO denies payments because the Provider has failed to comply with the terms or conditions of this Contract.

2.13.6.5 Provider further agrees (i) that the provisions of this subsection 2.13.6 shall survive termination of this contract regardless of the cause giving rise to termination and shall be construed to be for the benefit of SBHASO clients, and (ii) that this provision supersedes any oral or written contrary agreement now existing or hereafter entered into between Provider and clients or persons acting on their behalf.

2.13.6.6 If Provider contracts with other providers or facilities who agree to provide covered services to clients of SBHASO with the expectation of receiving payment directly or indirectly from SBHASO, such providers or facilities must agree to abide by the provisions of this subsection 2.13.6.

2.13.6.6 Willfully collecting or attempting to collect an amount from a client knowing that collection to be in violation of the participating provider or facility contract constitutes a class C felony under RCW 48.80.030(5).

2.13.7 **Payment in Full**

Provider shall hold HCA and its employees, and all clients, including Members, harmless in the event of non-payment by SBHASO. Provider shall not request payment from HCA, or any enrollee for services provided pursuant to this Contract. Additionally, Provider shall at all times comply with WAC 182-502-160.

2.13.8 **HCA Hold Harmless**

Each party shall indemnify and hold HCA harmless against all injuries, deaths, losses damages, claims, suits, liabilities, judgments, costs and expenses which may accrue against HCA or its employees through the intentional misconduct, negligence, or omission of Provider, or its agents, officers, employees or subcontractors.

2.14 **Program Participation.**

2.14.1 **Participation in Grievance Program**

Provider shall implement a Grievance Program that complies with WAC 246-341 or its successors and shall participate in MCO's Grievance Program and cooperate with MCOs in identifying, processing, and promptly resolving all client complaints, grievances, or inquiries.

2.14.2 **Participation in Quality Improvement Program**

2.14.2.1 Provider shall develop and implement a quality management plan in accordance with requirements outlined in SBHASO policies and procedures or the Provider's accrediting entity.

2.14.2.2 Provider shall cooperate and participate in the SBHASO quality assessment and performance improvement activities and performance improvement projects identified by SBHASO, MCO and/or HCA.

2.14.2.3 The Provider shall review the components of the quality management plan at least annually such review will include submitting a report to SBHASO on any quality assurance activity or changes to the quality management plan.

2.14.3 **Participation in Utilization Review and Management Program**

Provider shall participate in and comply with the SBHASO and MCO's Utilization Review and Management Program, including all policies and procedures regarding

prior authorizations, and shall cooperate with MCO, and/or HCA in audits to identify, confirm, and/or assess utilization levels of services.

## 2.15 Notices.

### 2.15.1 Critical Incident Reporting

Provider shall send immediate notification to SBHASO and, when indicated, to the applicable MCO of any Critical Incident involving a client. Notification shall be made during the business day on which Provider becomes aware of the Critical Incident. If Provider becomes aware of a Critical Incident involving a client after business hours, Provider shall provide notice to SBHASO and, when indicated, to the applicable MCO as soon as possible the next business day. Provider shall provide to SBHASO and, when indicated, to the applicable MCO all available information related to a Critical Incident at the time of notification, including: a description of the event, including the date and time of the incident, the incident location, incident type, information about the individuals involved in the incident and the nature of their involvement; the client's or other involved individuals' service history with Provider; steps taken by Provider to minimize potential or actual harm; and any legally required notification made by Provider. Upon MCO's request, and as additional information becomes available, Provider shall update the information provided regarding the Critical Incident and, if requested by MCO, shall prepare a written report regarding the Critical Incident, including any actions taken in response to the incident, the purpose for which such actions were taken, any implications to Provider's delivery system, and efforts designed to prevent or lessen the possibility of future similar incidents. Reporting shall comport with SBHASO policies and procedures.

### 2.15.2 Notice of sites/services change

Provider shall, prior to making a public announcement of any site or service changes, notify SBHASO in writing and receive approval at least:

- 2.15.2.1 One hundred twenty (120) days prior to closing a Provider site, or opening any additional site(s) providing services under this Contract.
- 2.15.2.2 Thirty (30) days prior to any Provider change that would significantly affect the delivery of or payment for services provided, including changes in tax identification numbers, billing addresses or practice locations.
- 2.15.2.3 If Provider discontinues services or closes a site in less than thirty (30) days, Provider shall notify SBHASO as soon as possible and prior to making a public announcement.
- 2.15.2.4 Provider shall notify SBHASO of any other changes in capacity that result in the Provider being unable to meet any requirements of this Contract. Events that affect capacity include but are not limited to: a decrease in the number, frequency, or type of a required service to be

provided; employee strike or other stoppage related to union activities; or any changes that result in Provider being unable to provide timely, medically necessary services.

2.15.2.5 If any of the above events occurs, Provider shall submit a plan to SBHASO and, if requested, shall meet with SBHASO to review the plan at least Thirty (30) business days prior to the event. The plan should include the following:

2.15.2.5.1 Notification of service/site change;

2.15.2.5.2 Client notification and communication plan;

2.15.2.5.3 Plan for provision of uninterrupted services by client; and

2.15.2.5.4 Any information that will be released to the media.

### 2.15.3 **Termination of Services**

Provider shall provide SBHASO at least one hundred twenty (120) calendar days written notice before Provider, any clinic, or subcontractor ceases to provide services to clients.

### 2.15.4 **Reporting Fraud**

Provider shall comply with RCW 48.135 concerning Insurance Fraud Reporting and shall notify SBHASO and the applicable MCO's Compliance Department of all incidents or occasions of suspected fraud, waste or abuse involving Services provided to a client. Provider shall report a suspected incident of fraud, waste or abuse, including a credible allegation of fraud, within five (5) business days of the date Provider first becomes aware of, or is on notice of, such activity. The obligation to report suspected fraud, waste or abuse shall apply if the suspected conduct was perpetrated by Provider, Provider's employee, agent, or subcontractor, or client. Provider shall establish policies and procedures for identifying, investigating, and taking appropriate corrective action against suspected fraud, waste or abuse. Upon request by SBHASO, MCO or HCA, Provider shall confer with the appropriate State agency prior to or during any investigation into suspected Fraud, waste or abuse. For purposes of this section, the terms fraud and abuse shall have the same meaning as provided for in 42 CFR §455.2.

## 2.16 **Participation in Credentialing**

Provider shall participate in SBHASO's credentialing and re-credentialing process as outlined in SBHASO policies and procedures, that shall satisfy, throughout the term of this Contract, all credentialing and re-credentialing criteria established by MCOs. Provider shall immediately notify SBHASO of any change in the information submitted or relied upon by Provider to achieve credentialed status. If Provider's credentialed status is revoked, suspended or limited



by SBHASO, SBHASO may, at its discretion, terminate this Contract and/or reassign clients to another provider.

**2.17 Provider Training and Education**

Upon the request of SBHASO, the Provider shall participate in Training when required by the HCA, MCO, and/or SBHASO and as described in Exhibit D – Business Associate Agreement, Program Integrity Addendum.

**2.17.1 Exception to required training**

Requests to allow an exception to participation in a required training must be in writing and include a plan for how the required information will be provided to targeted Provider staff;

**2.17.2 Safety and violence-prevention training**

Provider shall ensure that all community behavioral health employees who work directly with clients are provided with at least annual training on safety and violence-prevention topics described in RCW 49.19.030;

**2.17.3 Cultural humility training**

Provider shall ensure that all community behavioral health employees who work for Providers are provided with at least annual training on cultural humility; and

**2.17.4 Health Education/Training**

Provider shall ensure that all community behavioral health employees who work directly with clients receive Health Education/Training as requested by SBHASO.

**2.17.5 Provider Non-Solicitation**

Provider shall not solicit or encourage clients to select any particular health plan for the primary purpose of securing financial gain for Provider. Nothing in this provision is intended to limit Provider’s ability to fully inform clients of all available health care treatment options or modalities

**ARTICLE THREE – SBHASO OBLIGATIONS**

**3.1 Administrative Support**

SBHASO shall provide the administrative support to the SBHASO Network and will collaborate with Providers in:

3.1.1 Establishing and maintaining a multispecialty provider network that is geographically distributed through the service area and that promotes client choice and access to Participating Providers;

3.1.2 Developing and implementing Participating Provider practice protocols and supports;

- 3.1.3 Creating alliances with other medical practices/groups and providers to help assure the delivery of whole-person and integrated care, where applicable;
- 3.1.4 Participating in performance measurement, including the reporting of state defined performance measures (e.g., HEDIS measures and HCA identified behavioral health measures); and
- 3.1.5 Providing support and training on proper coding of services and data transmissions related to encounters.

**3.2 Collection of service encounters**

For services provided to Members, SBHASO shall collect service encounters from the Participating Providers and submit them to the appropriate MCO.

**3.3 Payment**

SBHASO shall pay Provider for services provided according to the SBHASO established rate schedule, detailed in Exhibit A, Exhibit B, SBHASO policies and procedures

- 3.3.1 SBHASO shall provide reasonable notice of not less than 60 days of changes that affect Provider's compensation or the delivery of health care services.

**3.4 Submission of Claims**

If Provider submits claims for Services rendered under this Contract, the following requirements shall apply:

**3.4.1 Clean Claims Standards**

Except as agreed to by the parties on a claim-by-claim basis, SBHASO shall pay or deny not less than (i) ninety-five percent (95%) of Clean Claims received from Provider within thirty (30) days of receipt; (ii) ninety-five percent (95%) of all claims received from Provider within sixty (60) days of receipt; and (iii) ninety-nine percent (99%) of all Clean Claims received from Provider within ninety (90) days of receipt.

**3.4.2 Clean Claim – Definition**

For purposes of this Section 3.4, "clean claim" means a claim that has no defect or impropriety, including any lack of any required substantiating documentation, or particular circumstances requiring special treatment that prevents timely payments from being made on the claim under this Section 3.4.

**3.4.3 Failure to Comply**

If SBHASO fails to meet its obligations in this paragraph, SBHASO shall pay Provider interest at the rate of one percent (1%) per month on all unpaid Clean Claims that have not been denied and which have aged sixty-one (61) or more days, until such time as SBHASO is again in compliance with the requirements of this Section.

**3.5 Coordination**

SBHASO shall be responsible for coordinating with Participating Providers to meet the obligations identified in this Contract.

**3.6 Patient Care**

SBHASO shall comply with WAC 284-170-421 which states:

3.6.1 No health carrier subject to the jurisdiction of the state of Washington may in any way preclude or discourage their providers from informing patients of the care they require, including various treatment options, and whether in their view such care is consistent with medical necessity, medical appropriateness, or otherwise covered by the patient's service agreement with the health carrier. No health carrier may prohibit, discourage, or penalize a provider otherwise practicing in compliance with the law from advocating on behalf of a patient with a health carrier. Nothing in this section shall be construed to authorize providers to bind health carriers to pay for any service.

No health carrier may preclude or discourage patients or those paying for their coverage from discussing the comparative merits of different health carriers with their providers. This prohibition specifically includes prohibiting or limiting providers participating in those discussions even if critical of a carrier.

**ARTICLE FOUR - TERM AND TERMINATION**

**4.1 Term**

This Contract is effective on January 1, 2024 and shall terminate on December 31, 2024, unless this Contract is sooner terminated as provided in this Contract.

**4.2 Termination without Cause**

This Contract may be terminated without cause by either party upon providing at least sixty (60) days written notice to the other party.

**4.3 Termination with Cause**

Either party may terminate this Contract by providing the other party with a minimum of ten (10) business days prior written notice in the event the other party commits a material breach of any provision of this Contract. Said notice must specify the nature of said material breach. The breaching party shall have seven (7) business days from the date of the breaching party's receipt of the foregoing notice to cure said material breach. In the event the breaching party fails to cure the material breach within said seven (7) business day period, this Contract shall automatically terminate upon expiration of the ten (10) business days' notice period.

**4.4 Immediate Termination**

Unless expressly prohibited by applicable regulatory requirements, SBHASO may immediately suspend or terminate the participation of a Provider in any or all products or services by giving written notice thereof to Provider when SBHASO determines that (i) based upon available

information, the continued participation of the Provider appears to constitute an immediate threat or risk to the health, safety or welfare of client(s), or (ii) Provider's fraud, malfeasance or non-compliance with any regulatory requirements is reasonably suspected. During such suspension, the Provider shall, as directed by SBHASO, discontinue the provision of all or a particular contracted Service to client(s). During the term of any suspension, Provider shall notify client(s) that their status as a Provider has been suspended. Such suspension will continue until the Provider's participation is reinstated or terminated.

#### **4.5 Termination Due to Change in Funding**

In the event funding from MCO, SBHASO, State, Federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Contract and prior to its normal completion, either party may terminate this Contract subject to re-negotiations with a minimum ninety (90) day written notification.

##### **4.5.1 TERMINATION PROCEDURE**

The following provisions shall survive and be binding on the parties in the event this Contract is terminated:

- 4.5.1.1 Provider and any applicable subcontractors shall cease to perform any services required by this Contract as of the effective date of termination and shall comply with all reasonable instructions contained in the notice of termination which are related to the transfer of individuals, distribution of property and termination of services. Each party shall be responsible only for its performance in accordance with the terms of this Contract rendered prior to the effective date of termination. Provider and any applicable subcontractors shall assist in the orderly transfer/transition of the individuals served under this Contract. Provider and any applicable subcontractors shall promptly supply all information necessary for the reimbursement of any outstanding Medicaid claims.
  
- 4.5.1.2 Provider and any applicable subcontractors shall immediately deliver to SBHASO or its successor, all MCO/HCA and SBHASO assets (property) in Provider and any applicable subcontractor's possession and any property produced under this Contract. Provider and any applicable subcontractors grant SBHASO/MCO/HCA the right to enter upon Provider and any applicable subcontractor's premises for the sole purpose of recovering any SBHASO/MCO/HCA property that Provider and any applicable subcontractors fails to return within 10 business days of termination of this Contract. Upon failure to return SBHASO/MCO/HCA property within ten (10) business days of the termination of this Contract, Provider and any applicable subcontractors shall be charged with all reasonable costs of recovery, including transportation and attorney's fees. Provider and any applicable subcontractors shall protect and preserve any property of

SBHASO/MCO/HCA that is in the possession of Provider and any applicable subcontractors pending return to SBHASO/MCO/HCA.

4.5.1.3 SBHASO shall be liable for and shall pay for only those services authorized and provided through the date of termination. SBHASO may pay an amount agreed to by the parties for partially completed work and services, if work products are useful to or usable by SBHASO.

4.5.1.4 If SBHASO terminates this Contract for default, SBHASO may withhold a sum from the final payment to Provider that SBHASO determines is necessary to protect SBHASO against loss or additional liability occasioned by the alleged default. SBHASO shall be entitled to all remedies available at law, in equity, or under this Contract. If it is later determined Provider was not in default, or if Provider terminated this Contract for default, Provider shall be entitled to all remedies available by law, in equity, or under this Contract.

#### 4.6 **Termination Notification to Clients**

SBHASO will inform affected clients of any termination pursuant to this Contract in accordance with the process set forth in the applicable MCO Policies and Procedures. Clients may be required to select another provider contracted with SBHASO prior to the effective date of termination of this Contract.

### **ARTICLE FIVE - FINANCIAL TERMS AND CONDITIONS**

#### 5.1 **GENERAL FISCAL ASSURANCES**

Provider shall comply with all applicable laws and standards, including Generally Accepted Accounting Principles and maintain, at a minimum, a financial management system that is a viable, single, integrated system with sufficient sophistication and capability to effectively and efficiently process, track and manage all fiscal matters and transactions. The parties' respective fiscal obligations and rights set forth in this section shall continue after termination of this Contract until such time as the financial matters between the parties resulting from this Contract are completed.

#### 5.2 **FINANCIAL ACCOUNTING REQUIREMENTS**

Provider shall:

5.2.1 The Provider shall establish and maintain a system of accounting and internal controls which complies with generally accepted accounting principles promulgated by the Financial Accounting Standards Board (FASB), the Governmental Accounting Standards Board (GASB), or both as is applicable to the Provider's form of incorporation.

- 5.2.2 Ensure all SBHASO funds, including interest earned, provided pursuant to this Contract, are used to support the public behavioral health system within the Service Area;
- 5.2.3 Ensure under no circumstances are individuals charged for any Covered Services, including those out-of-network services purchased on their behalf;
- 5.2.4 Produce annual, audited financial statements upon completion and make such reports available to SBHASO upon request.

5.2.4.1 **FINANCIAL REPORTING**

Provider shall provide the following reports to SBHASO:

- 5.2.4.1.1 The SBHASO shall reimburse the Provider for satisfactory completion of the services and requirements specified in this Contract and its attached exhibit(s).
- 5.2.4.1.2 The Provider shall submit an invoice and all accompanying reports as specified in the attached exhibit(s), including its final invoice and all outstanding reports. The SBHASO shall initiate authorization for payment to the Provider not more than thirty (30) days after a complete and accurate invoice is received.
- 5.2.4.1.1 The Provider shall submit its final invoice and all outstanding reports as specified in this contract and its attached exhibit(s). If the Provider's final invoice and reports are not submitted as specified in this contract and its attached exhibit(s), the SBHASO will be relieved of all liability for payment to the Provider of the amounts set forth in said invoice or any subsequent invoice.

5.2.4.2 **LIABILITY FOR PAYMENT AND THE PURSUIT OF THIRD-PARTY REVENUE**

Provider shall be responsible for developing financial processes that enable them to reasonably ensure all third-party resources available to enrollees are identified and pursued in accordance with the reasonable collection practices, which Provider applies to all other payers for services covered under this Contract. Ensure a process is in place to demonstrate all third-party resources are identified and pursued in accordance with Medicaid being the payer of last resort.

Provider shall maintain necessary records to document all third-party resources and report to SBHASO on a biennial basis or upon the request

of SBHASO the amount of such third-party resources collected for all service recipients during the quarter by source of payment.

## **ARTICLE SIX -OVERSIGHT AND REMEDIES**

### **6.1 OVERSIGHT AUTHORITY**

SBHASO, HCA, DSHS, Office of the State Auditor, the Department of Health and Human Services (DHHS), CMS, the Comptroller General, or any of their duly-authorized representatives have the authority to conduct announced and unannounced: a) surveys, b) audits, c) reviews of compliance with licensing and certification requirements and compliance with this Contract, d) audits regarding the quality, appropriateness and timeliness of behavioral health services of Provider and subcontractors and e) audits and inspections of financial records of Provider and subcontractors.

Provider shall notify SBHASO when an entity other than SBHASO performs any audit described above related to any activity contained in this Contract.

In addition, SBHASO/MCO will conduct reviews in accordance with its oversight of resource, utilization and quality management, as well as, ensure Provider has the clinical, administrative and fiscal structures to enable them to perform in accordance with the terms of the contract. Such reviews may include, but are not limited to: encounter data validation, utilization reviews, clinical record reviews, program integrity, administrative structures reviews, fiscal management and contract compliance. Reviews may include desk reviews, requiring Provider to submit requested information. SBHASO will also review any activities delegated under this contract to Provider.

### **6.2 REMEDIAL ACTION**

SBHASO may require Provider to plan and execute corrective action. Corrective Action Plan (CAP) developed by Provider must be submitted for approval to SBHASO within thirty (30) calendar days of notification. CAP must be provided in a format acceptable to SBHASO. SBHASO may extend or reduce the time allowed for corrective action depending upon the nature of the situation as determined by SBHASO.

#### **6.2.1 CAP must include:**

- 6.2.1.1** A brief description of the findings; and
- 6.2.1.2** Specific actions to be taken, a timetable, a description of the monitoring to be performed, the steps taken and responsible individuals that will reflect the resolution of the situation.

#### **6.2.2 CAP may:**

Require modification of any policies or procedures by Provider relating to the fulfillment of its obligations pursuant to this Contract.

- 6.2.3 CAP is subject to approval by SBHASO, which may:
  - 6.2.3.1 Accept the plan as submitted;
  - 6.2.3.2 Accept the plan with specified modifications;
  - 6.2.3.3 Request a modified plan; or
  - 6.2.3.4 Reject the plan.
  
