

## AGREEMENT

### FOR SERVICES OF INDEPENDENT CONTRACTOR

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**THIS AGREEMENT** (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter County) and JSA HEALTH CALIFORNIA LLC, a Delaware limited liability company (“JSA HEALTH” or “Contractor”) with an address at 410 Pierce Street, Suite 103, Houston, TX, 77002 wherein Contractor agrees to provide and County agrees to accept the services specified herein.

**WHEREAS**, County is engaged in the business of behavioral health facility based medical services; and

**WHEREAS**, Contractor is engaged in arranging for the provision of professional psychiatric telemedicine services and managing the provision of such services; and

**WHEREAS**, County desires to enhance its level of psychiatric services in its behavioral health facility emergency department, facilitating telemedicine consultations by specialist physicians and other properly qualified healthcare personnel under arrangement with Contractor using equipment designed for such services (Telemedicine Services”); and

**WHEREAS**, County desires to ensure and facilitate the highest level of psychiatric consultation to patients meeting criteria and presenting at that behavioral health facility, and in furtherance thereof, shall obtain appropriate equipment to facilitate consults by physicians and other properly qualified healthcare personnel under arrangement with Contractor. Contractor desires to arrange the provision of such services; and

**WHEREAS**, Contractor represents that it is specially trained, skilled, experienced, and competent to perform the special services required by County and County desires to retain the services of Contractor pursuant to the terms, covenants, and conditions herein set forth; and

**WHEREAS**, County executed a Purchase Agreement CN20120 with Contractor in the amount of \$99,000 for the period of July 1, 2016 through June 30, 2017 for independent contractor professional psychiatric telemedicine services. During the term of that Purchase Agreement, County anticipates that Contractor will provide, at the request of County, a greater number of services than originally contemplated by the Purchase Agreement, and will incur total expenses beyond the value of the Purchase Agreement and in excess of \$99,000. This Agreement, which is made to cancel, nullify, and supersede Purchase Agreement CN20120, provides a total of \$120,000 for the period July 1, 2016 through June 30, 2017.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

#### **1. DESIGNATED REPRESENTATIVE**

Medical Director at phone number 805-681-5220 is the representative of County and will administer this Agreement for and on behalf of County. David Lieske, Chief Finance Officer, at 888-792-7122 is the authorized representative for Contractor. Changes in designated representatives shall be made only after advance written notice to the other party.

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### **2. NOTICES**

Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by personal delivery or facsimile, or with postage prepaid by first class mail, registered or certified mail, or express courier service, as follows:

To County:                    Director  
                                      Santa Barbara County  
                                      Department of Behavioral Wellness  
                                      300 N. San Antonio Road  
                                      Santa Barbara, CA 93110  
                                      FAX: 805-681-5262

To Contractor:            Avrim Fishkind  
                                      Chief Executive Officer  
                                      JSA HEALTH CALIFORNIA, LLC  
                                      410 Pierce Street, Suite 233  
                                      Houston, Texas 77002

or at such other address or to such other person that the parties may from time to time designate in accordance with this Notices section. If sent by first class mail, notices and consents under this section shall be deemed to be received five (5) days following their deposit in the U.S. mail. This Notices section shall not be construed as meaning that either party agrees to service of process except as required by applicable law.

### **3. SCOPE OF SERVICES**

Contractor agrees to provide services to County in accordance with EXHIBIT A attached hereto and incorporated herein by reference.

### **4. TERM**

Contractor shall commence performance on 7/1/2016 and end performance upon completion, but no later than 6/30/2017 unless otherwise directed by County or unless earlier terminated.

### **5. COMPENSATION OF CONTRACTOR**

In full consideration for Contractor's services, Contractor shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference.

### **6. INDEPENDENT CONTRACTOR**

It is mutually understood and agreed that Contractor (including any and all of its officers, agents, and employees), shall perform all of its services under this Agreement as an independent Contractor as to County and not as an officer, agent, servant, employee, joint venturer, partner, or associate of County. Furthermore, County shall have no right to control, supervise, or direct the manner or method by which Contractor shall perform its work and function. However, County shall retain the right to administer this Agreement so as to verify that Contractor is performing its obligations in accordance with the terms and conditions hereof. Contractor understands and acknowledges that it shall not be entitled to any of the benefits of a County employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. Contractor shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, Contractor shall be

## **AGREEMENT**

solely responsible and save County harmless from all matters relating to payment of Contractor's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, Contractor may be providing services to others unrelated to the County or to this Agreement.

Nothing in this Agreement is intended nor shall be construed to allow Contractor to exercise control or direction of any nature, kind, or description over the manner or method by which County performs County Services. Furthermore, County acknowledges that, except as provided in Section 7.A, Contractor shall not have and shall not exercise any control or direction over the manner or method by which each physician under arrangement with Contractor provides the professional medical services to County.