- 6.2.4 Provider agrees that SBHASO may initiate remedial action as outlined below if SBHASO determines any of the following situations exist or if corrective actions have not been completed within the timetable acceptable to SBHASO:
  - 6.2.4.1 If a problem exists that poses a threat to the health or safety of any person or poses a threat of property damage/an incident has occurred that resulted in injury or death to any person/resulted in damage to property.
  - 6.2.4.2 Provider has failed to perform any of the behavioral health services required in this Contract, which includes the failure to maintain the required capacity as specified by SBHASO to ensure enrolled individuals receive medically necessary services, including delegated functions; except, that no remedial action pursuant to subsection (e) hereof shall be taken if such failure to maintain required capacity is due to any interruption in, or depletion of the available amount of money to Provider as described in Exhibit B of this contract for purposes of performing services under this contract; however, in such an instance, SBHASO may terminate all or part of this contract on as little as thirty (30) days written notice.
  - 6.2.4.3 Provider has failed to develop, produce and/or deliver to SBHASO any of the statements, reports, data, data corrections, accountings, claims and/or documentation described herein, in compliance with all the provisions of this Contract.
  - 6.2.4.4 Provider has failed to perform any administrative function required under this Contract, including delegated functions. For the purposes of this section, "administrative function" is defined as any obligation other than the actual provision of behavioral health services.
  - 6.2.4.5 Provider has failed to implement corrective action required by the state and within SBHASO prescribed timeframes.
  
- 6.2.5 SBHASO may impose any of the following remedial actions in response to findings of situations as outlined above.
  - 6.2.5.1 Withhold two (2%) percent of the next monthly payment and each monthly payment thereafter until the corrective action has achieved



- resolution. SBHASO, at its sole discretion, may return a portion or all of any payments withheld once satisfactory resolution has been achieved.
- 6.2.5.2 Compound withholdings identified above by an additional one-half of one percent (1/2 of 1%) for each successive month during which the remedial situation has not been resolved.
  - 6.2.5.3 Revoke delegation of any function delegated under this contract.
  - 6.2.5.4 Deny any incentive payment to which Provider might otherwise have been entitled under this Contract or any other arrangement by which SBHASO provides incentives.
  - 6.2.5.5 Termination for Default, as outlined in this Contract.

**6.3 NOTICE**

- 6.3.1. Any notices required in accordance with any of the provisions herein shall be delivered personally to or sent by USPS registered or certified mail to:

SBHASO to: **Administrator**  
 SBHASO, Kitsap County Department of Human Services  
 614 Division St, MS-23  
 Port Orchard, WA 98366-4676

Contractor to: Jim Novelli, Executive Director  
 Discovery Behavioral Health  
 884 West Park Ave/PO Box 565  
 Port Townsend, WA 98368

- 6.3.2. The Contractor shall maintain electronic mail access and contact during the regular business hours associated with the performance of contractual obligations under the Agreement.

**ARTICLE SEVEN -GENERAL TERMS AND CONDITIONS FOR CONTRACTOR**

**7.1 ASSIGNMENT**

Except as otherwise provided within this Contract, this Contract may not be assigned, delegated, or transferred by Provider without the express written consent of SBHASO and any attempt to transfer or assign this Contract without such consent shall be void. The terms “assigned”, “delegated”, or “transferred” shall include change of business structure to a limited liability company of any Provider Member or Affiliate Agency.

**7.2 AUTHORITY**

Concurrent with the execution of this Contract, Provider shall furnish, upon request, SBHASO with a copy of the explicit written authorization of its governing body to enter into this

Contract and accept the financial risk and responsibility to carry out all terms of this Contract including the ability to pay for all expenses incurred during the contract period.

**7.3 COMPLIANCE WITH APPLICABLE LAWS, REGULATIONS AND OPERATIONAL POLICIES**

The parties shall comply with all relevant state or federal law, policy, directive, or government sponsored program requirements relating to the subject matter of this Contract. The provisions of this Contract shall be construed in a manner that reflects consistency and compliance with such laws, policies and directives. Without limiting the generality of the foregoing, the parties shall specifically comply with the following:

- 7.3.1 Title XIX and Title XXI of the SSA and Title 42 CFR;
- 7.3.2 All applicable Office of the Insurance Commissioner (OIC) statutes and regulations;
- 7.3.3 Americans with Disabilities Act of 1990;
- 7.3.4 All local, State and Federal professional and facility licensing and certification requirements/standards that apply to services performed under the terms of this Contract;
- 7.3.5 All applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 US 1857(h)), Section 508 of the Clean Water Act (33 US 1368), Executive Order 11738 and Environmental Protection Agency (EPA) regulations (40 CFR Part 15), which prohibit the use of facilities included on the EPA List of Violating Facilities. Any violations shall be reported to HCA/DSHS, DHHS and the EPA.
- 7.3.6 Any applicable mandatory standards and policies relating to energy efficiency, which are contained in the State Energy Conservation Plan, issued in compliance with the federal Energy Policy and Conservation Act;
- 7.3.7 Those specified in RCW Title 18 for professional licensing;
- 7.3.8 Reporting of abuse as required by RCW 26.44.030;
- 7.3.9 Industrial insurance coverage as required by RCW Title 51;
- 7.3.10 RCW 38.52, 70.02, 71.05, 71.24 and 71.34;
- 7.3.11 WAC 182-538 and 246-341;
- 7.3.12 Provider must ensure it does not: a) operate any physician incentive plan as described in 42 CFR §422.208; and b) does not Contract with any subcontractor operating such a plan.
- 7.3.13 State of Washington Medicaid State Plan and 1915(b) Medicaid Behavioral Health Waiver or their successors, which documents are incorporated by reference;

- 7.3.14 HCA/MCO Quality Strategy;
  - 7.3.15 State of Washington behavioral health system mission statement, value statement and guiding principles for the system;
  - 7.3.16 State Medicaid Manual (SMM), OMB Circulars, BARS Manual and BARS Supplemental Behavioral Health Instructions;
  - 7.3.17 Any applicable federal and state laws that pertain to Medicaid enrollee or individual's rights. Provider shall ensure its staff takes those rights into account when furnishing services to individuals.
  - 7.3.19 42 USC 1320a-7 and 1320a-7b (Section 1128 and 1128(b) of the SSA), which prohibits making payments directly or indirectly to physicians or other providers as an inducement to reduce or limit behavioral health services provided to individuals; Any policies and procedures developed by DSHS/Health Care Authority which governs the spend-down of individual's assets;
  - 7.3.20 Provider and any subcontractors must comply with 42-USC 1396u-2 and must not knowingly have a director, officer, partner, or person with a beneficial ownership of more than five (5%) of Provider, BHA or subcontractor's equity, or an employee, Provider, or consultant who is significant or material to the provision of services under this Contract, who has been, or is affiliated with someone who has been, debarred, suspended, or otherwise excluded by any federal agency.
  - 7.3.21 Federal and State non-discrimination laws and regulations;
  - 7.3.22 HIPAA (45 CFR parts 160-164);
  - 7.3.23 Confidentiality of Substance Use Disorder 42 CFR Part 2;
  - 7.3.24 HCA-CIS Data Dictionary and its successors;
  - 7.3.25 Federal funds must not be used for any lobbying activities.
- 7.4 If Provider is in violation of a federal law or regulation and Federal Financial Participation is recouped from SBHASO, Provider shall reimburse the federal amount to SBHASO within twenty (20) days of such recoupment.
- 7.5 Upon notification from HCA/MCO, SBHASO shall notify Provider in writing of changes/modifications in CMS policies and/or HCA contract requirements.
- 7.6 **COMPLIANCE WITH SBHASO OPERATIONAL POLICIES**  
 Provider shall comply with all SBHASO operational policies that pertain to the delivery of services under this Contract that are in effect when the Contract is signed or come into effect during the term of the Contract. SBHASO shall notify Provider of any proposed change in federal or state requirements affecting this Contract immediately upon SBHASO receiving knowledge of such change.
- 7.7 **CONFIDENTIALITY OF PERSONAL INFORMATION**  
 Provider shall protect all Personal Information, records and data from unauthorized disclosure in accordance with 42 CFR §431.300 through §431.307, RCWs 70.02, 71.05, 71.34 and for individuals receiving SUD services, in accordance with 42 CFR Part 2 and WAC 246-341. Provider shall have a process in place to ensure all components of its provider network and

system understand and comply with confidentiality requirements for publicly funded behavioral health services. Pursuant to 42 CFR §431.301 and §431.302, personal information concerning applicants and recipients may be disclosed for purposes directly connected with the administration of this Contract and the State Medicaid Plan. Provider shall read and comply with all HIPAA policies.

**7.8 CONTRACT PERFORMANCE/ENFORCEMENT**

SBHASO shall be vested with the rights of a third-party beneficiary, including the "cut through" right to enforce performance should Provider be unwilling or unable to enforce action on the part of its subcontractor(s). In the event Provider dissolves or otherwise discontinues operations, SBHASO may, at its sole option, assume the right to enforce the terms and conditions of this Contract directly with subcontractors; provided SBHASO keeps Provider reasonably informed concerning such enforcement. Provider shall include this clause in its contracts with its subcontractors. In the event of the dissolution of Provider, SBHASO's rights in indemnification shall survive.

**7.9 COOPERATION**

The parties to this Contract shall cooperate in good faith to effectuate the terms and conditions of this Contract.

**7.10 DEBARMENT CERTIFICATION**

Provider, by signature to this Contract, certifies Provider and any Owners are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from participating in transactions (Debarred) and is not listed in the Excluded Parties List System in the System for Award Management (SAM) website, as outlined in SBHASO policies and procedures. Provider shall immediately notify SBHASO if, during the term of this Contract, Provider becomes debarred.

**7.11 EXCLUDED PARTIES**

Provider is prohibited from paying with funds received under this Contract for goods and services furnished, ordered, or prescribed by excluded individuals and entities SSA section 1903(i)(2) of the Act; 42 CFR 455.104, 455.106 and 1001.1901(b)).

7.11.1 Provider shall monitor for excluded individuals and entities by:

- 7.11.1.1 Screening Provider and subcontractor's employees and individuals and entities with an ownership or control interest for excluded individuals and entities prior to entering into a contractual or other relationship where the individual or entity would benefit directly or indirectly from funds received under this Contract.
- 7.11.1.2 Screening monthly newly added Provider and subcontractor's employees and individuals and entities with an ownership or control interest for excluded

individuals and entities that would benefit directly or indirectly from funds received under this Contract.

- 7.11.1.3 Screening monthly Provider and subcontractor's employees and individuals and entities with an ownership or control interest that would benefit from funds received under this Contract for newly added excluded individuals and entities.

7.11.2 Report to SBHASO:

- 7.11.2.1 Any excluded individuals and entities discovered in the screening within 10 business days;
- 7.11.2.2 Any payments made by Provider that directly or indirectly benefit excluded individuals and entities and the recovery of such payments;
- 7.11.2.3 Any actions taken by Provider to terminate relationships with Provider and subcontractor's employees and individuals with an ownership or control interest discovered in the screening;
- 7.11.2.4 Any Provider and subcontractor's employees and individuals with an ownership or control interest convicted of any criminal or civil offense described in SSA section 1128 with 10 business days of Provider becoming aware of the conviction;
- 7.11.2.5 Any subcontractor terminated for cause within 10 business days of the effective date of termination to include full details of the reason for termination;
- 7.11.2.6 Any Provider and subcontractor's individuals and entities with an ownership or control interest.

7.11.3 Provider must provide a list with details of ownership and control no later than 30 days from the date of ratification and shall keep the list up-to-date thereafter.

7.11.4 Provider will not make any payments for goods or services that directly or indirectly benefit any excluded individual or entity. Provider will immediately recover any payments for goods and services that benefit excluded individuals and entities it discovers.

7.11.5 Provider will immediately terminate any employment, contractual and control relationships with an excluded individual and entity it discovers.

7.11.6 Civil monetary penalties may be imposed against Provider if it employs or enters into a contract with an excluded individual or entity to provide goods or services to enrollees (SSA section 1128A(a)(6) and 42 CFR 1003.102(a)(2)).

7.11.7 An individual or entity is considered to have an ownership or control interest if they have direct or indirect ownership of five percent (5%) or more, or are a managing employee (i.e., a general manager, business manager, administrator, or director) who exercises operational or managerial control or who directly or indirectly conducts day-to-day operations (SSA section 1126(b), 42 CFR 455.104(a) and 1001.1001(a)(1)).

7.11.8 In addition, if SBHASO/MCO/HCA notifies Provider that an individual or entity is excluded from participation by HCA, Provider shall terminate all beneficial, employment, contractual and control relationships with the excluded individual or entity immediately.

7.11.8.1 The list of excluded individuals will be found at: <http://exclusions.oig.hhs.gov/>.

7.11.8.2 SSA section 1128 will be found at:  
[http://www.ssa.gov/OP\\_Home/ssact/title11/1128.htm](http://www.ssa.gov/OP_Home/ssact/title11/1128.htm).

**7.12 DECLARATION THAT INDIVIDUALS UNDER THE MEDICAID AND OTHER BEHAVIORAL HEALTH PROGRAMS ARE NOT THIRD-PARTY BENEFICIARIES UNDER THIS CONTRACT**

Although SBHASO, Provider and subcontractors mutually recognize that services under this Contract may be provided by Provider and subcontractors to individuals under the Medicaid program, RCW 71.05 and 71.34 and the Community Behavioral Health Services Act, RCW 71.24, it is not the intention of either SBHASO or Provider that such individuals, or any other persons, occupy the position of intended third-party beneficiaries of the obligations assumed by either party to this Contract. Such third parties shall have no right to enforce this Contract.

**7.13 EXECUTION, AMENDMENT AND WAIVER**

This Contract shall be binding on all parties only upon signature by authorized representatives of each party. This Contract or any provision may be amended during the contract period, if circumstances warrant, by a written amendment executed by all parties. Only SBHASO or designee has authority to waive any provision of this Contract on behalf of SBHASO.

**7.14 HEADINGS AND CAPTIONS**

The headings and captions used in this Contract are for reference and convenience only and in no way define, limit, or decide the scope or intent of any provisions or sections of this Contract.

**7.15 INDEMNIFICATION**

To the fullest extent permitted by law, Contractor shall indemnify, defend and hold harmless the SBHASO, Kitsap County, Jefferson County and Clallam County, and the elected and appointed officials, officers, employees and agents of each of them, from and against all claims resulting from or arising out of the performance of this contract, whether such claims arise from the acts, errors or omissions of Provider, its subcontractors, third parties, the SBHASO, Kitsap County, Jefferson County or Clallam County, or anyone directly or indirectly employed by any of them or anyone for whose acts, errors or omissions any of them may be liable. "Claim" means any loss, claim, suit, action, liability, damage or expense of any kind or nature whatsoever, including but not limited to attorneys' fees and costs, attributable to personal or bodily injury, sickness, disease or death, or to injury to or destruction of property, including the loss of use resulting therefrom. Provider's duty to indemnify, defend and hold harmless includes but is not limited to claims by Provider's or any subcontractor's officers, employees or agents. Provider's duty, however, does not extend to claims arising from the

sole negligence or willful misconduct of the SBHASO, Kitsap County, Jefferson County or Clallam County, or the elected and appointed officials, officers, employees and agents of any of them. For the purposes of this indemnification provision, Provider expressly waives its immunity under Title 51 of the Revised Code of Washington and acknowledges that this waiver was mutually negotiated by the parties. This provision shall survive the expiration or termination of this contract.

**7.16 INDEPENDENT CONTRACTOR FOR SBHASO**

The parties intend that an independent contractor relationship be created by this contract. Provider acknowledges that Provider, its employees, or subcontractors are not officers, employees, or agents of SBHASO. Provider shall not hold Provider, Provider's employees and subcontractors out as, nor claim status as, officers, employees, or agents of SBHASO. Provider shall not claim for Provider, Provider's employees, or subcontractors any rights, privileges, or benefits which would accrue to an employee of SBHASO. Provider shall indemnify and hold SBHASO harmless from all obligations to pay or withhold Federal or State taxes or contributions on behalf of Provider, Provider's employees and subcontractors unless specified in this Contract.

**7.17 INSURANCE**

For the duration of the contract and until all work specified in the contract is completed, Contractor shall maintain in effect all insurance as required herein. Work under this contract shall not commence until evidence of all required insurance and bonding is provided to the SBHASO. Evidence of such insurance shall consist of a completed copy of the Certificate of Insurance, signed by the insurance agent for the Contractor and returned to:

Administrator, SBHASO  
Kitsap County Department of Human Services  
614 Division Street, MS-23  
Port Orchard, WA 98366.

7.17.1 The Contractor's insurer shall have a minimum A.M. Best's Rating of A-VII.

7.17.2 Coverage shall include the following terms and conditions:

7.17.2.1 The policy shall be endorsed and certificate shall reflect that the SBH-ASO and Clallam, Jefferson and Kitsap Counties are named as an additional insureds on the Contractor's General Liability Policy with respect to the activities under this Contract

7.17.2.2 The policy shall provide and the certificate shall reflect that the insurance afforded applies separately to each insured against which a claim is made or a suit is brought except with respect to the limits of the Contractor's liability.

7.17.2.3 The policy shall be endorsed and the certificate shall reflect that the insurance afforded therein shall be primary insurance and any insurance or self-insurance carried by Kitsap County on behalf of the SBH-ASO shall be excess and not contributory insurance to that provided by the Contractor.

7.17.2.4 If for any reason, any material change occurs in the coverage during the

course of this contract, such changes shall not become effective until forty-five (45) days after Kitsap County Risk Management Division has received written notice of changes.

7.17.2.5 SBH-ASO and Clallam, Jefferson and Kitsap Counties have no obligation to report occurrences unless a claim is filed with the SBH-ASO; and SBH-ASO or Clallam, Jefferson or Kitsap Counties have no obligation to pay premiums.

7.17.3 The Contractor shall insure that every officer, director, or employee who is authorized to act on behalf of the Contractor for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks or other instruments of payment for program costs shall be bonded to provide protection against loss.

7.17.3.1 Fidelity bonding secured pursuant to this contract must have coverage of \$100,000 or the highest planned advance or reimbursement for the program year, whichever is greater.

7.17.3.2 If requested, the Contractor will provide a copy of the bonding instrument or a certification of the same from the bond issuing agency.

7.17.4 Workers' Compensation and Employer Liability. The Contractor will maintain workers' compensation insurance as required by Title 51, Revised Code of Washington, and will provide evidence of coverage to the Kitsap County Risk Management Division. If the contract is for over \$50,000, then the Contractor will also maintain employer liability coverage with a limit of not less than \$1 million.

7.17.5 The Contractor shall have insurance coverage and limits as follows:

7.17.5.1 Comprehensive Liability

Comprehensive General Liability Insurance and Comprehensive Automobile Liability Insurance with limits of not less than:

<b>COVERAGE</b>	<b>LIMITS OF LIABILITY</b>
<b>Comprehensive General Liability Insurance</b>	
a. Bodily Injury Liability	\$1,000,000 each occurrence
b. Property Damage Liability	\$1,000,000 each occurrence
OR	
c. Combined Bodily Injury/Property Damage Liability	\$2,000,000 aggregate
<b>Comprehensive Automobile Liability Insurance</b>	
a. Bodily Injury Liability	\$1,000,000 each person



<b>COVERAGE</b>	<b>LIMITS OF LIABILITY</b>
	\$1,000,000 each occurrence
b. Property Damage Liability	\$1,000,000 each occurrence
OR	
c. Combined Single Limit Coverage of	\$2,000,000

7.17.5.2 Professional Liability Insurance with limits of not less than:

**Professional Liability Insurance** \$1,000,000 each occurrence.

**7.18 INTEGRATION**

This Contract, including Exhibits contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto.

**7.19 MAINTENANCE OF RECORDS**

Provider shall prepare, maintain, and retain, accurate records, including appropriate medical records and administrative and financial records, related to this Contract and to Services provided hereunder in accordance with industry standards, applicable federal and state statutes and regulations, and state and federal sponsored health program requirements. Such records shall be maintained for the maximum period required by federal or state law. SBHASO shall have continued access to Provider's records as necessary for SBHASO to perform its obligations hereunder, to comply with federal and state laws and regulations, and to ensure compliance with applicable accreditation and HCA and CMS requirements.

Each party agrees that the terms set forth in this Agreement are strictly confidential and neither party shall disclose such terms to any person or entity for purposes other than the administration of the Agreement without receiving prior written consent of the other party, except as required by law or government programs, which may include being subject to the Public Records Act, RCW 42.56

Provider shall completely and accurately report encounter data to SBHASO and shall certify the accuracy and completeness of all encounter data submitted. Provider shall assure that it, and all of its subcontractors that are required to report encounter data, have the capacity to submit all data necessary to enable the SBHASO to meet the reporting requirements in the Encounter Data Transaction Guide published by HCA, or other requirements HCA may develop and impose on SBHASO or Provider.

Upon SBHASO's request, or under SBHASO's state and federal sponsored health programs and associated contracts, Provider shall provide to SBHASO direct access and/or copies of all

information, encounter data, statistical data, and treatment records pertaining to Members who receive Services hereunder, or in conjunction with claims reviews, quality improvement programs, grievances and appeals and peer reviews.

**7.20 NO WAIVER OF RIGHTS**

A failure by either party to exercise its rights under this Contract shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Contract unless stated to be such in writing signed by an authorized representative of the party and attached to the original Contract.

Waiver of any breach of any provision of this Contract shall not be deemed to be a waiver of any subsequent breach and shall not be construed to be a modification of the terms and conditions of this Contract.

**7.21 ONGOING SERVICES**

Provider and its subcontractors shall ensure in the event of labor disputes or job actions, including work slowdowns, or other activities within its service BHA network, uninterrupted services shall be available as required by the terms of this Contract.

**7.22 OVERPAYMENTS**

In the event Provider fails to comply with any of the terms and conditions of this Contract and results in an overpayment, SBHASO may recover the amount due HCA, MCO, CMS, or other federal or state agency subject to dispute resolution as set forth in the contract. In the case of overpayment, Provider shall cooperate in the recoupment process and return to SBHASO the amount due upon demand.

7.22.1 Except in the case of fraud, SBHASO may not request a refund from Provider of payment previously made to satisfy a claim unless it does so in writing within 24 months after the date payment was made.

7.22.2 In the case of coordination of benefits, SBHASO must request a refund from Provider of payment previously made to satisfy a claim within 30 months after the date payment was made.

7.22.3 Except in the case of fraud, Provider may not request payment from SBHASO to satisfy a claim unless it does so in writing within 24 months after the date the claim was denied or payment intended to satisfy the claim was made.

7.22.4 In the case of coordination of benefits, the Provider must request from the SBHASO within 30 months after original payment was made for any additional balances owed.

**7.23 OWNERSHIP OF MATERIALS**

The parties to this Contract hereby mutually agree that if any patentable or copyrightable material or article should result from the work described herein, all rights accruing from such material or article shall be the sole property of SBHASO. The SBHASO agrees to and does hereby grant to the Provider, irrevocable, nonexclusive, and royalty-free license to use, according to law, any material or article and use any method that may be developed as part of the work under this Contract.

The foregoing products license shall not apply to existing training materials, consulting aids, checklists, and other materials and documents of the Provider which are modified for use in the performance of this Contract.

The foregoing provisions of this section shall not apply to existing training materials, consulting aids, checklists, and other materials and documents of the Provider that are not modified for use in the performance of this Contract.

**7.24 PERFORMANCE**

Provider shall furnish the necessary personnel, materials/behavioral health services and otherwise do all things for, or incidental to, the performance of the work set forth here and as attached. Unless specifically stated, Provider is responsible for performing or ensuring all fiscal and program responsibilities required in this contract. No subcontract will terminate the legal responsibility of Provider to perform the terms of this Contract.

**7.25 RESOLUTION OF DISPUTES**

The parties wish to provide for prompt, efficient, final and binding resolution of disputes and controversies that may arise under this Contract; therefore, establish this dispute resolution procedure. All claims, disputes and other matters in question between the parties arising out of, or relating to, this Contract shall be resolved by the following dispute resolution procedure unless the parties mutually agree in writing otherwise:

**7.25.1 Informal Resolution**

The parties shall use best efforts and will deal fairly and negotiate in good faith to informally resolve any disputes that may arise related to this Contract.

**7.25.2 Nonbinding Mediation**

If Provider is dissatisfied with SBHASO's final resolution of a contract dispute or if SBHASO fails to grant or reject Provider's request for review of a contract dispute within thirty (30) days after it is made, Provider may submit the contract dispute to nonbinding mediation pursuant to Chapter 7.07 of the Revised Code of Washington.

Nonbinding mediation shall not be utilized to adjudicate matters that primarily involve review of Provider's professional competence or professional conduct,

and shall not be available as a mechanism for appeal of any determinations made as to such matters.

**7.25.5 Washington Law.**

This Contract shall be governed by laws of the State of Washington, both as to interpretation and performance.

**7.26 SEVERABILITY AND CONFORMITY**

The provisions of this Contract are severable. If any provision of this Contract, including any provision of any document incorporated by reference is held invalid by any court, that invalidity shall not affect the other provisions of this Contract and the invalid provision shall be considered modified to conform to existing law.

**7.27 SINGLE AUDIT ACT**

Provider may not grant access to health information unrelated to enrollees covered under this agreement. If Provider grants access to medical records for audit purposes, the information provided will be limited to the minimum necessary to perform the audit.

If Provider or its subcontractor is a sub recipient of Federal awards as defined by OMB Uniform Guidance Subpart F, Provider and its subcontractors shall maintain records that identify all Federal funds received and expended. Such funds shall be identified by the appropriate OMB Catalog of Federal Domestic Assistance titles and numbers, award names, award numbers, and award years (if awards are for research and development), as well as names of the Federal agencies. Provider and its subcontractors shall make Provider and its subcontractor's records available for review or audit by officials of the Federal awarding agency, the General Accounting Office and DSHS. Provider and its subcontractors shall incorporate OMB Uniform Guidance Subpart F audit requirements into all contracts between Provider and its subcontractors who are sub recipients. Provider and its subcontractors shall comply with any future amendments to OMB Uniform Guidance Subpart F and any successor or replacement Circular or regulation.

If Provider/subcontractors are a sub recipient and expends \$750,000 or more in Federal awards from any/all sources in any fiscal year, Provider and applicable subcontractors shall procure and pay for a single or program-specific audit for that fiscal year. Upon completion of each audit, Provider and applicable subcontractors shall submit to SBHASO the data collection form and reporting package specified in OMB Uniform Guidance Subpart F, reports required by the program-specific audit guide, if applicable and a copy of any management letters issued by the auditor.

For purposes of "sub recipient" status under the rules of OMB Uniform Guidance Subpart F, Medicaid payments to a sub recipient for providing patient care services to Medicaid eligible individuals are not considered Federal awards expended under this part of the rule unless a State requires the fund to be treated as Federal awards expended because reimbursement is on a cost-reimbursement basis.

## 7.28 SUBCONTRACTS

Provider may subcontract services to be provided under this Contract subject to the following requirements.

- 7.28.1 The Provider shall not assign or subcontract any portion of this Contract or transfer or assign any claim arising pursuant to this Contract without the written consent of SBHASO. Said consent must be sought in writing by the Provider not less than fifteen (15) days prior to the date of any proposed assignment.
- 7.28.2 Provider shall be responsible for the acts and omissions of any subcontractor.
- 7.28.3 Provider must ensure the subcontractor neither employs any person nor contracts with any person or BHA excluded from participation in federal health care programs under either 42 USC 1320a-7 (§§1128 or 1128A SSA) or debarred or suspended per this Contract's General Terms and Conditions.
- 7.28.4 Provider shall require subcontractors to comply with all applicable federal and state laws, regulations and operational policies as specified in this Contract.
- 7.28.5 Provider shall require subcontractors to comply with all applicable SBHASO operational policies as applicable.
- 7.28.6 Subcontracts for the provision of behavioral health services must require subcontractors to provide individuals access to translated information and interpreter services.
- 7.28.7 Provider shall ensure a process is in place to demonstrate all third-party resources are identified and pursued.
- 7.28.8 Provider shall oversee, be accountable for and monitor all functions and responsibilities delegated to a subcontractor for conformance with any applicable statement of work in this Contract on an ongoing basis including written reviews.
- 7.28.9 Provider will monitor performance of the subcontractors on an annual basis and notify SBHASO of any identified deficiencies or areas for improvement requiring corrective action by Provider.
- 7.28.10 The Provider agrees to include the following language verbatim in every subcontract for services which relate to the subject matter of this Contract:

“To the fullest extent permitted by law, subcontractor shall indemnify, defend and hold harmless the SBHASO, Kitsap County, Jefferson County and Clallam County, and the elected and appointed officials, officers, employees and agents of each of them, from and against all claims resulting from or arising out of the performance

of this contract, whether such claims arise from the acts, errors or omissions of subcontractor or its own subcontractors, the contractor, third parties, the SBHASO, Kitsap County, Jefferson County or Clallam County, or anyone directly or indirectly employed by any of them or anyone for whose acts, errors or omissions any of them may be liable. "Claim" means any loss, claim, suit, action, liability, damage or expense of any kind or nature whatsoever, including but not limited to attorneys' fees and costs, attributable to personal or bodily injury, sickness, disease or death, or to injury to or destruction of property, including the loss of use resulting therefrom. Subcontractor's duty to indemnify, defend and hold harmless includes but is not limited to claims by subcontractor's officers, employees or agents. Subcontractor's duty, however, does not extend to claims arising from the sole negligence or willful misconduct of the SBHASO, Kitsap County, Jefferson County or Clallam County, or the elected and appointed officials, officers, employees and agents of any of them.

"For purposes of these indemnification provisions, subcontractor expressly waives its immunity under Title 51 of the Revised Code of Washington and acknowledges that this waiver was mutually negotiated.

"Subcontractor further expressly agrees that the SBHASO, Kitsap County, Jefferson County and Clallam County, and the elected and appointed officials, officers, employees and agents of each of them, are all third-party beneficiaries to this contract for this purpose and have the right to bring an action against subcontractor to enforce these defense and indemnification provisions.

"These defense and indemnification provisions shall survive the expiration or termination of this contract."

Those written subcontracts shall:

- 7.28.11 Require subcontractors to hold all necessary licenses, certifications/permits as required by law for the performance of the services to be performed under this Contract;
- 7.28.12 Require subcontractors to notify Provider in the event of a change in status of any required license or certification;
- 7.28.13 Include clear means to revoke delegation, impose corrective action, or take other remedial actions if the subcontractor fails to comply with the terms of the subcontract;
- 7.28.15 Require the subcontractor to correct any areas of deficiencies in the subcontractor's performance that are identified by Provider, SBHASO/MCO/HCA;

7.28.15 Require best efforts to provide written or oral notification within fifteen (15) business days of termination of a Primary Care Provider (PCP) to individuals currently open for services who had received a service from the affected PCP in the previous sixty (60) days. Notification must be verifiable in the individual's medical record at the subcontractor.

**7.29 SURVIVABILITY**

The terms and conditions contained in this Contract by their sense and context are intended to survive the expiration of this Contract and shall so survive. Surviving terms include but are not limited to: Financial Terms and Conditions, Single Audit Act, Contract Performance and Enforcement, Confidentiality of Client Information, Resolution of Disputes, Indemnification, Oversight Authority, Maintenance of Records, Ownership of Materials and Contract Administration Warranties and Survivability.

**7.30 TREATMENT OF INDIVIDUAL'S PROPERTY**

Unless otherwise provided in this Contract, Provider shall ensure any adult individual receiving services from Provider under this Contract has unrestricted access to the individual's personal property. Provider shall not interfere with any adult individual's ownership, possession, or use of the individual's property unless clinically indicated. Provider shall provide individuals under age eighteen (18) with reasonable access to their personal property that is appropriate to the individual's age, development and needs. Upon termination of this Contract, Provider shall immediately release to the individual and/or guardian or custodian all the individual's personal property.

**7.31 WARRANTIES**

The parties' obligations are warranted and represented by each to be individually binding for the benefit of the other party. Provider warrants and represents it is able to perform its obligations set forth in this Contract and such obligations are binding upon Provider and other subcontractors for the benefit of SBHASO.

**7.32 CONTRACT CERTIFICATION**

7.32.1 The terms and conditions of this Agreement are an integration and representation of the final, entire and exclusive understanding between the parties superseding and merging all previous agreements, writings and communications, oral or otherwise regarding the subject matter for this Agreement between the parties. The parties signing below represent they have read and understand this Agreement, and have the authority to execute this Agreement. This Agreement shall be binding on SBHASO only upon signature by KitsapCounty.

IN WITNESS WHEREOF the Parties have signed this Agreement effective this \_\_\_\_ day of \_\_\_\_\_, 2023.

Dated this 11 day of DEC, 2023

Dated this \_\_\_\_ day of \_\_\_\_\_, 2023

**SALISH BEHAVIORAL HEALTH ADMINISTRATIVE SERVICES ORGANIZATION, By KITSAP COUNTY BOARD OF COMMISSIONERS, Its Administrative Entity**

**Discovery Behavioral Health**

*Charlotte Garrido*

Charlotte Garrido, Chair

*Jim Novelli*  
Signature

*Katherine T. Walters*

Katherine T. Walters, Commissioner

Jim Novelli

Printed Name

*Christine Rolfes*

Christine Rolfes, Commissioner

CEO

Title

ATTEST:

*Dana Daniels*

Dana Daniels, Clerk of the Board





**Salish Behavioral Health Administrative Services Organization (SBHASO)**  
**Exhibit A**  
**Schedule of Services**  
**January 1, 2024 through December 31, 2024**

**Identification of Contracted Services**

The Crisis Services Provider, Discovery Behavioral Health, shall provide covered services, as indicated in the Contracted Services Grid below, within the scope of Provider’s business, licensure(s) and practice, in accordance with the Base Provider Agreement, SBHASO Policies and Procedures, Discovery Behavioral Health Policies and Procedures, MCO and HCA standards, MCO Provider Manuals, the terms, conditions and eligibility outlined in Contract Exhibits, and the requirements of any applicable government sponsored program.

**Contracted Services Grid**

<b>Crisis Services</b>		
<b>Contracted Service</b>	<b>Service Type</b>	<b>SBHASO Policies and Procedures</b>
<input checked="" type="checkbox"/>	Crisis Services (Includes Crisis Stabilization, Mobile Crisis Outreach, Behavioral Health Disaster Response, and Involuntary Treatment Act Evaluations)	Integrated Crisis System; Involuntary Treatment Act Services; Ensuring Care Coordination for Individuals
<input type="checkbox"/>	Regional Behavioral Crisis Hotline	Integrated Crisis System; Toll-free Crisis Line Management

**Salish Behavioral Health Administrative Services Organization (SBHASO)**

**EXHIBIT B – COMPENSATION SCHEDULE**

Contractor: Discovery Behavioral Health

Time Period: January 1, 2024 – December 31, 2024

Payment Type	Service Detail	Monthly Base Medicaid	Monthly Additional Capacity Medicaid	Maximum Monthly Medicaid
Capacity	Schedule of Services, as described in Exhibit A	\$47,399 in increments of \$1.00	\$100 in increments of \$1.00	\$47,499 in increments of \$1.00

- *Monthly Base* is compensation for all eligible crisis services up to 200 units.
  - Monthly Base payment is due and payable by SBHASO on the twentieth (20<sup>th</sup>) day of the month. If the 20<sup>th</sup>, is not a business day, the Monthly Base payment shall be due and payable on the next business day following the twentieth (20<sup>th</sup>) day of the month.
- *Monthly Additional Capacity* is compensation for services delivered in excess of 200 units
  - Each additional unit is compensated at \$100 per unit, to a maximum of \$100 per month.
  - Contractor shall generate invoice for Monthly Additional Capacity payment and submit to SBH-ASO by the fifteenth (15<sup>th</sup>) day of the month. If the fifteenth (15<sup>th</sup>) is not a business day, the Monthly Base payment shall be due and payable on the next business day following the fifteenth (15<sup>th</sup>) day of the month. SBHASO will render payment from clean invoice submissions to Contractor within 30 days of receipt of invoice.
- For toll-free crisis line provider, compensation is based on H0030 services.
- For all other crisis providers, compensation is based on H2011\* services.

\* H2011 services with HW modifier are excluded from Medicaid compensation.

**EXHIBIT C  
DELEGATION AGREEMENT**

This Exhibit C: Sub-Delegation Agreement (“Exhibit C”) is attached to and a part of the Administrative Services Agreement (the “Agreement”) by and between Salish Behavioral Health Administrative Services Organization (“SBHASO”), and Discovery Behavioral Health (Provider), and is effective as of the Effective Date.

This Exhibit C sets forth additional requirements applicable to Provider’s performance and SBHASO’s oversight of Provider’s performance of all Subdelegated Functions under the Agreement.

1. **DEFINITIONS.** Capitalized terms not otherwise defined in this Exhibit C shall have the meanings given under the Agreement.
  - 1.1 **BH-ASO.** “Behavioral Health Administrative Services Organization” or “BH-ASO” means the entity selected by HCA to administer crisis behavioral health services and programs for residents in a defined regional services area, regardless of ability to pay, including Medicaid eligible individuals.
  - 1.2 **BH-ASO Contract.** “Behavioral Health Administrative Services Organization Contract” or “BH-ASO Contract” means (SBHASO’s) contract with the HCA for the provision of BH-ASO services, including Members, in the Salish regional service area (“Region”).
  - 1.3 **General Fund State.** “General Fund State” or “GFS” means the source of funding for services provided pursuant to *Apple Health – Fully Integrated Managed Care – Behavioral Health Services wrap-around contract*.
  - 1.4 **Grievance.** “Grievance” means an expression of dissatisfaction about any matter other than an adverse benefit determination, as defined under the applicable HCA Contract(s). Possible subjects for Grievances may include the quality of care or services provided, aspects of interpersonal relationships such as rudeness of a provider or an employee, or failure to respect a Member’s rights.
  - 1.5 **HEDIS.** “HEDIS” means the Healthcare Effectiveness Data and Information Set developed and published by the National Committee for Quality Assurance. HEDIS includes technical specifications for the calculation of performance measures.
  - 1.6 **NCQA Standards.** “NCQA Standards” means certain National Committee for Quality Assurance (“NCQA”) standards and guidelines applicable to CSHCD SCR BH, Provider and/or the Services, published by NCQA and modified from time to time

- 1.7 **Program Documents.** “Program Documents” means, for each Subdelegated Function, SBHASO’s comprehensive set of documents and materials that describe and govern one or more of the services or activities provided or performed by SBHASO in carrying out each Subdelegated Function. Program Documents shall, at a minimum: (i) define the purpose and objectives of each Delegated Function; (ii) describe the manner in which the activities and services related to the Delegated Function are performed; (iii) roles and responsibilities related to performance and oversight of the Delegated Function; (iv) whether any of the activities or services will be subdelegated; and (v) SBHASO’s processes, policies, desk procedures, job aides, and other information and materials, related to the performance of the Delegated Function.
- 1.8 **Provider Policies and Procedures.** Provider’s Policies and Procedures shall contain information useful and applicable to credentialing, utilization management, prior authorization requirements, claims submissions, and Provider’s online demographic information.

## 2. **SUBDELEGATED FUNCTIONS.**

- 2.1 For each Subdelegated Function, SBHASO shall ensure that all services and activities related to that Subdelegated Function are performed (i) in a professional manner and in accordance with industry standards; (ii) as outlined in the applicable exhibits and any attachments or other addenda thereto; (iii) in accordance with SBHASO’s Program Documents; and (iv) in accordance with the Agreement.
- 2.2 **Joint Oversight.** Throughout the Term of the Agreement, the Managed Care Organizations (MCOs) and SBHASO shall conduct joint oversight to monitor and improve the Provider’s performance of the Subdelegated Functions. Oversight activities will include, at a minimum: established roles and responsibilities related to oversight and reporting; SBHASO’s timely preparation and the MCO’s and SBHASO’s review of regularly delivered reports; annual and ad hoc audits of [Behavioral Health Agency’s] performance, including file and other documentation review; regular and ad hoc operational review and performance improvement meetings; and development and implementation of appropriate correctives actions, as needed and as set forth herein and in any attachments and addenda hereto.