### **7. STANDARD OF PERFORMANCE**

- A. Contractor and the professional staff subcontracted by Contractor represent that they have the skills, expertise, and licenses and/or permits necessary to perform the services required under this Agreement. Accordingly, Contractor and the professional staff subcontracted by Contractor shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which Contractor and the professional staff subcontracted by Contractor are engaged. All products of whatsoever nature which Contractor and the professional staff shall be prepared in a manner which will conform to high standards of quality and shall conform to the standards of quality normally observed by a person practicing in Contractor's profession and/or the profession of the professional staff subcontracted by Contractor. Contractor and the professional staff subcontracted by Contractor shall correct or revise any errors or omissions, at County's request, without additional compensation. Contractor and the professional staff subcontracted by Contractor shall obtain and maintain all permits and/or licenses required for performance under this Agreement without additional compensation, at Contractor's own expense.
- B. County may not modify or in any way alter the self-employment agreement entered into by Professionals and Contractor, including but not limited to payment of additional bonuses, modification of hourly wage, adjustment of benefits, or changes to hours commitments. Any adjustment request must be submitted directly to Contractor in writing.

### **8. DEBARMENT AND SUSPENSION**

Contractor certifies to County that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. Contractor certifies that it shall not contract with a subcontractor that is so debarred or suspended.

### **9. TAXES**

Except as otherwise specified in Exhibit A, Contractor shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement and shall make any and all payroll deductions required by law. County shall not be responsible for paying any taxes on Contractor's behalf, and should County be required to do so by state, federal, or local taxing agencies, Contractor agrees to promptly reimburse County for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

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### **10. CONFLICT OF INTEREST**

Contractor covenants that Contractor presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by Contractor. Contractor must promptly disclose to the County, in writing, any potential conflict of interest. County retains the right to waive a conflict of interest disclosed by Contractor if County determines it to be immaterial, and such waiver is only effective if provided by County to Contractor in writing.

### **11. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY**

County shall be the owner of the following items directly arising from this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, all photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials, and any material necessary for the practical use of such items, from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. Contractor shall not release any of such items to other parties except after prior written approval of County. County shall be the legal owner and Custodian of Records for all County client files generated pursuant to this Agreement, and shall comply with all Federal and State confidentiality laws, including Welfare and Institutions Code (WIC) §5328; 42 United States Code (U.S.C.) §290dd-2; and 45 CFR, Parts 160 – 164 setting forth the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Contractor shall inform all of its officers, employees, and agents of the confidentiality provision of said laws. County agrees to provide Contractor with copies of all County client file documents resulting from this Agreement. Within HIPAA guidelines, County shall have the unrestricted authority to publish, disclose, distribute, and/or otherwise use in whole or in part, any reports, data, documents or other materials prepared under this Agreement.

Unless otherwise specified in Exhibit A, Contractor hereby assigns to County all copyright, patent, and other intellectual property and proprietary rights to all data, documents, reports, photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials prepared or provided by Contractor pursuant to this Agreement (collectively referred to as "Copyrightable Works and Inventions"). County shall have the unrestricted authority to copy, adapt, perform, display, publish, disclose, distribute, create derivative works from, and otherwise use in whole or in part, any Copyrightable Works and Inventions. Contractor agrees to take such actions and execute and deliver such documents as may be needed to validate, protect and confirm the rights and assignments provided hereunder. Contractor warrants that any Copyrightable Works and Inventions and other items provided under this Agreement will not infringe upon any intellectual property or proprietary rights of any third party. Contractor at its own expense shall defend, indemnify, and hold harmless County against any claim that any Copyrightable Works or Inventions or other items provided by Contractor hereunder infringe upon intellectual or other proprietary rights of a third party, and Contractor shall pay any damages, costs, settlement amounts, and fees (including attorneys' fees) that may be incurred by County in connection with any such claims. This Ownership of Documents and Intellectual Property provision shall survive expiration or termination of this Agreement.

### **12. NO PUBLICITY OR ENDORSEMENT**

Neither Party shall use the other's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. Contractor shall not use County's name or logo

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in any manner that would give the appearance that the County is endorsing Contractor. Contractor shall not in any way contract on behalf of or in the name of County. Contractor shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the County or its projects, without obtaining the prior written approval of County. The use of any JSA HEALTH Marks (including trademarks, tradenames, service marks, insignia, slogans, emblems, symbols, designs or other identifying characteristics owned by or associated with JSA HEALTH or any of its subsidiaries or affiliates) by County, including in any signs, advertising or any promotional materials shall be subject to the prior written approval of Contractor.

### **13. COUNTY PROPERTY AND INFORMATION**

All of County's property, documents, and information provided for Contractor's use in connection with the services shall remain County's property, and Contractor shall return any such items whenever requested by County and whenever required according to the Termination section of this Agreement. Contractor may use such items only in connection with providing the services. Contractor shall not disseminate any County property, documents, or information without County's prior written consent.

### **14. RECORDS, AUDIT, AND REVIEW**

Contractor shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of Contractor's profession and shall maintain all records until such time that the State Department of Health Care Services completes all actions associated with the final audit, including appeals, for the fiscal year(s) covered by this Agreement, or not less than four (4) years following the termination of this Agreement, whichever is later. All accounting records shall be kept in accordance with generally accepted accounting principles. County shall have the right to audit and review all such documents and records at any time during Contractor's regular business hours or upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), Contractor shall be subject to the examination and audit of the California State Auditor, at the request of the County or as part of any audit of the County, for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). Contractor shall participate in any audits and reviews, whether by County or the State, at no charge to County.