## 3. **SPECIFIC DELEGATIONS/SUBDELEGATIONS.**

- 3.1 **Crisis Administration Services.** Crisis Administration Services are delegated to SBHASO by the Managed Care Organizations (MCOs), and shall be performed by SBHASO in accordance with MCO Exhibits and Attachments. Any Crisis Administration Services Subdelegated by the SBHASO to the Provider shall be performed by the Provider in accordance with the SBHASO policies and procedures

and Exhibit C and Attachment C-1. Attachment C-1 is attached to this Exhibit C and by this reference incorporated herein.

- 3.2 **Delegated/Subdelegated Provider Credentialing.** Credentialing activities related to SBHASO's subcontracted Crisis Services providers are delegated to SBHASO by the MCO's, and shall be performed by SBHASO in accordance with Attachment C-2, which is attached to this Exhibit C and by this reference incorporated herein. Any Credentialing activities Subdelegated by the SBHASO to Provider shall be performed by the Provider in accordance with Exhibit C and Attachment C-2, which is attached to this Exhibit C and by this reference incorporated herein.
  - 3.3 **Delegated/Subdelegated Utilization Management.** Certain Utilization Management activities related to SBHASO's administration of Crisis Services are delegated to SBHASO in accordance with Attachment C-3, which is attached to this Exhibit C and by this reference incorporated herein. If applicable, Utilization Management activities Subdelegated by the SBHASO to the Provider shall be performed by the Provider in accordance with Exhibit C and Attachments C-3, which is attached to this Exhibit C and by this reference incorporated herein.
  - 3.4 **Delegated/Subdelegated Encounter Data Services.** Encounter Data Services related to SBHASO's administration of Crisis Services are delegated to SBHASO in accordance with Attachment C-4, which is attached to this Exhibit C and by this reference incorporated herein. Any Encounter Data Services Subdelegated by the SBHASO to the Provider shall be performed by the Provider in accordance with Exhibit C and Attachment C-4, which are attached to this Exhibit C and by this reference incorporated herein.
  - 3.5 **Delegated/Subdelegated Quality Improvement Services.** Certain Quality Improvement activities related to SBHASO's administration of Crisis Services are delegated to SBHASO in accordance with Attachment C-5, which is attached to this Exhibit C and by this reference incorporated herein. If applicable, Quality Improvement activities Subdelegated by the SBHASO to the Provider shall be performed by the Provider in accordance with Exhibit C and Attachment C-5, which are attached to this Exhibit C and by this reference incorporated herein.
4. **PRE-CONDITIONS OF SUB-DELEGATION.** The delegation of any part of a Delegated Function is contingent upon SBHASO's determination that the Provider is capable of and willing to perform such Subdelegated Function(s), and all related services and activities, in a manner that complies with the Agreement, including this Exhibit C and all attachments and addenda hereto.
    - 4.1 **Pre-Subdelegation Assessment and Corrective Actions.** SBHASO shall conduct a pre-subdelegation assessment to determine whether the Provider is capable of

performing each Delegated Function in accordance with applicable Compliance Requirements and SBHASO's established standards for quality and efficiency. If SBHASO's pre-subdelegation assessment indicates that Provider is unable to perform a Subdelegated Function in full compliance with the terms and conditions hereof, or otherwise fails to meet established standards, Provider shall submit, implement and comply with a Corrective Action Plan ("CAP"), acceptable to SBHASO within a mutually agreed upon time frame and prior to performing any part of the Subdelegated Function(s).

- 4.2 **Failure to Meet Pre-Conditions.** If Provider is not able to complete the CAP, or is otherwise unable to perform the Subdelegated Function(s) as required hereunder, to SBHASO's satisfaction, SBHASO may, in addition to any other available remedies, suspend or terminate Provider's performance under this Exhibit C or any attachment or addenda hereto.

## 5. **CONTACT WITH MEMBERS.**

- 5.1 **Definitions.** Consistent with the requirements of 42 C.F.R. §438.10(c)(4)(i), any managed care terms used by Provider in communications with Members shall have meanings consistent with the definitions of the managed care terms provided in Health Care Authority's model managed care contracts found here: <https://www.hca.wa.gov/billers-providers/programs-and-services/model-managed-care-contracts>.
- 5.2 **Member Rights.** In furnishing service to Apple Health Members under the Agreement, Provider shall take into account federal and state law pertaining to Member rights.
- 5.3 **Access to Member Records.** The MCOs and SBHASO shall have access to Provider's medical records, to the extent permitted by state and federal law.
- 5.4 **Confidentiality of Member Records.** Provider shall maintain the confidentiality of Member information and records in accordance with state and federal law.
- 5.5 **Equal Access.** Provider will provide all information, including both oral and written information, in a manner and format that is easily understood and readily accessible to the Member(s) receiving the information.
- 5.6 **Treatment Options.** Provider will freely communicate with Members about treatment options, including medication treatment options, regardless of benefit coverage limitations.

- 5.7 **Interpreter Services.** Provider shall access and utilize appropriate interpreter services for all interactions between Provider and a Member who is deaf or hearing impaired, or whose primary language is other than English.
- 5.8 **Written Information.** Provider shall ensure that all written information it provides to Members is accurate, not misleading, comprehensible to its intended audience, designed to provide the greatest degree of understanding, and is written at a sixth (6<sup>th</sup>) grade reading level. Wherever appropriate or required, Provider shall use form letters and notices provided by the MCOs or SBHASO. Generally applicable written communications, including educational materials, must be reviewed and approved by the MCOs and SBHASO prior to use.
- 5.8.1 Generally available written communications must be translated into each language spoken by five percent (5%) of Members, or 1,000 Members, whichever is less. SBHASO will provide to Provider, a list of languages meeting this requirement upon request.
- 5.8.2 For Members whose primary language is not translated or whose need cannot be addressed by translation, Provider will use one of the following alternatives to address the Member's communication needs: (i) translating the material into the Member's primary reading language; (ii) providing the material in an audio format in the Member's primary language; (iii) having an interpreter read the material to the Member in the Member's primary language; (iv) providing the material in another alternative medium or format acceptable to the Member, in which case Provider shall document the Member's acceptance of the material in the alternative medium or format in the Member's record; or (v) providing the material in English, if Provider documents the Member's preference for receiving written materials in English.
- 5.9 **Telephonic Communication.** Provider may not use an automated call system to make outbound calls to Members for care coordination, or for calls related to behavioral health or prescription verification.
- 5.10 **Marketing.** Unless otherwise agreed to by the parties in writing, Provider shall not perform marketing activities on the MCO's or SBHASO's behalf or in manner that suggests Provider is acting under the authority or as a representative of the MCOs or SBHASO. The Parties acknowledge that door-to-door, telephonic and other cold-c, all marketing, are not permitted. Provider shall at all times comply 42 C.F.R. §§ 438.10 and 438.104 and HCA's Managed Care Marketing Guidelines.
6. **GRIEVANCES.** The MCOs and SBHASO maintain a Grievance Process consistent with applicable state and federal requirements, including those that apply to General Fund State-funded services. SBHASO retains, and does not delegate to Provider, responsibility for

responding to and resolving Grievances. Not later than the end of the next business day following the day of Provider's receipt, Provider shall transfer or refer to SBHASO any Grievance Provider receives, irrespective of whether such Grievance is related to Provider, SBHASO, a SBHASO subcontractor, including any Subdelegates, a provider, or the MCO. SBHASO shall provide the appropriate MCO information on the Grievance of a Medicaid Enrollee. The MCO of a Medicaid Enrollee shall undertake an initial review of all Grievances. After the MCO's initial review and upon the MCO's request, SBHASO and Provider shall provide all reasonable assistance to the MCO in its investigation and resolution of a Grievance that relates to a Service provided by Provider or a SBHASO subcontractor, or relates to or involves information held by Provider. The MCO shall be responsible for providing notice of the resolution of a Grievance to the affected Member or provider.

- 6.1 Provider and SBHASO shall promptly refer to the MCO any non-Grievance inquiries or requests it receives from Members or MCO providers that are unrelated to the Services provided by Provider under this Agreement.

## 7. **SBHASO OBLIGATIONS.**

- 7.1 **Ultimate Legal Responsibility and Oversight.** The MCOs shall at all times retain ultimate responsibility for and oversight of all Delegated Functions to SBHASO. SBHASO is responsible for oversight of all Subdelegate Functions to Provider.
  - 7.1.1 The MCOs and SBHASO will review Provider's regular (e.g., daily, weekly, monthly, and semi-annual) reports related to each Delegated and Subdelegated Functions, identified in the attachments and addenda hereto.
  - 7.1.2 At least annually, and more often as SBHASO deems reasonably necessary, SBHASO will conduct an audit of Provider's performance of each Subdelegated Function. Such audits will evaluate, at a minimum, the extent to which Provider's performance of each Subdelegated Function meets applicable Compliance Requirements. Where possible, SBHASO will provide Provider at least than thirty (30) days' written notice of an audit, including the scope and format of the audit.
- 7.2 **Termination of Provider's Responsibilities.** SBHASO retains the right to suspend or terminate a Subdelegate of SBHASO, if SBHASO reasonably determines that such Subdelegate's performance under the Agreement is deficient, non-compliant, or otherwise unsatisfactory, and SBHASO provides written notice to Provider regarding such deficiency, non-compliance, or dissatisfaction.
- 7.3 **HCA Reporting.** SBHASO shall be responsible for submitting reports or other information related to the Services to the MCOs which are responsible to submit reports and other information related to Services to HCA.



## 8. **SBHASO OBLIGATIONS.**

- 8.1 Provider shall employ, subcontract or otherwise arrange for sufficient staff to provide each Subdelegated Function in a manner which permits the parties to satisfy applicable Compliance Requirements.
- 8.2 Provider shall ensure that its other business relationships do not interrupt the continuity of services provided to MCO and SBHASO Members under this Exhibit C.
- 8.3 **NCQA Compliance.** The MCOs are accredited by NCQA and operate in accordance with the NCQA Standards. SBHASO and Provider shall comply with the most current version of the NCQA Standards and shall cooperate with and assist the MCOs in demonstrating SBHASO's and Provider's compliance with NCQA Standards.
- 8.4 **Record Keeping; Reporting.** Provider shall maintain a record keeping system or systems adequate to fully document its performance of each Subdelegated Function. Provider will prepare and timely submit to SBHASO regular (e.g., daily, weekly, monthly, and semi-annual) reports or other documentation as identified in the attachments or addenda hereto, related to each Subdelegated Function. Provider will investigate and, if necessary, correct any issues or concerns, including errors or inconsistencies, SBHASO or Provider identifies related to Provider's reports, and will resubmit corrected reports, as needed.
- 8.5 **Audits.** Provider shall promptly respond to and cooperate with all requests for information, including permitting reasonable access to facilities, and clinical, financial and/or administrative records related to the provision of Services under the Agreement from SBHASO related to audits and other oversight activities.
- 8.6 **Eligibility.** SBHASO and, where applicable, Provider, shall adhere to SBHASO's established protocols for determining an individual's eligibility for the Services. Provider shall ensure that patient funding information is updated upon a change to the funding source.
- 8.7 **HCA Compliance.** SBHASO and Provider shall comply with the applicable terms and conditions of the HCA Contracts. In the event HCA makes changes to the applicable terms and conditions of the HCA Contracts, SBHASO and Provider shall accept such changes without modification.
- 8.7.1 Provider shall cooperate with SBHASO's Quality Improvement program and provide open communication on quality improvement strategies.

- 8.7.2 Provider shall maintain a quality improvement system tailored to the nature and type of health care services rendered under the contract, and which affords quality control for the health care provided.
- 8.7.3 Provider shall cooperate with MCO-, SBHASO- and HCA-sponsored Quality Improvement activities.
- 8.7.4 Provider shall provide to SBHASO all information needed to support care coordination activities.
- 8.7.5 Provider shall participate in training as requested or required by an MCO, SBHASO or the HCA.
- 8.7.6 Provider shall respond to law enforcement inquiries regarding an individual's eligibility possess a firearm under RCW 9.41.040(2)(a), and shall concurrently provide to SBHASO a copy of the inquiry and response. SBHASO shall provide a copy of the inquiry and response to the appropriate MCO for Medicaid Enrollees.
- 8.8 **SBHASO Program Documents.** SBHASO will develop and maintain Program Documents related to each Subdelegated Function. At least sixty (60) days prior to commencement of Provider's performance of any Subdelegated Function hereunder, or a shorter period of time to which the parties agree, SBHASO shall provide Provider copies of its Program Documents. SBHASO shall provide Provider at least fifteen (15) business days advance written notice of any material change to SBHASO's Program Documents.
- 8.9 **Oversight of SBHASO's Subdelegates.** SBHASO shall obtain the MCO's written approval prior to subdelegating any portion of its performance hereunder. Subdelegation agreements must be in writing and comply with the requirements set forth in Section 3.6 of the MCO's Agreement. SBHASO shall provide, and document its provision of, active and ongoing oversight of any approved Subdelegate(s). SBHASO shall have a written oversight plan, including a process to evaluate, on at least an annual basis, each Subdelegate's performance relative to the applicable Compliance Requirements and the terms and conditions of the written sub-delegation agreement between SBHASO and the Subdelegate. SBHASO's written process must include a process for issuing a corrective action and revoking subdelegation. SBHASO shall maintain and provide to the MCOs, upon request, a record of its oversight of each Subdelegate's performance, including SBHASO's monitoring process and activities, and any finds or other results.
- 8.10 SBHASO shall provide written notification to the MCOs and Subdelegates at least thirty (30) days prior to implementing any change expected to materially alter SBHASO's performance of a Subdelegated Function.

- 8.11 **HCA Data Reporting.** Provider shall provide to SBHASO timely, complete, and accurate reports and data, including encounter data in accordance with the HCA's Encounter Data Transaction Guide. SBHASO shall ensure that its subcontractors, who are required to report data, have the capacity to submit all HCA required data to enable SBHASO to meet the reporting requirements under the MCO and HCA Contracts. SBHASO shall ensure that its subcontractor(s) comply with data submission requirements established by the HCA for all Services.
- 8.12 **Program Integrity.** Where possible, SBHASO shall perform ongoing analysis of utilization and claims, billing, or encounter data to detect overpayments or other errors or inconsistencies. Such oversight will include audits and investigations of SBHASO's subcontractors, including provider entities, and a process to verify that services billed by providers were actually provided to Members.
- 8.13 **Authorizations and Coverage Decision.** If the Subdelegated Functions include authorizations, SBHASO shall comply with 42 C.F.R. § 438.210, Chapters 182-538 and 182-550 WAC, WACs 182-501-0160, 182-501-0169, and WAC 284-43-410, and applicable terms of SBHASO's HCA Contracts. Where applicable, SBHASO shall follow the coverage decision of the Washington Health Technology Assessment program.

## 9. **PERFORMANCE IMPROVEMENT AND CORRECTIVE ACTIONS.**

- 9.1 **Deficiencies and Non-Compliances.** If SBHASO reasonably determines that Provider's performance of a Subdelegated Function, including any service or activity related thereto, does not meet applicable Compliance Requirements or is otherwise deficient, SBHASO shall provide Provider written notice describing the non-compliances and/or deficiencies. In addition to its other remedies available under this Agreement, SBHASO may take one or more of the following steps to address a non-compliance or deficiency:
- 9.1.1 **Audit.** Upon reasonable notice to Provider, conduct an audit of Provider's performance of the non-compliant or deficient Subdelegated Function, service or activity to further investigate the nature, source and extent of the non-compliance or deficiency.
- 9.1.2 **Corrective Action Plan(s).** Following notice of a non-compliance or deficiency, require Provider to prepare and submit to SBHASO, within a reasonable time-frame, a corrective action plan ("CAP") designed to correct the identified non-compliance or deficiency. Such CAP shall be in the form of a written response to SBHASO's notice of non-compliance or deficiency and shall detail Provider's process for correcting the identified issue(s) within a proposed time period, not to exceed thirty (30) days, including implementation and completion, or such

other period as is reasonable given the nature or severity of the non-compliance or deficiency. SBHASO shall review and approve each CAP prior to Provider's implementation.

9.1.3 **Suspension of Performance, Compensation.** If, in SBHASO's sole judgment, Provider's non-compliance or deficiency poses unreasonable risk to the well-being of Members, the timely provision of medically necessary health care and other services, or otherwise materially jeopardizes the quality or continuity of SBHASO operations, then SBHASO may suspend part or all of Provider's performance of the non-compliant or deficient Subdelegated Function until such time as Provider has corrected the non-compliance or deficiency to SBHASO's satisfaction. In such event, SBHASO reserves the right to suspend Provider's compensation related to the suspended Subdelegated Function(s) until such time as the non-compliance or deficiency has been resolved to SBHASO's satisfaction.

9.2 **CAP Implementation and Completion.** SBHASO shall oversee Provider's implementation of a CAP to ensure that the instance(s) of non-compliance or deficiency is fully resolved. At the earlier of Provider's completion of the CAP or the time-frame for correction stated in the CAP, SBHASO shall review evidence of Provider's implementation and/or completion of the CAP.

9.2.1 Upon SBHASO's finding that all issues related to the CAP are resolved, SBHASO shall provide written notice to Provider of closure of the CAP.

9.2.2 SBHASO may, in its sole discretion, permit Provider additional time to provide satisfactory evidence of CAP completion.

9.3 **Suspension or Termination of Delegation.** If, in SBHASO's reasonable judgment, Provider's performance remains non-compliant or deficient after the agreed-to time-frame for correction, SBHASO may suspend or terminate part or all Provider's performance of the non-compliant or deficient Subdelegated Function, or take any other remedial action permitted under this Exhibit C or the Agreement. In the event SBHASO suspends Provider's performance of all or part of a Subdelegated Function, SBHASO reserves the right to suspend Provider's compensation related to the suspended Subdelegated Function(s) until such time as the non-compliance or deficiency has been resolved to SBHASO's satisfaction. In the event SBHASO revokes delegation and terminates Provider's performance of all or part of a Subdelegated Function, Provider acknowledges and agrees that it has no right to and shall not seek any compensation related to the revoked Subdelegated Function(s) as of the effective date of revocation.

## **Salish Behavioral Health Administrative Services Organization (SBHASO)**

### **Exhibit C-1: Crisis Services Additional Requirements Delegation Grid**

The purpose of this Crisis Services Delegation Grid is to specify the responsibilities of [Behavioral Health Agency] ("Sub-Delegate") under the Agreement with respect to the specific activities that are sub-delegated for Crisis Services, including reporting requirements.

"Crisis Services," as defined by the HCA, means evaluation and treatment of mental health crisis to all Medicaid-enrolled individuals experiencing a crisis. A mental health crisis is defined as a turning point in the course of anything decisive or critical, a time, a stage, or an event or a time of great danger or trouble, whose outcome decides whether possible bad consequences will follow. Crisis Services shall be available on a 24-hour basis. Crisis Services are intended to stabilize the person in crisis, prevent further deterioration and provide immediate treatment and intervention in a location best suited to meet the needs of the individual and in the least restrictive environment available. Crisis Services may be provided prior to completion of an Intake Evaluation. Services are provided by or under the supervision of a Mental Health Professional.

The delegation grid may be amended from time to time during the term of this Agreement by SBHASO to reflect changes in delegation standards; delegation status; performance measures; reporting requirements; and other provisions.

The sections that follow describe the process by which SBHASO evaluates Sub-Delegate's performance and the remedies available to SBHASO if Sub-Delegate does not fulfill its obligations. The statements below shall not supersede any term or condition of Exhibit C, the Delegation Agreement, and all obligations and remedies set forth in the parties' Agreement remain in full force and effect. In the event of a conflict between the descriptions below and any term or condition of the Agreement, including Exhibit C, the terms and conditions of the Agreement shall prevail.

#### **Process of Evaluating Delegate's Performance**

SBHASO will require routine reports and documentation as listed in the delegation grid and will use this documentation to evaluate Sub-Delegate performance on an ongoing basis. In addition, SBHASO will:

- Conduct an annual audit to ensure all delegated activities comply with applicable Compliance Requirements,
- Provide written feedback on the results of the annual audit, and
- Require Sub-Delegate to implement corrective action plans if the delegate does not fully meet Compliance Requirements.