If federal, state or County audit exceptions are made relating to this Agreement, Contractor shall reimburse all costs incurred by federal, state, and/or County governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from County, Contractor shall reimburse the amount of the audit exceptions and any other related costs directly to County as specified by County in the notification. The provisions of the Records, Audit, and Review Section shall survive any expiration or termination of this Agreement.

### **15. INDEMNIFICATION AND INSURANCE**

Contractor agrees to the indemnification and insurance provisions as set forth in EXHIBIT C attached hereto and incorporated herein by reference.

### **16. NONDISCRIMINATION**

County hereby notifies Contractor that County's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated

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herein by this reference with the same force and effect as if the ordinance were specifically set out herein and Contractor agrees to comply with said ordinance.

### **17. NONEXCLUSIVE AGREEMENT**

Contractor understands that this is not an exclusive Agreement and that County shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by Contractor as the County desires.

### **18. NON-ASSIGNMENT**

Contractor shall not assign, transfer or subcontract this Agreement or any of its rights or obligations under this Agreement without the prior written consent of County and any attempt to so assign, subcontract or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

### **19. TERMINATION**

A. **By County.** County may, by written notice to Contractor, terminate this Agreement in whole or in part at any time, whether for County's convenience, for nonappropriation of funds, or because of the failure of Contractor to fulfill the obligations herein.

1. **For Convenience.** County may terminate this Agreement in whole or in part upon thirty (30) days written notice. During the thirty (30) day period, Contractor shall, as directed by County, wind down and cease its services to County-funded clients as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on County from such winding down and cessation of services.

2. **For Nonappropriation of Funds.**

A. The parties acknowledge and agree that this Agreement is dependent upon the availability of County, State, and/or federal funding. If funding to make payments in accordance with the provisions of this Agreement is not forthcoming from the County, State and/or federal governments for the Agreement, or is not allocated or allotted to County by the County, State and/or federal governments for this Agreement for periodic payment in the current or any future fiscal period, then the obligations of County to make payments after the effective date of such non-allocation or non-funding, as provided in the notice, will cease and terminate.

B. As permitted by applicable State and Federal laws regarding funding sources, if funding to make payments in accordance with the provisions of this Agreement is delayed or is reduced from the County, State, and/or federal governments for the Agreement, or is not allocated or allotted in full to County by the County, State, and/or federal governments for this Agreement for periodic payment in the current or any future fiscal period, then the obligations of County to make payments will be delayed or be reduced accordingly or County shall have the right to terminate the Agreement. If such funding is reduced, County in its sole discretion shall determine which aspects of the Agreement shall proceed and which Services shall be performed. In these situations, County will pay Contractor for Services and Deliverables and certain of its costs. Any

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obligation to pay by County will not extend beyond the end of County's then-current funding period.

- C. Contractor expressly agrees that no penalty or damages shall be applied to, or shall accrue to, County in the event that the necessary funding to pay under the terms of this Agreement is not available, not allocated, not allotted, delayed or reduced.
3. **For Cause.** Should Contractor default in the performance of this Agreement or materially breach any of its provisions, County may, at County's sole option, terminate or suspend this Agreement in whole or in part by written notice. Upon receipt of notice, Contractor shall immediately discontinue all services affected (unless the notice directs otherwise) and notify County as to the status of its performance. The date of termination shall be the date the notice is received by Contractor, unless the notice directs otherwise.
- B. **By Contractor.** Should County fail to pay Contractor all or any part of the payment set forth in EXHIBIT B, Contractor may, at Contractor's option terminate this Agreement if such failure is not remedied by County within thirty (30) days of written notice to County of such late payment.
- C. Upon termination, Contractor shall deliver to County all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers directly arising from this Agreement as may have been accumulated or produced by Contractor in performing this Agreement, whether completed or in process, except such items as County may, by written permission, permit Contractor to retain. Notwithstanding any other payment provision of this Agreement, County shall pay Contractor for satisfactory services performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall Contractor be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. Contractor shall furnish to County such financial information as in the judgment of County is necessary to determine the reasonable value of the services rendered by Contractor. In the event of a dispute as to the reasonable value of the services rendered by Contractor, the decision of County shall be final. The foregoing is cumulative and shall not affect any right or remedy which County may have in law or equity.

### **20. SECTION HEADINGS**

The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

### **21. SEVERABILITY**

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

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### **22. REMEDIES NOT EXCLUSIVE**

No remedy herein conferred upon or reserved to County is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

### **23. TIME IS OF THE ESSENCE**

Time is of the essence in this Agreement and each covenant and term is a condition herein.

### **24. NO WAIVER OF DEFAULT**

No delay or omission of County to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to County shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of County.

### **25. ENTIRE AGREEMENT AND AMENDMENT**

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel. Requests by Contractor for changes to the terms and conditions of this agreement after April 1 of the Fiscal Year for which the change would be applicable shall not be considered. All requests for changes shall be in writing. Changes shall be made by an amendment pursuant to this Section. Any amendments or modifications that do not materially change the terms of this Agreement (such as changes to the Designated Representative or Contractor's address for purposes of Notice) may be approved by the Director of the Department of Behavioral Wellness. The Board of Supervisors of the County of Santa Barbara must approve all other amendments and modifications.

### **26. SUCCESSORS AND ASSIGNS**

All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

### **27. COMPLIANCE WITH LAW**

Contractor shall, at its sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of Contractor in any action or proceeding against Contractor, whether County is a party thereto or not, that Contractor has violated any such ordinance or statute, shall be conclusive of that fact as between Contractor and County.



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### **28. CALIFORNIA LAW AND JURISDICTION**

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

### **29. EXECUTION OF COUNTERPARTS**

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

### **30. AUTHORITY**

All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, Contractor hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which Contractor is obligated, which breach would have a material effect hereon.

### **31. SURVIVAL**

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

### **32. PRECEDENCE**

In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

### **33. COMPLIANCE WITH HIPAA**

Contractor and the Professionals contracted by Contractor are expected to adhere to Health Insurance Portability and Accountability Act (HIPAA) regulations, and Contractor shall develop and maintain comprehensive patient confidentiality policies and procedures, provide annual training of all Contractor Professionals regarding those policies and procedures, and demonstrate reasonable effort to secure written and/or electronic data. The parties should anticipate that this Agreement will be modified as necessary for full compliance with HIPAA.

### **34. COURT APPEARANCES.**

Upon request, Contractor shall cooperate with County in making available necessary witnesses for court hearings and trials, including Contractor's Professionals that have provided treatment to a client referred by County who is the subject of a court proceeding. County shall issue subpoenas for the required witnesses upon request of Contractor.

### **35. PRIOR AGREEMENTS.**

Upon execution, this Agreement supersedes all prior agreements between County and Contractor related to the scope of work contained in this Agreement.

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### 36. MANDATORY DISCLOSURE

- A. **Violations of Criminal Law.** Contractor must disclose, in a timely manner, in writing to the County all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award. Failure to make required disclosures can result in any of the remedies described in 45 C.F.R. Section 75.371, including suspension or debarment. (See also 2 C.F.R. part 180 and 376, and 31 U.S.C. 3321.).
- B. **Ownership or Controlling Interest.** As required by 42 CFR sections 455.101 and 455.104, Contractor will complete a *Disclosure of Ownership or Controlling Interest* form provided by County.

## **AGREEMENT**

### **THIS AGREEMENT INCLUDES:**

- I. EXHIBIT A – Statement of Work
  1. EXHIBIT A-1 – Credentialing Requirements for Healthcare Professionals
- II. EXHIBIT B – Financial Provisions
  1. EXHIBIT B-1 – Schedule of Rates
- III. EXHIBIT C – Indemnification and Insurance Provisions
- IV. EXHIBIT D – Physicians and Other Health Care Practitioners

**AGREEMENT**

**Signature Page**

Agreement for Services of Independent Contractor between the **County of Santa Barbara** and **JSA HEALTH California, LLC**.