If SBHASO determines that Delegate has failed to adequately perform the delegated activities, SBHASO may:

- Change or revoke the scope of sub-delegation if corrective action is not adequate; and/or
- Discontinue contracting with Sub-Delegate.

Ongoing performance of accredited sub-delegates is evaluated through the semi-annual and routine monitoring of reports. SBHASO reserves the right to conduct annual and ad hoc audits of documentation, processes and files in order to ensure service levels, quality and compliance with regulatory requirements.

**Corrective Action Plans**

If Sub-Delegate fails to meet any of its responsibilities, including contracted responsibilities and NCQA accreditation or certification standards, SBHASO will work with Sub-Delegate to create a corrective action plan to identify areas of improvement and actions plans to ensure compliance with all elements and categories. If Sub-Delegate does not take corrective action, or fails to meet improvement goals, SBHASO reserves the right to revise the sub-delegation agreement and scope, or revoke the sub-delegation agreement all together.

**Subdelegation**

It may be allowable for the SBHASO to Sub-Delegate specific activities that relate to Crisis Services. As provided for under the Agreement and as set forth herein, sub-delegation requires the prior written approval of the Managed Care Organizations. In addition to the requirements for sub-delegation set forth in the Agreement, SBHASO will submit to the MCOs a Delegation Chart. If a sub-delegation is approved, the SBHASO will be responsible for ongoing oversight of the Sub-Delegate’s performance and will be required to report performance results to the Managed Care Organizations.

Function	Sub-Delegation Status	Sub-Delegate Activities	Reporting: Data, Frequency, & Submission	SBHASO Activities
<b>HCA CONTACT REQUIREMENTS</b>				
24-7 Availability	<input checked="" type="checkbox"/> Sub-Delegated  <input type="checkbox"/> Not Sub-Delegated	Crisis Services shall be available 24-7-365, including regional crisis hotline that provides screening and referral services	Weekday submissions of Member crisis interventions and outcomes	Submit Member crisis interventions and outcomes to the appropriate MCO
Immediate Access	<input checked="" type="checkbox"/> Sub-Delegated  <input type="checkbox"/> Not Sub-Delegated	Crisis Services shall be available to Members without the need for the member to complete an intake evaluation or other screening or assessment processes or prior authorization.		

Function	Sub-Delegation Status	Sub-Delegate Activities	Reporting: Data, Frequency, & Submission	SBHASO Activities
Encounter Data	<input checked="" type="checkbox"/> Sub-Delegated  <input type="checkbox"/> Not Sub-Delegated	Require submission of complete and accurate encounter data related to the provision of Crisis Services in HCA-prescribed formats	Weekly basis provide to SBHASO batches of such data	Weekly basis provide batches of such data to appropriate MCO.
<b>WASHINGTON ADMINISTRATIVE CODE REQUIREMENTS</b>				
Crisis Services standards	<input checked="" type="checkbox"/> Sub-Delegated  <input type="checkbox"/> Not Sub-Delegated	Crisis services shall be performed in accordance with all state agency requirements, including Washington Department of Health and HCA regulatory requirements, applicable to Crisis Services and Crisis Services providers		Annual Monitoring of Sub-Delegate's Policies and Procedures and Clinical Records

## **Salish Behavioral Health Administrative Services Organization (SBHASO)**

### **Exhibit C-2: Credentialing (CR) Delegation Grid**

The purpose of the following grid is to specify the responsibilities of [Behavioral Health Agency] (“Sub-Delegate”) under the Agreement with respect to the specific activities that are Sub-Delegated for Credentialing. The grid also describes the semi-annual reporting requirements, which are in addition to any applicable reporting requirements stated in the Agreement. The grid below applies to the sub-delegation of Credentialing for Crisis Services by the SBHASO to Sub-Delegate.

The delegation grid may be amended from time to time during the term of the Agreement by SBHASO to reflect changes in delegation standards; delegation status; performance measures; reporting requirements; and other provisions.

The sections that follow describe the process by which SBHASO evaluates Sub-Delegate’s performance and the remedies available to SBHASO if Sub-Delegate does not fulfill its obligations. The statements below shall not supersede any term or condition of Exhibit C, the Delegation Agreement, and all obligations and remedies set forth in the parties’ Agreement remain in full force and effect. In the event of a conflict between the descriptions below and any term or condition of the Agreement, including Exhibit C, the terms and conditions of the Agreement shall prevail.

#### **Process of Evaluating Sub-Delegate’s Performance**

SBHASO will require routine reports and documentation as listed in the delegation grid and will use this documentation to evaluate Sub-Delegate performance on an ongoing basis. In addition, SBHASO will:

- Conduct an annual audit to ensure all Sub-Delegated activities comply with applicable Compliance Requirements,
- Provide written feedback on the results of the annual audit, and
- Require Sub-Delegate to implement corrective action plans if the Sub-Delegate does not fully meet Compliance Requirements.

If SBHASO determines that Sub-Delegate has failed to adequately perform the Sub-Delegated activities, SBHASO may:

- Change or revoke the scope of delegation if corrective action is not adequate; and/or
- Discontinue contracting with Sub-Delegate.

Ongoing performance of accredited Sub-Delegates is evaluated through the semi-annual and routine monitoring of reports. SBHASO reserves the right to conduct annual and ad hoc audits of documentation, processes and files in order to ensure service levels, quality and compliance with regulatory requirements.

#### **Corrective Action Plans**

If Sub-Delegate fails to meet any of its responsibilities, including contracted responsibilities and NCQA accreditation or certification standards, SBHASO will work with Sub-Delegate to create a corrective action plan to identify areas of improvement and actions plans to ensure compliance with all elements



and categories. If Sub-Delegate does not take corrective action, or fails to meet improvement goals, SBHASO reserves the right to revise the delegation agreement and scope, or revoke the delegation agreement altogether.

**Subdelegation**

It may be allowable for the SBHASO to Sub-Delegate specific activities that relate to Credentialing. As provided for under the Agreement and as set forth herein, sub-delegation requires the prior written approval of the Managed Care Organizations. In addition to the requirements for sub-delegation set forth in the Agreement, SBHASO will submit to the MCOs a Delegation Chart. If a sub-delegation is approved, the SBHASO will be responsible for ongoing oversight of the Sub-Delegate’s performance and will be required to report performance results to the Managed Care Organizations.

<b>DELEGATION GRID</b>				
<b>Function</b>	<b>Sub-Delegation Status</b>	<b>Sub-Delegate Activities</b>	<b>Reporting: Data, Frequency, &amp; Submission</b>	<b>SBHASO Activities</b>
CR 7: Assessment of Organizational Providers	<input type="checkbox"/> Sub-Delegated  <input checked="" type="checkbox"/> Not Sub-Delegated	N/A	N/A	ALL
Decision Making	<input type="checkbox"/> Sub-Delegated  <input checked="" type="checkbox"/> Not Sub-Delegated	N/A	At least monthly standard reporting in electronic format to designated MCO Staff/email	Agency: Approved, Denied, Terminated, Pending.  All verifications have 180 days freshness from date of decision  SBHASO has the right to approve, suspend and terminate individual practitioners, providers and sites

Ongoing Monitoring	<input type="checkbox"/> Sub-Delegated <input checked="" type="checkbox"/> Not Sub-Delegated	State Exclusion Website OIG SAM  For Behavioral Health Agency employees, volunteers, interns, practicum students, leadership and board members	Completed by 15 <sup>th</sup> of Month-Sub-Delegate is to maintain documentation	Collected at initial contracting and 36 months after or if any changes.  SBHASO completes all ongoing monitoring.
Disclosure and/or Ownership Form	<input checked="" type="checkbox"/> Sub-Delegated <input type="checkbox"/> Not Sub-Delegated	Complete Disclosure and/or Ownership Form prior to execution of each contract and 36 months after or if any changes	N/A	Collected at initial contracting and 36 months after or if any changes

## **Salish Behavioral Health Administrative Services Organization (SBHASO)**

### **Exhibit C-3: Utilization Management (UM) Delegation Grid**

The purpose of the following grid is to specify the responsibilities of [Behavioral Health Agency] (“Sub-Delegate”) under the Agreement with respect to the specific activities that are sub-delegated for Utilization Management. The grid also describes the semi-annual reporting requirements, which are in addition to any applicable reporting requirements stated in the Agreement. The grid below applies to the sub-delegation of Behavioral Health Utilization Management for Crisis Services by SBHASO to Sub-Delegate.

The delegation grid may be amended from time to time during the term of the Agreement by SBHASO to reflect changes in delegation standards; delegation status; performance measures; reporting requirements; and other provisions.

The sections that follow describe the process by which SBHASO evaluates Sub-Delegate’s performance and the remedies available to SBHASO if Sub-Delegate does not fulfill its obligations. The statements below shall not supersede any term or condition of Exhibit C, the Delegation Agreement, and all obligations and remedies set forth in the parties’ Agreement remain in full force and effect. In the event of a conflict between the descriptions below and any term or condition of the Agreement, including Exhibit C, the terms and conditions of the Agreement shall prevail.

#### **Process of Evaluating Delegate’s Performance**

SBHASO will require routine reports and documentation as listed in the delegation grid and will use this documentation to evaluate Sub-Delegate performance on an ongoing basis. In addition, SBHASO will:

- Conduct an annual audit to ensure all delegated activities comply with applicable Compliance Requirements,
- Provide written feedback on the results of the annual audit, and
- Require Sub-Delegate to implement corrective action plans if the delegate does not fully meet Compliance Requirements.

If SBHASO determines that Sub-Delegate has failed to adequately perform the delegated activities, SBHASO may:

- Change or revoke the scope of sub-delegation if corrective action is not adequate; and/or
- Discontinue contracting with Sub-Delegate.

Ongoing performance of accredited delegates is evaluated through the semi-annual and routine monitoring of reports. SBHASO reserves the right to conduct annual and ad hoc audits of documentation, processes and files in order to ensure service levels, quality and compliance with regulatory requirements.

#### **Corrective Action Plans**

If Sub-Delegate fails to meet any of its responsibilities, including contracted responsibilities and NCQA accreditation or certification standards, SBHASO will work with Sub-Delegate to create a corrective

action plan to identify areas of improvement and actions plans to ensure compliance with all elements and categories. If Sub-Delegate does not take corrective action, or fails to meet improvement goals, SBHASO reserves the right to revise the delegation agreement and scope, or revoke the delegation agreement altogether.

**Subdelegation**

It may be allowable for SBHASO to sub-delegate specific activities that relate to Behavioral Health Utilization Management for Crisis Services. As provided for under the Agreement and as set forth herein, sub-delegation requires the prior written approval of the Managed Care Organizations. In addition to the requirements for sub-delegation set forth in the Agreement, SBHASO will submit to MCO a Delegation Chart. If a sub-delegation is approved, the SBHASO will be responsible for ongoing oversight of the sub-delegate’s performance and will be required to report performance results to the Managed Care Organizations.

<b>DELEGATION GRID</b>				
<b>Function</b>	<b>Sub-Delegation Status</b>	<b>Sub-Delegate Activities</b>	<b>Reporting: Data, Frequency, &amp; Submission</b>	<b>SBHASO Activities</b>
Members and practitioners can access staff to discuss UM issues <i>[UM 3]</i>	<input type="checkbox"/> Delegated <input checked="" type="checkbox"/> Not Delegated	-Staff are available at least eight hours a day during normal business hours for inbound collect or toll-free calls regarding UM issues. <i>[UM 3.A.1]</i> -Staff can receive inbound communication regarding UM issues after normal business hours. <i>[UM 3.A.2]</i> -Staff are identified by name, title and organization name when initiating or returning calls regarding UM issues. <i>[UM 3.A.3]</i> -TDD/TTY services for members who need them. <i>[UM 3.A.4]</i> - Language assistance for members to discuss UM issues. <i>[UM 3.A.5]</i>	None.	Manager of Delegation will oversee services to ensure they meet standards during annual audit.

## **Salish Behavioral Health Administrative Services Organization (SBHASO)**

### **Exhibit C-4: Claims and Encounters Delegation Grid**

The purpose of the following grid is to specify the responsibilities of [Behavioral Health Agency] (“Sub-Delegate”) under the Agreement with respect to the specific activities that are Sub-Delegated regarding Claims and Encounter Data. The grid also describes the reporting requirements, which are in addition to any applicable reporting requirements stated in the Agreement. The grid below applies to the sub-delegation of Claims Processing and Payment and Encounter Data Submission by the SBHASO to Sub-Delegate.

The delegation grid may be amended from time to time during the term of the Agreement by SBHASO to reflect changes in delegation standards; delegation status; performance measures; reporting requirements; and other provisions.

The sections that follow describe the process by which SBHASO evaluates Sub-Delegate’s performance and the remedies available to SBHASO if Sub-Delegate does not fulfill its obligations. The statements below shall not supersede any term or condition of Exhibit C, the Delegation Agreement, and all obligations and remedies set forth in the parties’ Agreement remain in full force and effect. In the event of a conflict between the descriptions below and any term or condition of the Agreement, including Exhibit C, the terms and conditions of the Agreement shall prevail.

#### **Process of Evaluating Sub-Delegate’s Performance**

SBHASO will require routine reports and documentation as listed in the delegation grid and will use this documentation to evaluate Sub-Delegate performance on an ongoing basis. In addition, SBHASO will:

- Conduct an annual audit to ensure all Sub-Delegated activities comply with applicable Compliance Requirements,
- Provide written feedback on the results of the annual audit, and
- Require Sub-Delegate to implement corrective action plans if the Sub-Delegate does not fully meet Compliance Requirements.

If SBHASO determines that Sub-Delegate has failed to adequately perform the Sub-Delegated activities, SBHASO may:

- Change or revoke the scope of delegation if corrective action is not adequate; and/or
- Discontinue contracting with Sub-Delegate.

Ongoing performance of accredited Sub-Delegates is evaluated through the semi-annual and routine monitoring of reports. SBHASO reserves the right to conduct annual and ad hoc audits of documentation, processes and files in order to ensure service levels, quality and compliance with regulatory requirements.

#### **Corrective Action Plans**

If Sub-Delegate fails to meet any of its responsibilities, including contracted responsibilities and NCQA accreditation or certification standards, SBHASO will work with Sub-Delegate to create a corrective action plan to identify areas of improvement and actions plans to ensure compliance with all elements

and categories. If Sub-Delegate does not take corrective action, or fails to meet improvement goals, SBHASO reserves the right to revise the delegation agreement and scope, or revoke the delegation agreement altogether.

**Subdelegation**

It may be allowable for the SBHASO to Sub-Delegate specific activities that relate to Claims and Encounter Data. As provided for under the Agreement and as set forth herein, sub-delegation requires the prior written approval of the Managed Care Organizations. In addition to the requirements for sub-delegation set forth in the Agreement, SBHASO will submit to the MCOs a Delegation Chart. If a sub-delegation is approved, the SBHASO will be responsible for ongoing oversight of the Sub-Delegate’s performance and will be required to report performance results to the Managed Care Organizations.

<b>CLAIMS/ENCOUNTER BUSINESS REQUIREMENTS</b>				
<b>Function</b>	<b>Sub-Delegation Status</b>	<b>Sub-Delegate Activities</b>	<b>Reporting: Data, Frequency, &amp; Submission</b>	<b>SBHASO Activities</b>
1. Encounter Data  Definition of Encounter Data	<input checked="" type="checkbox"/> Sub-Delegated  <input type="checkbox"/> Not Sub-Delegated	Encounter Data means records of physical or behavioral health care services submitted as electronic data files created by the SBHASO’s system in the standard 837 format and the National Council for Prescription Drug Programs (NCPDP) Batch format.	N/A	N/A
2. Encounter Data  Dedicated Resource	<input checked="" type="checkbox"/> Sub-Delegated  <input type="checkbox"/> Not Sub-Delegated	Designate a person dedicated to work collaboratively with SBHASO on quality control and review of encounter data submitted to HCA.	N/A	SBHASO resource will partner with the behavioral health agency resource for quality control and review of encounter data.
3. Encounter Data  Reporting requirements	<input checked="" type="checkbox"/> Sub-Delegated	Submit complete, accurate, and timely data for all services for which the SBHASO has	Weekly	SBHASO will provide oversight of the behavioral health agency encounter data.

	<input type="checkbox"/> Not Sub-Delegated	incurred any financial liability, whether directly or through subcontracts or other arrangements in compliance with current encounter submission guidelines as published by HCA.		
4. Encounter Data Expected turnaround time reporting encounter data	<input checked="" type="checkbox"/> Sub-Delegated  <input type="checkbox"/> Not Sub-Delegated	Encounter data must be submitted to SBHASO at a minimum weekly, and no later than thirty (30) calendar days from the end of the month in which the SBHASO paid the financial liability.  Date of Service, or receipt of third party notification (if applicable).	Weekly	SBHASO will monitor turnaround.
5. Encounter Data Submission and edits	<input checked="" type="checkbox"/> Sub-Delegated  <input type="checkbox"/> Not Sub-Delegated	Submitted encounters and encounter records must pass all system edits with a disposition of accept and listed in the Encounter Data Reporting Guide, Health Care Authority Service Encounter Reporting Instructions, SBHASO Data Dictionary, or sent out in communications from HCA to the SBHASO.	N/A	N/A
6. Encounter Data		Submitted	N/A	N/A

Duplicates	<input checked="" type="checkbox"/> Sub-Delegated  <input type="checkbox"/> Not Sub-Delegated	encounters or encounter records must not be a duplicate of a previously submitted and accepted encounter or encounter record unless submitted as an adjustment or void per HIPAA Transaction Standards.		
7. Encounter Data RCW 42.56.270(11)	<input type="checkbox"/> Sub-Delegated  <input checked="" type="checkbox"/> Not Sub-Delegated	N/A	N/A	<p>The SBHASO must report the paid date, paid unit, and paid amount for each encounter. The “paid amount” data is considered the SBHASO’s proprietary information and is protected from public disclosure.</p> <p>“Paid amount” is defined as the amount paid for the service, or zero pay for cost based/invoice payments.</p>
8. Encounter Data 42 C.F.R. § 438.606  Attestations	<input checked="" type="checkbox"/> Sub-Delegated  <input type="checkbox"/> Not Sub-Delegated	The behavioral health provider shall send attestation to SBHASO to certify the accuracy and completeness of all encounter data concurrently with each file upload.	Weekly	SBHASO will receive monthly attestations from the behavioral health provider. SBHASO will review and complete a monthly attestation and sent to the MCOs. The MCOs will review and complete the monthly certification letter and send to the HCA.
9. Encounter Data  837 Requirements	<input checked="" type="checkbox"/> Sub-Delegated	The behavioral health provider must be able to meet the requirements	N/A	N/A



	<input type="checkbox"/> Not Sub-Delegated	outlined in the attached requirements document.		
10. Encounter Data Quality Assurance	<input checked="" type="checkbox"/> Sub-Delegated <input type="checkbox"/> Not Sub-Delegated	The behavioral health provider must validate the accuracy and completeness of all encounter data for behavioral health care services compared to the year-to-date general ledger of paid claims for the health care services.	Quarterly	The SBHASO will oversee the quality assurance of behavioral health provider encounters. The SBHASO must validate the accuracy and completeness of all encounter data for behavioral health care services compared to the year-to-date general ledger of paid claims for the health care services.  The MCOs will oversee the quality assurance of the SBHASO encounters.
11. Encounter Data Form D	<input type="checkbox"/> Sub-Delegated <input checked="" type="checkbox"/> Not Sub-Delegated	N/A	Quarterly	Within sixty (60) calendar days of the end of each calendar quarter, the SBHASO shall provide aggregate totals of all encounter data submitted and accepted during that quarter on the Apple Health - Integrated Managed Care Quarterly Encounter/General Ledger Reconciliation (Form D). SBHASO shall reconcile the cumulative encounter data submitted and accepted for the quarter and contract year with the general ledger paid claims for the quarter. The SBHASO shall provide justification for