**IN WITNESS WHEREOF**, the parties have executed this Agreement to be effective July 1, 2016.

**COUNTY OF SANTA BARBARA:**

By: \_\_\_\_\_  
JOAN HARTMANN, CHAIR  
BOARD OF SUPERVISORS

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

**ATTEST:**

MONA MIYASATO  
COUNTY EXECUTIVE OFFICER  
CLERK OF THE BOARD

By: \_\_\_\_\_  
Deputy Clerk

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

**CONTRACTOR:**

JSA Health California, LLC

By: \_\_\_\_\_  
Authorized Representative

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

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

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

**APPROVED AS TO FORM:**

MICHAEL C. GHIZZONI  
COUNTY COUNSEL

By: \_\_\_\_\_  
Deputy County Counsel

**APPROVED AS TO ACCOUNTING FORM:**

THEODORE A. FALLATI, CPA  
AUDITOR-CONTROLLER

By: \_\_\_\_\_  
Deputy

**RECOMMENDED FOR APPROVAL:**

ALICE GLEGHORN, PH.D., DIRECTOR  
DEPARTMENT OF BEHAVIORAL  
WELLNESS

By: \_\_\_\_\_  
Director

**APPROVED AS TO INSURANCE FORM:**

RAY AROMATORIO  
RISK MANAGEMENT

By: \_\_\_\_\_  
Risk Management

## EXHIBIT A

### STATEMENT OF WORK

1. **PROGRAM SUMMARY.** Contractor provides psychiatric evaluation and/or consultation via a secure tele-video connection, allowing face-to-face encounters between clients and physicians. Psychiatry services provided remotely include psychiatric assessment and evaluations, medication management, and medical consultation with County nursing staff, including, but not limited to, client/patient follow-up questions, medication side-effect issues and medication changes and refills.
2. **DEFINITIONS.**
  - A. "Telepsychiatry" shall mean any mental health service provided remotely via the internet and any form of teleconferencing equipment and software that allows real-time audio and visual communication between Contractor and County's client, and after sufficient initial examination also includes any and all subsequent telephone, fax, e-mail, and written communication necessary for Contractor to provide follow-up services to County's clients identified as under the established care of Contractor. At no point shall Contractor be asked or expected by County to provide mental health services of any kind to a client who has not been established as under the care of Contractor as defined by an initial evaluation that includes both visual and auditory interaction as required by California Telemedicine Development Act of 1996, Senate Bill 1665, Business & Professions Code Section 2242 and 2242.1 and 2290.5. All Contractor's providers are board certified by the American Board of Psychiatry and Neurology unless otherwise agreed upon between both parties in writing.
  - B. "Professional" shall mean Psychiatrists providing telepsychiatry services operating as subcontractors to Contractor. Use of Nurse Practitioners or Physician Assistants under the supervision of Contractor instead of Contractor's board certified psychiatrists would only be allowed after negotiation and agreement by both parties, and incorporation into this Agreement via an amendment.
  - C. "Telemedicine Equipment" shall mean all equipment determined by JSA HEALTH to be necessary for the provision of Telemedicine Services.
3. **DESCRIPTION OF SERVICES.**
  - A. Contractor shall, upon request of County, refer Board-certified psychiatrists (hereafter "Professionals") to meet County's temporary staffing requirements. Board-eligible psychiatrists may be considered upon approval of the Behavioral Wellness Medical Director. Contractor's duty to make referrals hereunder is subject to the availability of Professionals.
  - B. Contractor will seek Professionals for County who meet the qualifications, experience, and requirements set forth in writing by County and provided to Contractor. County will provide Contractor with copies of job descriptions applicable to the Professionals requested. County shall have the right to conduct an interview with each Professional referred to County within five (5) business days from the time Contractor submits Professional's application and resume to County. Furthermore, County shall have the right to reject any referred Professional if in its sole discretion County does not believe the referred professional meets its specifications and request Contractor provide additional Professionals for consideration.
  - C. County further understands that any Professional presented by Contractor is an independent contractor, and is not an employee of Contractor.

## EXHIBIT A

### STATEMENT OF WORK

- D. Under the direction of the Behavioral Wellness Medical Director, Professional accepted by County shall perform the following duties, during hours mutually agreed upon between County and Contractor, via telepsychiatry:
- i. Contractor shall provide all necessary psychiatric medication management.
  - ii. Perform diagnostic, suicide, Tarasoff, involuntary admission, medication, and other evaluations;
  - iii. JSA HEALTH physicians will use as a scheduling and productivity standard of a 45-60 minute initial assessments and a 15-20 minute medication management follow-up visits depending on acuity. Child and Adolescent initial assessments are 60 minutes, with follow-up visits of 20-30 minutes. Services will be documented in the JSA HEALTH electronic medical record, which will be electronically available for County of Santa Barbara immediately after services are rendered.
  - iv. Prescribe psychiatric medication(s);
  - v. Provide medication education for staff, clients, and families;
  - vi. Participate in review, revision, and approval of assessments of clients;
  - vii. Participate in the development, review, revision, and approval of treatment plans;
  - viii. Provide consultation, training, and support of multi-disciplinary team members, as needed;
  - ix. Participate in utilization review, medication monitoring, quality improvement protocols, and peer review;
  - x. Adhere to documentation and reporting requirements established by County;
  - xi. Efficiently provide bridge orders for medications previously prescribed based on input from the clinic staff and, when necessary, patient's record.
- E. Contractor and Professionals may be asked to serve clients age 3 years and older.
- F. Contractor will not be required to provide any supervision and/or on-call duties unless specifically negotiated and agreed in writing.
- G. Coverage: JSA HEALTH agrees to arrange for physician and other properly qualified healthcare personnel (as agreed by Behavioral Wellness) availability in the specialty of psychiatry for consultations by and through the Telemedicine Equipment for patients presenting at County. One or more physicians and other properly qualified healthcare personnel approved by County to provide services under this agreement (but assigned at JSA HEALTH's discretion) will be available for telemedicine consultation according to the schedule as agreed by the parties.

#### 4. DOCUMENTATION.

- A. Contractor shall ensure that contracted Professionals will accept training on the use of Online Progress Notes (OLPN) and document patient contacts using the OLPN format.

## EXHIBIT A

### STATEMENT OF WORK

Contractor or Contractor's Professionals will enter all clinical documentation directly into County's Electronic Medical Record and electronic prescribing system at the time of service. In the event that Contractor is unable to access the electronic record for some reason, Contractor will notify County of the situation and shall provide all client services documentation to County via fax within five (5) business days from the date of service.

- B. Patient Records.** All patient records shall be the property of, maintained by, and in the custody of the County, but County expressly agrees that JSA HEALTH shall have access to such patient records at all reasonable times during normal business hours and to the extent necessary for JSA HEALTH to fulfill its obligations hereunder and that JSA HEALTH, to the extent lawfully permitted, shall have access to such patient records for the purpose of making necessary copies in the event this Agreement is terminated. JSA HEALTH and the County shall maintain the confidentiality of all patient records in accordance with all applicable laws.