				<p>any discrepancies.</p> <p>SBHASO will complete Form D and send to MCOs.</p> <p>MCO will submit Form D to HCA.</p> <p>HCA will approve or reject the discrepancy justifications and notify the MCOs of the decision 120 calendar days of the end of each calendar quarter.</p>
<p>12. Claims Payment Standards</p> <p>Section 1902(a)(37) of the Social Security Act</p> <p>42 C.F.R. § 447.46</p> <p>WAC 284-170-431</p>	<p><input type="checkbox"/> Sub-Delegated</p> <p><input checked="" type="checkbox"/> Not Sub-Delegated</p>	N/A	Monthly	<p>The SBHASO shall meet the timeliness of payment standards. These standards shall also be applicable to State-only and federal block grant fund payments.</p> <p>To be compliant with payment standards the SBHASO shall pay or deny 95 percent of clean claims within thirty (30) calendar days of receipt, 95 percent of all claims within sixty (60) calendar days of receipt and 95 percent of clean claims within ninety (90) calendar days of receipt.</p> <p>The SBHASO shall provide a monthly report to the MCO of claims timeliness results. If standard is not met, provide root cause and corrective action until performance expectation is met.</p>

<p>13. Claims processing</p> <p>Top Claims Denials Reporting</p>	<p><input type="checkbox"/> Sub-Delegated</p> <p><input checked="" type="checkbox"/> Not Sub-Delegated</p>	<p>N/A</p>	<p>Quarterly</p>	<p>The SBHASO shall produce and submit a quarterly claims denial analysis report. The first report due May 31<sup>st</sup> 2020 for services processed January – March 2020. The report shall include the following data:</p> <p>Total number of approved claims for which there was at least one denied line.</p> <p>Completely denied claims.</p> <p>Total number of claims adjudicated in the reporting claim.</p> <p>Total number of behavioral health claims denied by claim line.</p> <p>Summary by reason and type of claims denied.</p> <p>The total number of denied claims divided by the total number of claims.</p> <p>For each of the five network billing providers with the highest number of total denied claims, the number of total denied claims expressed as a ratio to all claims adjudicated.</p> <p>Total number of Behavioral Health claims received, that were not</p>
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				<p>approved upon initial submission.</p> <p>The total number of rejected/non-clean behavioral health claims, divided by the total number of claims submitted.</p> <p>The top five reasons for behavioral health claims being rejected upon initial submission.</p> <p>The report shall include a narrative, including the action steps planned to address.</p> <p>The top five (5) reasons for denial, including provider education to the five network billing providers with the highest number of total denied claims. Provider education must address root causes of denied claims and actions to address them.</p> <p>MCOs will review denials, and may report up to the HCA.</p>
14. TPL Reporting	<input checked="" type="checkbox"/> Sub-Delegated  <input type="checkbox"/> Not Sub-Delegated	The behavioral health agency shall report all third party revenue for each submitted claim to the SBHASO.	Monthly	The SBHASO shall submit a quarterly <i>Recovery and Cost Avoidance Report</i> that includes any recoveries for third party resources as well as claims that the SBHASO denies due to TPL coverage. The report shall include recoveries or denied claim

			<p>payments for any covered service. The SBHASO shall calculate cost savings in categories. The SBHASO shall treat funds recovered from third parties as offsets to claims payments and reflect those offsets in encounter data. The report is due by the sixtieth (60th) calendar day following the end of the quarter.</p> <p>The SBHASO shall submit to the MCO on the 15th of the month following the end of the monthly reporting period a report (Enrollees with Other Health Care Insurance) of Enrollees with any other health care insurance coverage with any carrier, including the SBHASO.</p> <p>The SBHASO shall submit to the MCO on the 20th of the following month a report (Subrogation Rights of Third Party Liability (TPL) – Investigations) of any Enrollees who the SBHASO newly becomes aware of a cause of action to recover health care costs for which the SBHASO has paid under the Agreement.</p>
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				MCO will review and report outcome to the HCA.
15. Participating and Non-Participating Reporting	<input type="checkbox"/> Sub-Delegated <input checked="" type="checkbox"/> Not Sub-Delegated	N/A		<p>The SBHASO shall track and record all payments to Participating Providers and Non-Participating Providers in a manner that allows for reporting to the MCO the number, amount, and percentage of claims paid to Participating Providers and Non-Participating Providers separately. The SBHASO shall identify the type of providers and Subspecialty. The SBHASO shall also track, document and report to the MCO any known attempt by Non-Participating Providers to balance bill Enrollees.</p> <p>The SBHASO shall provide annual reports to the MCO for the preceding state fiscal year (July 1 through June 30). The reports shall indicate the proportion of services provided by the SBHASO's Participating Providers and Non-Participating Providers, by county, and including hospital-based physician services.</p> <p>SBHASO shall submit the reports to the MCO no</p>

				<p>later than August 15 of each year.</p> <p>MCO will monitor, and may report up to the HCA.</p>
<p>16. Sub-delegation Agreements</p> <p>SBHASO sub-delegation agreements with a vendor</p>	<p><input type="checkbox"/> Sub-Delegated</p> <p><input checked="" type="checkbox"/> Not Sub-Delegated</p>	N/A		<p>The SBHASO will notify the MCO of sub-delegation vendor agreements the SBHASO has; what duties do they perform, and how often.</p>
<p>17. Claims/Encounter Delegation Oversight Audit</p> <p>Quality Assurance Audits</p>	<p><input type="checkbox"/> Sub-Delegated</p> <p><input checked="" type="checkbox"/> Not Sub-Delegated</p>	N/A	Annual	<p>MCO is required to perform an annual oversight delegation audit of encounter data reporting/ claims processing.</p> <p>The objective of this audit is to assess the effectiveness of key internal controls by ensuring the accuracy, completeness, and timeliness of the encounter/claims processing functions.</p> <p>SBHASO will provide MCO claims data set for specified time period.</p> <p>MCO will review the claims data set for the following:</p> <ul style="list-style-type: none"> <li>• Review encounter/claims universe sample of all claims paid or denied for 1 year;</li> <li>• Verify the member</li> </ul>

				<p>was eligible for benefits on the dates of service;</p> <ul style="list-style-type: none"><li>• Review encounter submission and reconciliation to ensure requirements are met;</li><li>• Review claim payment calculations and verify that claims were paid accurately;</li><li>• Verify claims were submitted by the provider within 365 days of dates of service;</li><li>• Review responses to audit questionnaire to ensure compliance.</li></ul>
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## **Salish Behavioral Health Administrative Services Organization (SBHASO)**

### **Exhibit C-5: Quality Improvement (QI) Delegation Grid**

The purpose of the following grid is to specify the responsibilities of [Behavioral Health Agency] (“Sub-Delegate”) under the Agreement with respect to the specific activities that are sub-delegated for Quality Improvement. The grid also describes the semi-annual reporting requirements, which are in addition to any applicable reporting requirements stated in the Agreement. The grid below applies to the sub-delegation of Behavioral Health Telephone Access for Crisis Services by SBHASO to Sub-Delegate.

SBHASO does not formally sub-delegate the responsibility for performing quality management and improvement activities on behalf of SBHASO. However, SBHASO does require Sub-Delegates to maintain a quality improvement and management program pertaining to sub-delegated activities, and to participate and cooperate in SBHASO’s quality improvement program, collect data for SBHASO quality improvement activities, and carry out corrective actions as required by SBHASO.

The delegation grid may be amended from time to time during the term of this Agreement by SBHASO to reflect changes in delegation standards; delegation status; performance measures; reporting requirements; and other provisions.

The sections that follow describe the process by which SBHASO evaluates Sub-Delegate’s performance and the remedies available to SBHASO if Sub-Delegate does not fulfill its obligations. The statements below shall not supersede any term or condition of Exhibit C, the Delegation Agreement, and all obligations and remedies set forth in the parties’ Agreement remain in full force and effect. In the event of a conflict between the descriptions below and any term or condition of the Agreement, including Exhibit C, the terms and conditions of the Agreement shall prevail.

#### **Process of Evaluating Delegate’s Performance**

SBHASO will require routine reports and documentation as listed in the delegation grid and will use this documentation to evaluate Sub-Delegate performance on an ongoing basis. In addition, SBHASO will:

- Conduct an annual audit to ensure all sub-delegated activities comply with applicable Compliance Requirements,
- Provide written feedback on the results of the annual audit, and
- Require Delegate to implement corrective action plans if the delegate does not fully meet Compliance Requirements.

If SBHASO determines that Sub-Delegate has failed to adequately perform the delegated activities, SBHASO may:

- Change or revoke the scope of delegation if corrective action is not adequate; and/or
- Discontinue contracting with Sub-Delegate.

Ongoing performance of accredited delegates is evaluated through the semi-annual and routine monitoring of reports. SBHASO reserves the right to conduct annual or ad hoc audits of documentation,

processes and files in order to ensure service levels, quality and compliance with regulatory requirements.

**Corrective Action Plans**

If Sub-Delegate fails to meet any of its responsibilities, including contracted responsibilities and NCQA accreditation or certification requirements, SBHASO will work with Sub-Delegate to create a corrective action plan to identify areas of improvement and actions plans to ensure compliance with all elements and categories. If Delegate does not take corrective action, or fails to meet improvement goals, SBHASO reserves the right to revise the delegation agreement and scope, or revoke the delegation agreement altogether.

**Subdelegation**

It may be allowable for a SBHASO to sub-delegate specific activities that relate to Crisis Services telephone operations. As provided for under the Agreement and as set forth herein, sub-delegation requires the prior written approval of the Managed Care Organizations. In addition to the requirements set forth in the Agreement, SBHASO will submit to MCO a Delegation Chart. If a sub-delegation is approved, the SBHASO will be responsible for ongoing oversight of the sub-delegate’s performance and is required to report performance results to the Managed Care Organizations.

<b>DELEGATION GRID</b>				
<b>Function</b>	<b>Sub-Delegation Status</b>	<b>Sub-Delegate Activities</b>	<b>Reporting: Data, Frequency, &amp; Submission</b>	<b>SBHASO Activities</b>
Behavioral Health Telephone Access [QI 4.B.1 and QI 4.B.2]	<input checked="" type="checkbox"/> Sub-Delegated  <input type="checkbox"/> Not Sub-Delegated	Telephones are answered by a live voice within 30 seconds with an abandonment rate within 5 percent.	Submission to SBHASO staff of a monthly summary report that includes total calls, call answer time and abandonment rate. Reports provided in electronic or hard copy.	Manager of Sub-Delegation will receive and review monthly reports for performance review. Quality and Compliance Committee will review monthly reports on a quarterly basis.

## ATTACHMENT D: BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (this “**Agreement**”) is effective as of the 1st day of January, 2024 (“**Effective Date**”) by and between SALISH BEHAVIORAL HEALTH-ADMINISTRATIVE SERVICES ORGANIZATION (**SBHASO**) and Discovery Behavioral Health (**Contractor**) (individually, a “**Party**” and, collectively, the “**Parties**”).

- A. The Parties wish to enter into this Agreement to comply with the administrative simplification section of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations, as may be amended from time to time (collectively, “**HIPAA**”).
- B. SBHASO is a behavioral health-administrative services organization, a Business Associate of certain upstream Covered Entities (“**Upstream Covered Entities**”), and a lawful holder of Part 2 Information, as defined below, as provided under the Confidentiality of Alcohol and Drug Abuse Patient Records regulations at 42 CFR Part 2 (“**Part 2**”). SBHASO also formerly was a Covered Entity and may continue to Use, Disclose, and maintain PHI from when it was a Covered Entity.
- C. The Parties have entered into one or more arrangements (collectively, the “**Service Contract**”) under which Contractor will provide certain services to SBHASO that may involve Contractor creating, receiving, maintaining, or transmitting PHI, as defined below, and Contractor may be considered a Subcontractor Business Associate of SBHASO under HIPAA and a subcontractor of a lawful holder under Part 2.

NOW, THEREFORE, in consideration of the Parties’ continuing obligations under the Service Contract, their compliance with HIPAA and Part 2, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to this Agreement.

- I. **DEFINITIONS.** Except as otherwise defined in this Agreement, capitalized terms in this Agreement shall have the definitions set forth in HIPAA. “**Individual**” shall have the same meaning as the term “Individual” in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g). “**Part 2 Information**” means alcohol abuse, drug abuse, or substance use disorder information covered by Part 2. “**PHI**” shall have the same meaning as the term “Protected Health Information” that is created, received, maintained, or transmitted by Contractor from or on behalf of SBHASO. PHI includes, without limitation, Electronic PHI, mental health information, sexually transmitted disease information, and Part 2 Information. “**PII**” means personally identifiable information as defined under Washington law.

### II. **PERMITTED USES AND DISCLOSURES BY CONTRACTOR.**

- 2.1 **Performance of Service Contract.** Contractor may use and disclose PHI and PII to perform functions, activities, or services for, or on behalf of, SBHASO as specified in the Service Contract as long as the use or disclosure would not violate HIPAA, Part 2, and state and federal laws (collectively, “**Law**”), if done by Salish BH-ASO or an Upstream Covered Entity.
- 2.2 **Management; Administration; Legal Responsibilities.** Contractor may use PHI and PII for its proper management and administration and to fulfill its legal responsibilities, as long as the uses are permitted under Law for an Upstream Covered Entity, SBHASO, and Contractor.
- 2.3 **Required by Law.** Except as otherwise limited in this Agreement, Contractor may disclose PHI and PII as Required by Law. Contractor shall: (i) to the extent permitted by Law, immediately notify SBHASO prior to the disclosure; (ii) cooperate with SBHASO in making any disclosures Required by Law, including efforts to challenge or limit the disclosure; and (iii) provide a copy of all information disclosed relating to this Agreement or the Service Contract.

- 2.4 **De-Identified Information.** Contractor may not use or disclose PHI or PII to create de-identified information or Limited Data Sets or to otherwise anonymize or aggregate PHI or PII for its own use or disclosure, without prior, express, written approval from SBHASO.
- 2.5 **Minimum Necessary.** Contractor shall make all reasonable efforts to access, use, disclose, or request only the minimum necessary amount of PHI or PII to accomplish the intended, permitted purpose of the access, use, disclosure, or request. Contractor shall comply with SBHASO's policies and procedures concerning minimum necessary requirements. The Parties shall collaborate in determining what quantum of information constitutes the "minimum necessary" amount for Contractor to accomplish its intended purposes.

### III. **OBLIGATIONS AND ACTIVITIES OF CONTRACTOR.**

- 3.1 **Compliance with this Agreement.** Notwithstanding anything to the contrary, Contractor agrees to not use or further disclose PHI or PII other than as permitted or required by this Agreement or as Required by Law.
- 3.2 **Safeguards.** Contractor agrees to: (i) use appropriate safeguards to prevent use or disclosure of PHI and PII other than as provided for by this Agreement; (ii) implement the administrative, physical, and technical safeguards of the Security Standards for the Protection of Electronic Protected Health Information (the "**Security Rule**") that reasonably and appropriately protect the confidentiality, integrity, and availability of any PHI; (iii) comply with those requirements under the Security Rule that apply to Business Associates; and (iv) implement appropriate safeguards to protect Part 2 Information.
- 3.3 **Notification.**
  - 3.3.1 **Impermissible Use or Disclosure.** Contractor shall report to SBHASO any use or disclosure of PHI or PII not permitted under this Agreement, regardless of whether the use or disclosure rises to the level of a Breach.
  - 3.3.2 **Security Incident.** Contractor shall report to SBHASO any Security Incident of which Contractor becomes aware, regardless of whether the Security Incident rises to the level of a Breach. This Agreement constitutes notification of "unsuccessful" Security Incidents that do not present a risk to PHI or PII such as: (i) "pings" on an information system firewall; (ii) port scans; and (iii) attempts to log on to an information system or enter a database with an invalid password or user name.
  - 3.3.3 **Breach Notification.** Contractor shall report any Breach of Unsecured PHI, as required by the Notification of a Breach of Unsecured Protected Health Information Standards (the "**Breach Notification Rule**").
  - 3.3.4 **Part 2 Information.** Contractor shall report to SBHASO unauthorized uses, disclosures, or breaches of Part 2 Information.
  - 3.3.5 **Reporting Requirements.** Contractor shall make the report as soon as practical and in any event within five (5) business days of Contractor's discovery of one of the events described in Sections 3.3.1, 3.3.2, 3.3.3, and 3.3.4 (each, an "**Event**"). Contractor shall supplement the information provided in the report as it becomes available. An Event shall be treated as discovered by Contractor as of the first day on which the Event is known to Contractor or, through the exercise of reasonable diligence, would have been known to Contractor.
  - 3.3.6 **Content of Notification.** Contractor shall provide: (i) information as required by the Breach Notification Rule and to fully inform SBHASO of each Event; and (ii) any additional

information requested by SBHASO. At a minimum, the report of an Event shall include, to the extent possible:

- (a) The identification of each Individual whose PHI or PII has been, or is reasonably believed by Contractor to have been, accessed, acquired, used, or disclosed during or as a result of the Event;
- (b) A brief description of what happened, including the date of the Event and the date of discovery of the Event;
- (c) A description of the types of PHI or PII involved in the Event (such as whether full name, Social Security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
- (d) Any steps Individuals should take to protect themselves from potential harm resulting from the Event;
- (e) A brief description of what Contractor is doing to investigate the Event, to mitigate harm to Individuals, and to protect against any further Events; and
- (f) Contact procedures for SBHASO or Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

- 3.4 **Subcontractors.** Contractor shall ensure any Subcontractor whom Contractor permits to create, receive, maintain, or transmit PHI or PII on behalf of Contractor or SBHASO, agrees in writing: (i) to the same restrictions and conditions that apply through this Agreement to Contractor; and (ii) to comply with the requirements of the Security Rule that apply to Business Associates. Contractor shall not permit a Subcontractor to create, receive, maintain, or transmit PHI or PII unless Contractor has performed adequate due diligence on the Subcontractor and found Subcontractor's safeguards appropriate.
- 3.5 **Restrictions.** Contractor agrees to comply with any requests for restrictions on certain uses and disclosures of PHI or PII of which SBHASO informs Contractor.
- 3.6 **Access.** At the request of SBHASO, within ten (10) business days, unless a shorter time period is requested, in the manner, form, and format requested by SBHASO, Contractor shall make available PHI and PII so that SBHASO or an Upstream Covered Entity may respond to an Individual's request for access to PHI and PII in accordance with the Standards for Privacy of Individually Identifiable Health Information (the "Privacy Rule") and other Law. In the event an Individual requests from Contractor access to PHI or PII, Contractor, to the extent permitted by Law, shall forward the request to SBHASO within two (2) business days.
- 3.7 **Amendment.** At the request of SBHASO in a reasonable time and manner and in the form and format requested by SBHASO, Contractor shall make amendments to PHI and PII so that SBHASO or an Upstream Covered Entity may respond to an Individual's request for an amendment by SBHASO in accordance with the Privacy Rule and other Law. In the event an Individual requests from Contractor any amendments, to the extent permitted by Law, Contractor shall forward the request to SBHASO within two (2) business days.
- 3.8 **Accounting of Disclosures.** Contractor shall document any disclosures that are required to be in an accounting of disclosures under the Privacy Rule and, upon request, shall provide information required to be included in an accounting of disclosures to SBHASO to permit SBHASO or an Upstream Covered Entity to comply with the Privacy Rule and other Law. In the event an Individual requests from Contractor, an accounting of disclosures, to the extent permitted by law, Contractor shall forward the request to Salish BH-ASO within two (2) business days.