#### 5. RESPONSIBILITIES OF COUNTY.

- A. County assures Contractor that all client-related paperwork that needs to be completed will first be completed for non-clinical data (including, but not limited to: names, dates of service, diagnoses by most recent chart note, addresses, doctor's name and address, phone numbers, and any other non-clinical data that does not require a physician's clinical judgment) by County. Contractor providers and staff will not be expected to complete any non-clinical information on any forms when said information can be completed by a clerical staff person under the employment of County. It is at the Contractor's provider's clinical discretion as to whether or not any patient-related form is to be completed for clinical data and signed by the Contractor's provider. These forms include but are not limited to Social Security disability forms, In-Home Health Care, transportation passes, work releases, return to work forms, employment forms of any kind, school related forms, etc.
- B. County shall provide all necessary telecommunication equipment for telepsychiatry sessions at County's facilities. County understands that by the nature of telepsychiatry, the interface between Contractor and County and County's clients is dependent upon the ability to connect through the internet and teleconferencing equipment and software, and County agrees to provide, at no cost to Contractor, Management Information System (MIS) support staff able and willing to maintain the operational functionality of said internet connection and teleconferencing equipment and software on site at County's facilities to ensure continuity of care and to minimize disruption in service delivery, as follows:
- i. Maintenance and Alterations.
    - a. Telemedicine Equipment. During the Term and upon the following terms and conditions, County shall provide access connecting JSA HEALTH to County's Telemedicine Equipment.
    - b. Contractor shall provide all necessary telecommunication equipment for telepsychiatry sessions at Contractor's principal place of business.

## EXHIBIT A

### STATEMENT OF WORK

- c. County, at its own cost and expense, shall keep the Telemedicine Equipment in good repair, condition, and working order and shall furnish any and all parts and labor required for this purpose.
  - d. County shall use, operate, and maintain the Telemedicine Equipment in conformity with all applicable laws and regulations relating to the ownership, possession, use and maintenance thereof.
- ii. Taxes. County shall be responsible to pay all license fees, assessments, charges, permit fees, and taxes (municipal, state, and federal), if any, which may now or hereafter be imposed upon the ownership, leasing, renting, possession, or use of the Telemedicine Equipment.
  - iii. Telecommunication Connectivity Services. County, at County's sole cost and expense, shall arrange for a vendor of County's choice to install telecommunication connectivity services of a nature and kind appropriate for the provision of Telemedicine Services by JSA HEALTH at a location mutually agreed upon by County and JSA HEALTH, and shall timely pay when due all appropriate charges resulting from the use of such services to provide Telemedicine Services as contemplated herein. JSA HEALTH shall not be liable for any interruptions whatsoever in County access to the telecommunication connectivity.
- C. County shall provide Contractor with the same County support staff that would be allotted to a mental health provider employed by County, including, but not limited to clerical, receptionist, scheduling, nursing, records maintenance, and MIS.

#### 6. LENGTH OF ASSIGNMENT.

- A. Contractor will provide Professionals based on County's staffing needs for contractual assignments of a minimum of two (2) weeks in duration (the "Assignment").
- B. County may extend the length of the Assignment by such periods as may be mutually agreed to by Contractor and the affected Professional.
- C. Continued Telemedicine Services. Following any notice of termination hereunder, whether given by JSA HEALTH or County, County and JSA HEALTH will fully cooperate with each other in all matters relating to the performance or discontinuance of Telemedicine Services, as appropriate, and the orderly transmission of patients.

#### 7. QUALIFICATIONS AND SCREENING OF PROFESSIONALS.

- A. Contractor will provide County with background information on each referred Professional as specified in Exhibit A-1 and including: i) license query with the California Medical Board, ii) query United States Department of Health and Human Services (HHS) Office of Inspector General (OIG) Fraud Prevention and Detection; iii) Contractor self-assessment skills inventory; iv) background fingerprint check for record of past criminal record; and v) references, prior to commencement of the Assignment.
- B. All Professionals referred by Contractor shall be appropriately licensed and/or certified to practice in that profession in California. JSA HEALTH shall obtain and maintain all necessary records to ensure appropriate credentialing of persons indicated on Exhibit D.



## EXHIBIT A

### STATEMENT OF WORK

- C. Each Professional referred by Contractor shall possess a minimum of one (1) year of full-time experience in an outpatient psychiatry practice, unless otherwise agreed upon between Contractor and County.
- D. Professionals must be eligible to participate in Medicare, Medicaid and/or other federal health care programs; must possess a National Provider Identifier (NPI); must possess a valid Drug Enforcement Agency (DEA) license in the State of California, and where applicable will be required to meet the following criteria:
  - i. Submit a completed credentialing application and/or required documentation for credentialing as applicable;
  - ii. Possess a valid third-party billable provider certification (such as Medicare, Medi-Cal and/or private insurance) OR have submitted a completed billable provider application, along with the required documentation, in order to obtain the appropriate billable provider status;

Failure to meet these criteria and/or 'Conditions of Employment' where applicable two (2) weeks PRIOR to the start work date may result in the delay of appointment and/or cancellation of employment. Once appointed, all qualified employees will be required to maintain these qualifications throughout their length of employment. Failure to demonstrate (show proof) of qualifications shall result in the termination of employment.

- 8. SUBSTITUTION OF PROFESSIONALS.** If the services of any Professional providing services under this Agreement are terminated and County requests substitute Professional(s) and has no outstanding balance for eligible services previously provided, then Contractor hereby agrees to make reasonable efforts to locate substitute Professional(s).

**9. ADDITIONAL REQUIREMENTS.**

- A. Professionals shall provide services in accordance with all applicable provisions of the Lanterman-Petris-Short Act, Welfare and Institutions Code §§5000-5550, Title 9 of the California Code of Regulations, and Short-Doyle Medi-Cal policies pursuant to the requirements of the Community Mental Health Services plan and policy as administered by the County's Director of Behavioral Wellness.
- B. County understands that Contractor will not provide services to clients being treated under California's Workers Compensation.

- 10. NOTIFICATION.** Contractor will notify County immediately in the event of: any known complaints against licensed staff; any restrictions in practice or license as stipulated by the State Bureau of Medical Quality Assurance, Community Care Licensing Division of the Department of Social Services of the State, or other State agency; any staff privileges being restricted at a hospital; any legal suits being initiated specific to Contractor's practice; any criminal investigation of Contractor that is initiated; or any other action being instituted which affects Contractor's license or practice (for example, sexual harassment accusations).

- 11. CONFIDENTIALITY.** Contractor agrees to maintain the confidentiality of patient records pursuant to: Title 42 United State Code (USC) Section 290 dd-2; Title 42 Code of Federal Regulations (CFR), Part 2; 45 CFR Section 96.132(e), 45 CFR Parts 160, 162, and 164;

## **EXHIBIT A**

### **STATEMENT OF WORK**

Title 22 California Code of Regulations (CCR) Section 51009; Welfare & Institutions Code (W&IC) Section 14100.2; Health and Safety Code (HSC) Sections 11812 and 11845.5; Civil Code Sections 56 – 56.37, 1798.80 – 1798.82, and 1798.85; and the Compliance with HIPAA section of this Agreement. Patient records must comply with all appropriate State and Federal requirements. Contractor shall ensure that no list of persons receiving services under this Agreement is published, disclosed, or used for any purpose except for the direct administration of this program or other uses authorized by law that are not in conflict with requirements for confidentiality contained in the preceding codes.

## EXHIBIT A – 1

### CREDENTIALING REQUIREMENTS FOR HEALTHCARE PROFESSIONALS

All independent contract Professionals must meet the following requirements, as verified by Contractor:

1. **Drug Screen.** Proof of a negative drug screen is required prior to association with Contractor and annually thereafter if Professional is continually associated with Contractor. Drug screen is to consist of 10 panel testing for Marijuana, Cocaine, Amphetamines (includes testing for Meth Amphetamines), Opiates, Propoxyphene, PCP, Barbiturates, Benzodiazepines, Methaqualone, Methadone.
2. **Background Check.** Initial background check of a 7-year county criminal search for every county the professional has lived in for the past seven years: annual background check thereafter if Professional is continually associated with Contractor. Contractor's background check is to require the following searches: OIG, EPLS, OFAC and Sexual Offender Registry. Professionals with felony convictions are not eligible for hiring to provide professional services. Any other non-felony records or evidence of non-felony convictions will be provided to County for review prior to entering into any Agreement. Subcontracting of the background check requirement to a nationally recognized credentialing verification organization (CVO) may be substituted with the concurrence of the County.
3. **Expired Documentation.** Professionals will NOT be allowed to work with an expired drug screen.
4. **Certificates/Licenses.** Provide to Behavioral Wellness Human Resources a current copy of the physician's Drug Enforcement Agency (DEA) certificate and physician's license.

**EXHIBIT B**  
**FINANCIAL PROVISIONS**

1. **Contract Maximum.** For services to be rendered under this contract, Contractor shall be paid at the rate specified in the Schedule of Rates (Exhibit B-1), with a maximum value not to exceed **\$120,000**.
2. **Payment.** Payment for services shall be made upon Contractor's satisfactory performance, based upon the scope and methodology contained in Exhibit A as determined by County. County's Designated Representative or designee shall review for approval biweekly the time records of Professional(s) on a form provided by Contractor or equivalent form provided by the County. Contractor shall submit to the County Designated Representative a biweekly invoice or certified claim on the County Treasury for the services performed over the period specified. The invoice must show the contract number, services performed, rate being charged, total charges and contain sufficient detail and/or provide supporting documentation to enable an audit of the charges. The County Designated Representative shall evaluate the quality of the service performed and if found to be satisfactory and within the cost basis of Exhibit B-1 shall initiate payment processing. County shall pay invoices or claims for satisfactory work within 30 days of presentation of invoice. County may consolidate multiple bi-weekly invoices for one month into a single payment to Contractor. This payment shall be issued to Contractor within thirty (30) days of presentation of the final invoice for the month's services.
3. **County's Designated Representative:**