- 3.9 **Disclosures to the Secretary.** Contractor agrees that it will make its internal practices, books, and records available to the Secretary of the United States Department of Health and Human Services (the “**Secretary**”), for the purpose of determining an Upstream Covered Entity’s, SBHASO’s or Contractor’s compliance with HIPAA, and to SBHASO for the purpose of determining Contractor’s compliance with this Agreement, HIPAA, and other Law, in a time and manner designated by the Secretary or SBHASO. Contractor: (i) immediately shall notify Salish BH-ASO of any requests from the Secretary pertaining to an investigation of an Upstream Covered Entity’s, SBHASO’s, or Contractor’s compliance with HIPAA; (ii) cooperate with Salish BH-ASO in responding to the Secretary’s request; and (iii) provide to SBHASO a copy of all documents provided to the Secretary.
- 3.10 **Part 2 Information.**
- 3.10.1 **Part 2 Obligations of Contractor.** To the extent that, in performing services for or on behalf of SBHASO under the Service Contract, Contractor uses, discloses, maintains, or transmits Part 2 Information, Contractor acknowledges and agrees that it: (i) is fully bound by Part 2; (ii) with respect to Part 2 Information received by SBHASO pursuant to an authorization or consent, will limit its use and disclosure of Part 2 Information to Payment and Health Care Operations purposes; and (iii) if necessary, will resist in judicial proceedings any efforts to obtain access to Part 2 Information except as permitted by Part 2.
- 3.10.2 **Notice.** 42 CFR Part 2 prohibits unauthorized disclosure of these records.
- 3.10.3 **Redisclosure.** Contractor shall not redisclose Part 2 Information to a third party unless the third party is a contract agent of Contractor helping Contractor provide services under the Service Contract and only as long as the agent further discloses Part 2 Information only back to Contractor or SBHASO.
- 3.10.4 **Compliance.** Contractor acknowledges that any unauthorized disclosure of Part 2 Information may be a federal criminal offense.
- 3.11 **Sexually Transmitted Disease Information Notice.** With respect to sexually transmitted disease information: This information has been disclosed to you (Contractor) from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of it without the specific written authorization for the release of medical or other information is NOT sufficient for this purpose.
- 3.12 **Covered Entity Obligations.** To the extent that Contractor is to carry out one or more of Covered Entity obligations under the Privacy Rule, Contractor shall comply with the requirements of the Privacy Rule that apply to a Covered Entity in the performance of the obligations.
- 3.13 **On-Site Services.** Contractor agrees that, while present at any SBHASO facility and/or when accessing SBHASO’s computer networks, it and all of its Workforce, agents, and Subcontractors at all times will comply with any network access and other security practices, policies, and procedures established by SBHASO including, without limitation, those established pursuant to HIPAA.
- 3.14 **No Sale of PHI.** Contractor agrees that it will not directly or indirectly receive remuneration in exchange for any PHI or PII without: (a) the written authorization of each applicable Individual, except when expressly permitted by the Privacy Rule; and (b) the advance written permissions of SBHASO.

- 3.15 **No Impermissible Marketing or Fundraising Communication.** Contractor agrees that it will not engage in Marketing or fundraising communications that would not be permitted by SBHASO or an Upstream Covered Entity under HIPAA.
- 3.16 **Mitigation.** Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PHI or PII by Contractor in breach of this Agreement, failure to comply with applicable Law, and any Event, as defined in Section 3.3.
- 3.17 **Compliance with Applicable Law.** Contractor shall comply with applicable Law. Contractor shall not act or fail to act in a manner that causes SBHASO to not be in compliance with applicable Law.

**IV. OBLIGATIONS OF SBHASO.** SBHASO shall not request Contractor to act in a manner that is not permissible under HIPAA.

**V. TERM AND TERMINATION.**

- 5.1 **Term.** The term of this Agreement shall be effective as of the Effective Date and shall terminate upon the expiration or termination of the Service Contract.
- 5.2 **Termination.** Upon SBHASO's knowledge of a material breach by Contractor of its obligations under this Agreement, SBHASO may notify Contractor, and Contractor shall have thirty (30) days from receipt of that notice to cure the breach or end the violation. Notwithstanding anything to the contrary in the Service Contract, if Contractor fails to cure the breach or end the violation within the designated time period, then SBHASO immediately may terminate the Service Contract upon notice.
- 5.3 **Effect of Termination.**
  - 5.3.1 **Return or Destruction.** Except as provided in 5.3.2, upon termination of this Agreement, Contractor, within ten (10) days, shall return or destroy all PHI and PII. Any destruction shall be in a manner consistent with HIPAA and related guidance. This provision also shall apply to PHI and PII that is in the possession of agents or Subcontractors of Contractor. Neither Contractor nor its agents or Subcontractors shall retain copies of the PHI. Upon request, Contractor shall provide a certificate of appropriate destruction of the PHI and PII.
  - 5.3.2 **Continued Protections.** In the event that Contractor determines that returning or destroying the PHI and PII is infeasible, Contractor shall provide within ten (10) days to SBHASO notification of the conditions that make return or destruction infeasible of PHI and PII. Upon mutual agreement of the Parties that return or destruction of PHI is infeasible and to the extent Contractor retains knowledge of the PHI and PII, Contractor shall extend the protections of this Agreement to the PHI and PII and limit further uses and disclosures of the PHI and PII to those purposes that make the return or destruction infeasible, for as long as Contractor maintains, or retains knowledge of, the PHI or PII.

**VI. MISCELLANEOUS.**

- 6.1 **Indemnification Obligation.** Notwithstanding anything to the contrary in the Service Contract, Contractor will indemnify, defend at SBHASO's request, and hold harmless SBHASO, its Workforce, County Authorities Executive Committee, Advisory Board, partners, agents, and Subcontractors (collectively "**SBHASO Indemnified Parties**") from and against any and all claims, actions, investigations, proceedings, losses, liability, damages, costs, and expenses (including attorneys' fees, costs of defense, and costs of investigation, mitigation, remediation, and notification) incurred or suffered by an SBHASO Indemnified Party (collectively, "**Damages**") that

arise out of, result from, allege, or relate to any of the following: (i) Contractor's breach of this Agreement, including any breach of any representation or warranty; (ii) any Event reported by Contractor under this Agreement; (iii) any violation of Law by or caused by Contractor or its Workforce, agents, or Subcontractors; or (iv) any negligent act or omission, willful misconduct, strict liability, or fraud by or of Contractor or its Workforce, agents, or Subcontractors.

- 6.2 **Coverage of Costs.** In addition, and without limitation of Supplier's obligations under Section 6.1, Supplier will pay the reasonable costs incurred by SBHASO and any affected Upstream Covered Entities in connection with the following items with respect to any Event: (a) any investigation to determine the cause of an Event, including forensic consultations; (b) legal advice regarding an Event; (c) provision of notification of an Event to affected Individuals, applicable government, relevant industry self-regulatory agencies, and the media; (d) provision of credit monitoring and/or identity theft services to affected Individuals; (e) operation of a call center to respond to questions from Individuals; and (f) other reasonable mitigation efforts as deemed necessary or appropriate by SBHASO and any affected Upstream Covered Entity.
- 6.3 **Process for Indemnification.** SBHASO will notify Contractor of any Damages for which it seeks indemnification. Upon a SBHASO request for defense, Contractor will use counsel reasonably satisfactory to the SBHASO Indemnified Parties to defend each claim related to the Damages and will keep the SBHASO Indemnified Parties informed of the status of the defense of each of the Damages. SBHASO will give Contractor reasonable assistance, at Contractor's expense, as Contractor may reasonably request. SBHASO will provide Contractor the opportunity to assume sole control over defense and settlement, as long as Contractor will not consent to the entry of any judgment or enter into any settlement without the SBHASO Indemnified Parties' prior written consent, which will not be unreasonably withheld. Any SBHASO Indemnified Party may participate in the defense at its own expense. Contractor's duty to defend is independent of its duty to indemnify, to mitigate, or to cover costs.
- 6.4 **Not Limited by Insurance Coverage.** Contractor's indemnification, mitigation, coverage of costs, and defense obligations will not be limited in any manner whatsoever by any required or other insurance coverage maintained by Contractor.
- 6.5 **No Limitations on Liability.** Notwithstanding any other provision of this Agreement or the Service Contract, in no event will any exclusions, disclaimers, waivers, or limitations of any nature whatsoever apply to any damages, liability, rights, or remedies arising from or in connection with: (i) Contractor's indemnification and defense obligations under this Agreement; (ii) Contractor's breach of this Agreement, including any breach of any representation or warranty; (iii) any Event reported by Contractor; (iv) any violation of Law by or caused by Contractor or its Workforce, agents, or Subcontractors; or (v) any negligent act or omission, willful misconduct, strict liability, or fraud by or of Contractor or its Workforce, agents, or Subcontractors.
- 6.6 **Ownership of Information.** The Parties agree that Contractor shall not have an ownership interest in PHI or PII or any derivations of the PHI or PII.
- 6.7 **Insurance.** Contractor shall maintain appropriate and adequate insurance coverage, including cyber insurance, to cover Contractor's obligations pursuant to this Agreement. Contractor's cyber insurance shall be no less than one million dollars (\$1,000,000) per occurrence. Upon request, Contractor shall provide evidence of insurance coverage.
- 6.8 **Equitable and Injunctive Relief.** The Parties acknowledge that the use or disclosure of PHI or PII in a manner inconsistent with this Agreement may cause SBHASO and its Upstream Covered



Entities irreparable damage and that SBHASO and its Upstream Covered Entities shall have the right to equitable and injunctive relief, without having to post bond, to prevent the unauthorized use or disclosure of PHI or PII and to damages as are occasioned by an Event in addition to other remedies available at law or in equity. SBHASO's and Upstream Covered Entities' remedies under this Agreement and the Service Contract shall be cumulative, and the exercise of any remedy shall not preclude the exercise of any other.

- 6.9 **Third Party Beneficiaries.** Notwithstanding anything to the contrary in the Service Contract or this Agreement, Individuals who are the subject of PHI shall be third party beneficiaries to this Agreement. Subject to the foregoing, nothing in this Agreement shall confer upon any person other than the Parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- 6.10 **Interpretation.** This Agreement shall be interpreted in a manner consistent with the Parties' intent to comply with HIPAA, Part 2, and other Law. Any ambiguity of this Agreement shall be resolved in favor of a meaning that permits the Parties to comply with HIPAA, Part 2, and other Law. In the event of an inconsistency between the provisions of this Agreement and mandatory provisions of HIPAA, HIPAA shall control. In the event of any inconsistency between this Agreement and the Service Contract or any other agreement between the Parties, the terms of this Agreement shall control. Nothing in this Agreement shall be construed as a waiver of any legal privilege or protection, including for trade secrets or confidential commercial information.
- 6.11 **Survival.** The obligations of Contractor under Sections 3.2, 3.3, 3.6, 3.8, 3.10, 3.11, 3.14, 3.16, 5.3, 6.1, 6.2, 6.3, 6.4, 6.6, 6.8, and 6.9 of this Agreement shall survive the expiration, termination, or cancellation of this Agreement, the Service Contract, and/or the business relationship of the Parties, and shall continue to bind Contractor, its Workforce, agents, employees, subcontractors, successors, and assigns as set forth in this Agreement.
- 6.12 **Amendment.** This Agreement may be amended or modified only in a writing signed by the Parties. The Parties agree that they will negotiate amendments to this Agreement to conform to any changes in HIPAA and Part 2.
- 6.13 **Assignment.** Neither Party may assign its respective rights and obligations under this Agreement without the prior written consent of the other Party.
- 6.14 **Independent Contractor.** None of the provisions of this Agreement are intended to create, nor will they be deemed to create, any relationship between the Parties other than that of independent parties contracting with each other solely for the purposes of effecting the provisions of this Agreement and any other agreements between the Parties evidencing their business relationship. No agency relationship is deemed created by this Agreement.
- 6.15 **Governing Law.** To the extent this Agreement is not governed exclusively by HIPAA, Part 2, or other Law, it will be governed by and construed in accordance with the laws of the State of Washington.
- 6.16 **No Waiver.** No change, waiver, or discharge of any liability or obligation under this Agreement on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.
- 6.17 **Severability.** In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this Agreement will remain in full force and effect.

- 6.18 **Notice.** Any notification required in this Agreement shall be made in writing to the representative of the Party who signed this Agreement or the person currently serving in that representative's position with the other Party.
- 6.19 **Entire Agreement.** This Agreement constitutes the entire understanding of the Parties with respect to its subject matter and supersedes all prior agreements, oral or written.

## ATTACHMENT E: DATA USE, SECURITY AND CONFIDENTIALITY

### 1 Definitions

The definitions below apply to this Attachment:

- 1.1 **“Authorized User”** means an individual or individuals with an authorized business need to access HCA’s Confidential Information under this Contract.
- 1.2 **“Breach”** means the unauthorized acquisition, access, use, or disclosure of Data shared under this Contract that compromises the security, confidentiality or integrity of the Data.
- 1.3 **“Business Associate”** means a Business Associate as defined in 45 CFR 160.103, who performs or assists in the performance of an activity for or on behalf of HCA, a Covered Entity that involves the use or disclosure of protected health information (PHI). Any reference to Business Associate in this DSA includes Business Associate’s employees, agents, officers, Subcontractors, third party contractors, volunteers, or directors.
- 1.4 **“Business Associate Agreement”** means the HIPAA Compliance section of this Exhibit and includes the Business Associate provisions required by the U.S. Department of Health and Human Services, Office for Civil Rights.
- 1.5 **“Covered Entity”** means HCA, which is a Covered Entity as defined in 45 C.F.R. § 160.103, in its conduct of covered functions by its health care components.
- 1.6 **“Data”** means the information that is disclosed or exchanged as described by this Contract. For purposes of this Attachment, Data means the same as “Confidential Information.”
- 1.7 **“Designated Record Set”** means a group of records maintained by or for a Covered Entity, that is: the medical and billing records about Individuals maintained by or for a covered health care provider; the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or Used in whole or part by or for the Covered Entity to make decisions about Individuals.
- 1.8 **“Disclosure”** means the release, transfer, provision of, access to, or divulging in any other manner of information outside the entity holding the information.
- 1.9 **“Electronic Protected Health Information (ePHI)”** means Protected Health Information that is transmitted by electronic media or maintained as described in the definition of electronic media at 45 C.F.R. § 160.103.
- 1.10 **“Hardened Password”** after July 1, 2019 means a string of characters containing at least three of the following character classes: upper case letters; lower case letters; numerals; and special characters, such as an asterisk, ampersand or exclamation point.
  - 1.10.1 Passwords for external authentication must be a minimum of 10 characters long.
  - 1.10.2 Passwords for internal authentication must be a minimum of 8 characters long.
  - 1.10.3 Passwords used for system service or service accounts must be a minimum of 20 characters long.

- 1.11 **“HIPAA”** means the Health Insurance Portability and Accountability Act of 1996, as amended, together with its implementing regulations, including the Privacy Rule, Breach Notification Rule, and Security Rule. The Privacy Rule is located at 45 C.F.R. Part 160 and Subparts A and E of 45 C.F.R. Part 164. The Breach Notification Rule is located in Subpart D of 45 C.F.R. Part 164. The Security Rule is located in 45 C.F.R. Part 160 and Subparts A and C of 45 C.F.R. Part 164.
- 1.12 **“HIPAA Rules”** means the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. Parts 160 and Part 164.
- 1.13 **“Medicare Data Use Requirements”** refers to the four documents attached and incorporated into this Exhibit as Schedules 1, 2, 3, and 4 that set out the terms and conditions Contractor must agree to for the access to and use of Medicare Data for the Individuals who are dually eligible in the Medicare and Medicaid programs.
- 1.14 **“Minimum Necessary”** means the least amount of PHI necessary to accomplish the purpose for which the PHI is needed.
- 1.15 **“Portable/Removable Media”** means any Data storage device that can be detached or removed from a computer and transported, including but not limited to: optical media (e.g. CDs, DVDs); USB drives; or flash media (e.g. CompactFlash, SD, MMC).
- 1.16 **“Portable/Removable Devices”** means any small computing device that can be transported, including but not limited to: handhelds/PDAs/Smartphones; Ultramobile PC’s, flash memory devices (e.g. USB flash drives, personal media players); and laptops/notebook/tablet computers. If used to store Confidential Information, devices should be Federal Information Processing Standards (FIPS) Level 2 compliant.
- 1.17 **“PRISM”** means the DSHS secure, web-based clinical decision support tool that shows administrative data for each Medicaid Client and is organized to identify care coordination opportunities.
- 1.18 **“Protected Health Information”** or “PHI” has the same meaning as in HIPAA except that in this Contract the term includes information only relating to individuals.
- 1.19 **“ProviderOne”** means the Medicaid Management Information System, which is the State’s Medicaid payment system managed by HCA.
- 1.20 **“Security Incident”** means the attempted or successful unauthorized access, use, disclosure, modification or destruction of information or interference with system operations in an information system.
- 1.21 **“Tracking”** means a record keeping system that identifies when the sender begins delivery of Confidential Information to the authorized and intended recipient, and when the sender receives confirmation of delivery from the authorized and intended recipient of Confidential Information.
- 1.22 **“Transmitting”** means the transferring of data electronically, such as via email, SFTP, web-services, AWS Snowball, etc.
- 1.23 **“Transport”** means the movement of Confidential Information from one entity to another, or within an entity, that: places the Confidential Information outside of a Secured Area or system (such as a local area network); and is accomplished other than via a Trusted System.

- 1.24 **“Trusted System(s)”** means the following methods of physical delivery: (1) hand-delivery by a person authorized to have access to the Confidential Information with written acknowledgement of receipt; (2) United States Postal Service (“USPS”) first class mail, or USPS delivery services that include Tracking, such as Certified Mail, Express Mail or Registered Mail; (3) commercial delivery services (e.g. FedEx, UPS, DHL) which offer tracking and receipt confirmation; and (4) the Washington State Campus mail system. For electronic transmission, the Washington State Governmental Network (SGN) is a Trusted System for communications within that Network.
- 1.25 **“U.S.C.”** means the United States Code. All references in this Exhibit to U.S.C. chapters or sections will include any successor, amended, or replacement statute. The U.S.C. may be accessed at <http://uscode.house.gov/>
- 1.26 **“Unique User ID”** means a string of characters that identifies a specific user and which, in conjunction with a password, passphrase, or other mechanism, authenticates a user to an information system.
- 1.27 **“Use”** includes the sharing, employment, application, utilization, examination, or analysis, of Data.

## **2 Data Classification**

- 2.1 The State classifies data into categories based on the sensitivity of the data pursuant to the Security policy and standards promulgated by the Office of the state of Washington Chief Information Officer. (See Section 4 of this Exhibit, Data Security, of Securing IT Assets Standards No. 141.10 in the State Technology Manual at <https://ocio.wa.gov/policies/141-securing-information-technology-assets/14110-securing-information-technology-assets.>)

The Data that is the subject of this Contract is classified as Category 4 – Confidential Information Requiring Special Handling. Category 4 Data is information that is specifically protected from disclosure and for which:

- 2.1.1 Especially strict handling requirements are dictated, such as by statutes, regulations, or agreements;
- 2.1.2 Serious consequences could arise from unauthorized disclosure, such as threats to health and safety, or legal sanctions.

## **3 PRISM Access- N/A**

## **4 Constraints on Use of Data**

- 4.1 This Contract does not constitute a release of the Data for the Contractor's

discretionary use. Contractor must use the Data received or accessed under this Contract only to carry out the purpose of this Contract. Any ad hoc analyses or other use or reporting of the Data is not permitted without SBHASO's and HCA's prior written consent.

- 4.2 Data shared under this Contract includes data protected by 42 C.F.R. Part 2. In accordance with 42 C.F.R. § 2.32, this Data has been disclosed from records protected by federal confidentiality rules (42 C.F.R. Part 2). The federal rules prohibit Receiving Party from making any further disclosure of the Data that identifies a patient as having or having had a substance use disorder either directly, by reference to publicly available information, or through verification of such identification by another person unless further disclosure is expressly permitted by the written consent of the individual whose information is being disclosed or as otherwise permitted by 42 C.F.R. Part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose (42 C.F.R. § 2.31). The federal rules restrict any use of the SUD Data to investigate or prosecute with regard to a crime any patient with a substance use disorder, except as provided at 42 C.F.R. § 2.12(c)(5) and § 2.65.
  - 4.2.1 The information received under subsection 7.7 of the Contract is also protected by federal law, including 42 C.F.R. Part 2, Subpart D, § 2.53, which requires HCA and their Subcontractors to:
    - 4.2.1.1 Maintain and destroy the patient identifying information in a manner consistent with the policies and procedures established under 42 C.F.R. § 2.16;
    - 4.2.1.2 Retain records in compliance with applicable federal, state, and local record retention laws; and
    - 4.2.1.3 Comply with the limitations on disclosure and Use in 42 C.F.R. Part 2, Subpart D, § 2.53(d).
- 4.3 Any disclosure of Data contrary to this Contract is unauthorized and is subject to penalties identified in law.
- 4.4 The Contractor must comply with the *Minimum Necessary Standard*, which means that Contractor will use the least amount of PHI necessary to accomplish the Purpose of this Contract.
  - 4.4.1 Contractor must identify:
  - 4.4.2 Those persons or classes of persons in its workforce who need access to PHI to carry out their duties; and
  - 4.4.3 For each such person or class of persons, the category or categories of PHI to which access is needed and any conditions appropriate to such access.

- 4.4.4 Contractor must implement policies and procedures that limit the PHI disclosed to such persons or classes of persons to the amount reasonably necessary to achieve the purpose of the disclosure, in accordance with this Contract.

## 5 Security of Data

### 5.1 Data Protection

- 5.1.1 The Contractor must protect and maintain all Confidential Information gained by reason of this Contract, information that is defined as confidential under state or federal law or regulation, or Data that HCA has identified as confidential, against unauthorized use, access, disclosure, modification or loss. This duty requires the Contractor to employ reasonable security measures, which include restricting access to the Confidential Information by:

- 5.1.1.1 Allowing access only to staff that have an authorized business requirement to view the Confidential Information.

- 5.1.1.2 Physically securing any computers, documents, or other media containing the Confidential Information.

### 5.2 Data Security Standards

- 5.2.1 Contractor must comply with the Data Security Requirements set out in this section and the Washington OCIO Security Standard, 141.10, which will include any successor, amended, or replacement regulation (<https://ocio.wa.gov/policies/141-securing-information-technology-assets/14110-securing-information-technology-assets>.) The Security Standard 141.10 is hereby incorporated by reference into this Contract.

#### 5.2.2 Data Transmitting

- 5.2.2.1 When transmitting Data electronically, including via email, the Data must be encrypted using NIST 800-series approved algorithms (<http://csrc.nist.gov/publications/PubsSPs.html>). This includes transmission over the public internet.

- 5.2.2.2 When transmitting Data via paper documents, the Contractor must use a Trusted System.

- 5.2.3 Protection of Data. The Contractor agrees to store and protect Data as described.

- 5.2.3.1 Data at Rest:

#### 5.2.3.1.1

Data will be encrypted with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the data. Access to the Data will be restricted to Authorized Users through the use of access control lists, a Unique User ID, and a Hardened Password, or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Systems that contain or provide access to Confidential Information must be located in an area that is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.

#### 5.2.3.2 Data stored on Portable/Removable Media or Devices

##### 5.2.3.2.1

Confidential Information provided by SBHASO or HCA on Removable Media will be encrypted with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the Data.

##### 5.2.3.2.2

HCA's Data must not be stored by the Contractor on Portable Devices or Media unless specifically authorized within the Contract. If so authorized, the Contractor must protect the Data by:

- a. Encrypting with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the data;
- b. Controlling access to the devices with a Unique User ID and Hardened Password or stronger authentication method such as a physical token or biometrics;
- c. Keeping devices in locked storage when not in use;
- d. Using check-in/check-out procedures when devices are shared;



- e. Maintaining an inventory of devices;  
and
- f. Ensuring that when being transported outside of a Secured Area, all devices containing Data are under the physical control of an Authorized User.

5.2.3.3 Paper Documents. Any paper records containing Confidential Information must be protected by storing the records in a Secured Area that is accessible only to authorized personnel. When not in use, such records must be stored in a locked container, such as a file cabinet, locking drawer, or safe, to which only authorized persons have access.

#### 5.2.4 Data Segregation

5.2.4.1 HCA Data received under this Contract must be segregated or otherwise distinguishable from non-HCA Data. This is to ensure that when no longer needed by the Contractor, all of HCA's Data can be identified for return or destruction. It also aids in determining whether HCA's Data has or may have been compromised in the event of a security breach.

5.2.4.2 HCA's Data must be kept in one of the following ways:

5.2.4.2.1 On media (e.g. hard disk, optical disc, tape, etc.) which contains only HCA Data;

5.2.4.2.2 In a logical container on electronic media, such as a partition or folder dedicated to HCA's Data;

5.2.4.2.3 In a database that contains only HCA Data;

5.2.4.2.4 Within a database – HCA data must be distinguishable from non- HCA Data by the value of a specific field or fields within database records;

5.2.4.2.5 Physically segregated from non-HCA Data in a drawer, folder, or other container when stored as physical paper documents.

5.2.4.3 When it is not feasible or practical to segregate HCA's Data from non-HCA data, both HCA's Data

and the non-HCA data with which it is commingled must be protected as described in this Exhibit.

### 5.3 Data Disposition

5.3.1 Upon request by SBHASO or HCA, at the end of the Contract term, or when no longer needed, Confidential Information/Data must be returned to HCA or disposed of as set out below, except as required to be maintained for compliance or accounting purposes.

5.3.2 Media are to be destroyed using a method documented within NIST 800-88 (<http://csrc.nist.gov/publications/PubsSPs.html>).

5.3.3 For Data stored on network disks, deleting unneeded Data is sufficient as long as the disks remain in a Secured Area and otherwise meet the requirements listed in Section 4.b.iii, above. Destruction of the Data as outlined in this section of this Exhibit may be deferred until the disks are retired, replaced, or otherwise taken out of the Secured Area.

## 6 Data Confidentiality and Non-Disclosure

### 6.1 Data Confidentiality.

6.1.1 The Contractor will not use, publish, transfer, sell or otherwise disclose any Confidential Information gained by reason of this Contract for any purpose that is not directly connected with the purpose of this Contract, except:

6.1.1.1 as provided by law; or

6.1.1.2 with the prior written consent of the person or personal representative of the person who is the subject of the Confidential Information.

### 6.2 Non-Disclosure of Data

6.2.1 The Contractor will ensure that all employees or Subcontractors who will have access to the Data described in this Contract (including both employees who will use the Data and IT support staff) are instructed and aware of the use restrictions and protection requirements of this Attachment before gaining access to the Data identified herein. The Contractor will ensure that any new employee is made aware of the use restrictions and protection requirements of this Attachment before they gain access to the Data.

6.2.2 The Contractor will ensure that each employee or Subcontractor who will access the Data signs a non-disclosure of confidential information agreement regarding confidentiality and non-disclosure requirements of Data under this Contract. The Contractor must retain the signed copy of employee non-disclosure agreement in each employee's personnel file for a minimum of six years from the date the employee's access to the Data ends. The Contractor will make this documentation available to SBHASO or HCA upon request.

6.3 Penalties for Unauthorized Disclosure of Data

6.3.1 The Contractor must comply with all applicable federal and state laws and regulations concerning collection, use, and disclosure of Personal Information and PHI. Violation of these laws may result in criminal or civil penalties or fines.

6.3.2 The Contractor accepts full responsibility and liability for any noncompliance with applicable laws or this Contract by itself, its employees, and its Subcontractors.

**7 Data Shared with Subcontractors**

If Data access is to be provided to a Subcontractor under this Contract, the Contractor must include all of the Data security terms, conditions and requirements set forth in this Attachment in any such Subcontract.

However, no subcontract will terminate the Contractor's legal responsibility to HCA for any work performed under this Contract nor for oversight of any functions and/or responsibilities it delegates to any subcontractor. Contractor must provide an attestation by January 31, each year that all Subcontractor meet, or continue to meet, the terms, conditions, and requirements in this Attachment.

**8 Data Breach Notification**

8.1 The Breach or potential compromise of Data must be reported to the SBHASO Privacy Officer at [IClauson@kitsap.gov](mailto:IClauson@kitsap.gov) and to the SBHASO Contract Manager at [Sjlewis@kitsap.gov](mailto:Sjlewis@kitsap.gov) within five (5) business days of discovery. If the Contractor does not have full details, it will report what information it has, and provide full details within fifteen (15) business days of discovery. To the extent possible, these reports must include the following:

8.1.1 The identification of each non-Medicaid Individual whose PHI has been or may have been improperly accessed, acquired, used, or disclosed;

8.1.2 The nature of the unauthorized use or disclosure, including a brief description of what happened, the date of the event(s), and the date of discovery;

- 8.1.3 A description of the types of PHI involved;
  - 8.1.4 The investigative and remedial actions the Contractor or its Subcontractor took or will take to prevent and mitigate harmful effects, and protect against recurrence;
  - 8.1.5 Any details necessary for a determination of the potential harm to Individuals whose PHI is believed to have been used or disclosed and the steps those Individuals should take to protect themselves; and
  - 8.1.6 Any other information SBHASO or HCA reasonably requests.
- 8.2 The Contractor must take actions to mitigate the risk of loss and comply with any notification or other requirements imposed by law or HCA including but not limited to 45 C.F.R. Part 164, Subpart D; RCW 42.56.590; RCW 19.255.010; or WAC 284-04-625.
  - 8.3 The Contractor must notify SBHASO in writing, as described in 8.a above, within two (2) business days of determining notification must be sent to non-Medicaid Individuals.
  - 8.4 At SBHASO's or HCA's request, the Contractor will provide draft Individual notification to HCA at least five (5) business days prior to notification, and allow HCA an opportunity to review and comment on the notifications.
  - 8.5 At SBHASO's or HCA's request, the Contractor will coordinate its investigation and notifications with HCA and the Office of the state of Washington Chief Information Officer (OCIO), as applicable.

## **9 HIPAA Compliance**

This section of the Attachment is the Business Associate Agreement (BAA) required by HIPAA. The Contractor is a "Business Associate" of SBHASO as defined in the HIPAA Rules.

- 9.1 HIPAA Point of Contact. The point of contact for the Contractor for all required HIPAA-related reporting and notification communications from this Section and all required Data Breach Notification from Section 8, is:

Salish Behavioral Health Administrative Services Organization  
Attention: Ileea Clauson, Privacy Officer  
614 Division St., MS-23  
Port Orchard, WA 98366  
Telephone: (360) 337-4833  
Email: IClauson@kitsap.gov

- 9.2 Compliance. Contractor must perform all Contract duties, activities, and

tasks in compliance with HIPAA, the HIPAA Rules, and all attendant regulations as promulgated by the U.S. Department of Health and Human Services, Office for Civil Rights, as applicable.

- 9.3 Use and Disclosure of PHI. Contractor is limited to the following permitted and required uses or disclosures of PHI:
- 9.3.1 Duty to Protect PHI. Contractor must protect PHI from, and will use appropriate safeguards, and comply with Subpart C of 45 C.F.R. Part 164, Security Standards for the Protection of Electronic Protected Health Information, with respect to ePHI, to prevent unauthorized Use or disclosure of PHI for as long as the PHI is within Contractor's possession and control, even after the termination or expiration of this Contract.
  - 9.3.2 Minimum Necessary Standard. Contractor will apply the HIPAA Minimum Necessary standard to any Use or disclosure of PHI necessary to achieve the purposes of this Contract. See 45 C.F.R. § 164.514(d)(2) through (d)(5).
  - 9.3.3 Disclosure as Part of the Provision of Services. Contractor will only Use or disclose PHI as necessary to perform the services specified in this Contract or as required by law, and will not Use or disclose such PHI in any manner that would violate Subpart E of 45 C.F.R. Part 164, Privacy of Individually Identifiable Health Information, if done by Covered Entity, except for the specific Uses and disclosures set forth below.
  - 9.3.4 Use for Proper Management and Administration. Contractor may Use PHI for the proper management and administration of the Contractor or to carry out the legal responsibilities of the Contractor.
  - 9.3.5 Disclosure for Proper Management and Administration. Contractor may disclosure PHI for the proper management and administration of Contractor, subject to HCA approval, or to carry out the legal responsibilities of the Contractor, provided the disclosures are required by law, or Contractor obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies Contractor of any instances of which it is aware in which the confidentiality of the information has been Breached.
  - 9.3.6 Impermissible Use or Disclosure of PHI. Contractor must report to the HIPAA Point of Contact, in writing, all Uses or disclosures of PHI not provided for by this Contract within five (5) business days of becoming aware of the unauthorized Use or disclosure of PHI, including Breaches of unsecured PHI as required at 45 C.F.R. §

164.410, Notification by a Business Associate, as well as any Security Incident of which Contractor becomes aware. Upon request by SBHASO or HCA, Contractor will mitigate, to the extent practicable, any harmful effect resulting from the impermissible Use or disclosure.

- 9.3.7 Failure to Cure. If SBHASO learns of a pattern or practice of the Contractor that constitutes a violation of Contractor's obligations under the term of this Attachment and reasonable steps by the Contractor do not end the violation, SBHASO may terminate this Contract, if feasible. In addition, if Contractor learns of a pattern or practice of its Subcontractor(s) that constitutes a violation of Contractor's obligations under the terms of their contract and reasonable steps by the Contractor do not end the violation, Contractor must terminate the Subcontract, if feasible.
- 9.3.8 Termination for Cause. Contractor authorizes immediate termination of this Contract by SBHASO, if SBHASO determines Contractor has violated a material term of this Business Associate Agreement. SBHASO may, at its sole option, offer Contractor an opportunity to cure a violation of this Business Associate Agreement before exercising a termination for cause.
- 9.3.9 Consent to Audit. Contractor must give reasonable access to PHI, its internal practices, records, books, documents, electronic data, and/or all other business information received from, or created, received by Contractor on behalf of SBHASO or HCA, to the Secretary of the United States Department of Health and Human Services (DHHS) and/or to HCA for use in determining compliance with HIPAA privacy requirements.
- 9.3.10 Obligations of Business Associate upon Expiration or Termination. Upon expiration or termination of this Contract for any reason, with respect to PHI received from SBHASO or HCA, or created, maintained, or received by Contractor, or any Subcontractors, on behalf of SBHASO or HCA, Contractor must:
  - 9.3.10.1 Retain only that PHI which is necessary for Contractor to continue its proper management and administration or to carry out its legal responsibilities;
  - 9.3.10.2 Return to SBHASO or HCA or destroy the remaining PHI that the Contractor or any Subcontractors still maintain in any form;
  - 9.3.10.3 Continue to use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164, Security Standards for Protection of Electronic Protected Health Information, with respect to ePHI to prevent Use or disclosure of the PHI,

other than as provided for in this Section, for as long as Contractor or any Subcontractor retains PHI;

- 9.3.10.4 Not Use or disclose the PHI retained by Contractor or any Subcontractors other than for the purposes for which such PHI was retained and subject to the same conditions section out in Section 9.3, Use and Disclosure of PHI, that applied prior to termination; and
- 9.3.10.5 Return to SBHASO or HCA or destroy the PHI retained by Contractor, or any Subcontractors, when it is no longer needed by Contractor for its proper management and administration or to carry out its legal responsibilities.
- 9.3.11 Survival. The obligations of Contractor under this Section will survive the termination or expiration of the Contract.

#### 9.4 Individual Rights.

##### 9.4.1 Accounting of Disclosures.

- 9.4.1.1 Contractor will document all disclosures, except those disclosures that are exempt under 45 C.F.R. § 164.528, of PHI and information related to such disclosures.
- 9.4.1.2 Within ten (10) business days of a request from SBHASO or HCA, Contractor will make available to HCA the information in Contractor's possession that is necessary for HCA to respond in a timely manner to a request for an accounting of disclosures of PHI by the Contractor. See 45 C.F.R. §§ 164.504(e)(2)(ii)(G) and 164.528(b)(1).
- 9.4.1.3 At the request of SBHASO or HCA, or in response to a request made directly to the Contractor by an Individual, Contractor will respond, in a timely manner and in accordance with HIPAA and the HIPAA Rules, to requests by Individuals for an accounting of disclosures of PHI.
- 9.4.1.4 Contractor record keeping procedures will be sufficient to respond to a request for an accounting under this section for the ten (10) years prior to the date on which the accounting was requested.

##### 9.4.2 Access.

- 9.4.2.1 Contractor will make available PHI that it holds that is part of a Designated Record Set when requested by HCA or the Individual as necessary to satisfy HCA's

obligations under 45 C.F.R. § 164.524, Access of Individuals to Protected Health Information.

9.4.2.2 When the request is made by the Individual to the Contractor or if SBHASO or HCA ask the Contractor to respond to a request, the Contractor must comply with requirements in 45 C.F.R. § 164.524, Access of Individuals to Protected Health Information, on form, time and manner of access. When the request is made by HCA, the Contractor will provide the records to HCA within ten (10) business days.

9.4.3 Amendment.

9.4.3.1 If SBHASO or HCA amends, in whole or in part, a record or PHI contained in an Individual's Designated Record Set and SBHASO or HCA has previously provided the PHI or record that is the subject of the amendment to Contractor, then SBHASO will inform Contractor of the amendment pursuant to 45 C.F.R. § 164.526(c)(3), Amendment of Protected Health Information.

9.4.3.2 Contractor will make any amendments to PHI in a Designated Record Set as directed by SBHASO or HCA or as necessary to satisfy SBHASO's and HCA's obligations under 45 C.F.R. § 164.526, Amendment of Protected Health Information.

9.5 Subcontracts and other Third Party Agreements. In accordance with 45 C.F.R. §§ 164.502(e)(1)(ii), 164.504(e)(1)(i), and 164.308(b)(2), Contractor must ensure that any agents, Subcontractors, independent contractors, or other third parties that create, receive, maintain, or transmit PHI on Contractor's behalf, enter into a written contract that contains the same terms, restrictions, requirements, and conditions as the HIPAA compliance provisions in this Contract with respect to such PHI. The same provisions must also be included in any contracts by a Contractor's Subcontractor with its own business associates as required by 45 C.F.R. §§ 164.314(a)(2)(b) and 164.504(e)(5).

9.6 Obligations. To the extent the Contractor is to carry out one or more of HCA's obligation(s) under Subpart E of 45 C.F.R. Part 164, Privacy of Individually Identifiable Health Information, Contractor must comply with all requirements that would apply to HCA in the performance of such obligation(s).

9.7 Liability. Within ten (10) business days, Contractor must notify the HIPAA Point of Contact of any complaint, enforcement or compliance action initiated by the Office for Civil Rights based on an allegation of violation of the HIPAA Rules and must inform HCA of the outcome of that action. Contractor bears all responsibility for any penalties, fines or sanctions



imposed against the Contractor for violations of the HIPAA Rules and for any imposed against its Subcontractors or agents for which it is found liable.

**9.8 Miscellaneous Provisions.**

9.8.1 Regulatory References. A reference in this Contract to a section in the HIPAA Rules means the section as in effect or amended.

9.8.2 Interpretation. Any ambiguity in this Exhibit will be interpreted to permit compliance with the HIPAA Rules.

**10 Inspection**

SBHASO and HCA reserve the right to monitor, audit, or investigate the use of Personal Information and PHI of Individuals collected, used, or acquired by Contractor during the terms of this Contract. All SBHASO and HCA representatives conducting onsite audits of Contractor agree to keep confidential any patient-identifiable information which may be reviewed during the course of any site visit or audit.

**11 Indemnification**

The Contractor must indemnify and hold SBHASO and HCA and its employees harmless from any damages related to the Contractor's or Subcontractor's unauthorized use or release of Personal Information or PHI of Individuals.

**ATTACHMENT F: CERTIFICATION REGARDING LOBBYING**

The undersigned certifies, to the best of his or her knowledge and believe, 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 Form to Report Lobbying," 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.

**Contractor Organization**

Signature of Certifying Official

11/16/2023  
Date

**ATTACHMENT G: CERTIFICATION REGARDING DEBARMENT, SUSPENSION,  
AND OTHER RESPONSIBILITY MATTERS** Primary Covered Transactions 45 CFR 76

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principles:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
  - b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connections with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, or receiving stolen property;
  - c. Are not presently indicted for or otherwise criminally or civilly charges by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1.b. of this certification; and
  - d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
  
2. Where the prospective primary participants are unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

This Certification is executed by the person(s) signing below who warrant they have authority to execute this Certification.

**CONTRACTOR:**

  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

CEO


11/16/2023



# Exclusions Search Results: Entities

No Results were found for

- Discovery Behavioral Health

 **If no results are found, this individual or entity (if it is an entity search) is not currently excluded. Print this Web page for your documentation**

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