Santa Barbara County  
Behavioral Wellness Department  
Attn: Accounts Payable  
429 North San Antonio Road  
Santa Barbara, CA 93110  
[ap@sbcbswell.org](mailto:ap@sbcbswell.org)
4. **Unsatisfactory Work.** County's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of County's right to require Contractor to correct such work or billings or seek any other legal remedy.
5. **Third Party Billing.** Contractor shall require that Professional does not bill patient, Medi-Cal or other health insurance for services which Contractor bills to the County.
6. **Taxes and Insurance.** Contractor does not pay for nor provide Workers' Compensation, Accident Insurance, Health Insurance, FICA, or withhold taxes, as the Professionals are independent contractors.
7. **Documentation.** Professionals shall enter into County's Management Information System (MIS) all required records for billing purposes, utilization review, and other purposes as provided by this agreement, and all records shall provide all information necessary for County to receive payment or reimbursement from Medi-Cal, Medicare, Medicaid and any other public and/or private insurance. County may delay or not pay compensation to Contractor if records and/or the contents of those records are deficient or incomplete under Medi-Cal, Medicare, Medicaid and any other public and/or private insurance guidelines or in any delay or prevent County from receiving payment or reimbursement from Medi-Cal, Medicare, Medicaid and any other public and/or private insurance.

EXHIBIT B-1

**SCHEDULE OF RATES**

<b><u>Service</u></b>	<b><u>Definition</u></b>	<b><u>Availability</u></b>	<b><u>Price</u></b>
Emergency Evaluations	<10 minute phone response time  60 minute average video response time	<b><u>24-hours, 7 days per week</u></b>	<b><u>\$295/new patients</u></b> <b><u>\$150/follow up patient</u></b>
Emergency Phone Consultations	< 10 minute phone response time  Medication and/or routine clinical care questions	<b><u>24-hours, 7 days per week</u></b>	<b><u>\$95/ pt</u></b>
Rounds	Scheduled blocks of time at the unit, no more than 4 patients seen per hour	<b><u>24-hrs, 7 days per week</u></b>	<b><u>\$225/hour</u></b> <b>Billed in 30 minute intervals</b>
<b>FY 16-17 Maximum Contract Amount Not To Exceed</b>		<b><u>\$120,000</u></b>	

## EXHIBIT C

### Indemnification and Insurance Requirements (For Professional Contracts)

#### INDEMNIFICATION

Contractor shall defend, indemnify and save harmless the County, its officers, officials, agents and employees from any and all claims, demands, damages, costs, expenses (including reasonable attorney's fees), judgments or liabilities arising out of the negligent performance or nonperformance of the provisions hereof by Contractor; including any willful or negligent act or omission to act on the part of the Contractor or its agents or employees or other independent contractors directly responsible to it to the fullest extent allowable by law.

#### NOTIFICATION OF ACCIDENTS

Contractor shall notify County of any accident or injury arising out of or in connection with this Agreement immediately after it first becomes aware of the same.

#### INSURANCE

- A. Contractor's Insurance.** Contractor agrees to maintain and to cause its personnel providing services under this Agreement to maintain, at its sole cost and expense or the cost and expense of its personnel, policies of general and professional liability insurance coverage in order to insure Contractor and County against any claim for damages arising in connection with Contractor's responsibilities or the responsibilities of Contractor's personnel under this agreement. (the amounts are \$1,000,000, and \$3,000,000 for Professional Liability - \$1,000,000 and \$2,000,000 for General Liability). Contractor shall furnish copies of all the above described insurance policies and a certificate of insurance to the County upon request. All such insurance shall be secured and maintained with an insurance company, or companies, satisfactory to the County and shall name the County as an additional insured.
- B. Other Insurance Provisions**
- Contractor's insurance policies are to contain, or be endorsed to contain, the following provisions:
- 1. Additional Insured** – County, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
  - 2. Primary Coverage** – For any claims related to this Agreement, the Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, agents or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

## EXHIBIT C

3. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, County has the right but not the obligation or duty to terminate the Agreement. In the event County intends to exercise its right to terminate the Agreement, County shall provide written notice to Contractor of its right to terminate the Agreement at least five (5) business days before terminating the Agreement. If Contractor fails to cure the reason(s) for termination within ten (10) business days of receipt of County's written notice, County may terminate the Agreement without further notice. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by County as a material breach of contract.
4. **Special Risks or Circumstances** – County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances. If County's modifications to these requirements result in an increase in costs to Contractor, County shall consider an equitable adjustment to the contract maximum.

## EXHIBIT D

### PHYSICIANS AND OTHER HEALTHCARE PRACTITIONERS

Changes to Subcontractors listed below must be reviewed and authorized by the Behavioral Wellness Director or his or her designee prior to participation in services under this Agreement. Approved revisions shall be incorporated by reference into the Agreement and shall not require a formal amendment.

Contractor and County agree on the following list of Professionals who may provide services for County under this Agreement:

<b>Professional</b>	<b>CA License #</b>
Avrim Fishkind, MD	54128
Mahender Purmandia, MD, MPH	88340
Deepa Hasija, MD	132235
Elton Naidoo, MD	139364
Joshua Niclas, MD	66972
Christopher Chee, DO	12207
Gonzalo Perez-Garica, MD	138231
Rabab Rizvi, MD	138442
Michelle Wang, MD	115102
Mark Schuchman, MD	138747
Lyle Montgomery, MD	138619
Flavio Casoy, MD	113066
Jessica Pagano, MD	117029
Stephen Allison, MD	118576
Chandandeep Chahal, MD	90643
Karl Jeffries, MD	101157
Rhonda Williams, MD	100069