

**NORTH SOUND
MENTAL HEALTH ADMINISTRATION**

INTERAGENCY AGREEMENT

WITH

CONTRACTOR

CONTRACT #NSMHA-SNOHOMISH-JAIL SERVICES-09-11

OCTOBER 1, 2009 TO SEPTEMBER 30, 2011

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Exhibit F –DSHS Admin Policy No. 7-21

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ATTACHMENTS

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Attachment I – Core Values and Principles

Attachment II – NSMHA 7.01 Policy, Provider P&P Grid and Regional Training Plan

Attachment III – Business Associate Agreement

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INTERAGENCY AGREEMENT

THIS INTERAGENCY AGREEMENT (the “Agreement”), pursuant to Chapter 71.24 RCW and all relevant and associated statutes, as amended, is made and entered into by and between the NORTH SOUND REGIONAL SUPPORT NETWORK, dba THE NORTH SOUND MENTAL HEALTH ADMINISTRATION (“NSMHA”), 117 North 1st Street, Suite 8, Mount Vernon, Washington 98273, and SNOHOMISH COUNTY (“CONTRACTOR”), 3000 Rockefeller Ave, M/S 305, Everett, WA 98201.

This Agreement incorporates the Agreement’s Exhibits and Attachments to the Agreement and other documents incorporated by reference.

The effective date of this Agreement is October 1, 2009. This Agreement shall terminate on September 30, 2011.

A. DEFINITIONS

As used anywhere within this Agreement, Exhibits or Attachments, the following terms have the indicated meanings:

7.01 Plan is the NSMHA Board approved plan, which outlines NSMHA’s commitment to planning and service delivery for American Indian governments and communities (Attachment II).

Abuse means “provider practices that are inconsistent with sound fiscal, business, or medical practices and result in an unnecessary cost to the Medicaid program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care” (Medicaid Managed Care Fraud and Abuse Guidelines).

Access refers to the initial request for services and initial screening and the related response-time requirements (as defined in the Clinical Eligibility and Care Standards section of NSMHA contract).

Accessibility means the extent to which an eligible recipient can obtain available services. Accessibility includes both the ability to contact the organization and the availability of providers and services. For example, outreach may be available, but if a provider does not routinely provide active outreach, outreach is not accessible.

Accountability means responsibility of CONTRACTOR for achieving defined outcomes, goals, and contract obligations

Act means the Social Security Act, as amended, codified at 42 U.S.C. § 301 et seq.

Administrative Costs means costs for the general operation of the public mental health system. These activities can not be identified with a specific direct or direct services support function.

Advance Directive means a written document in which a principal makes a declaration of instructions or preferences or appoints an agent to make decisions on behalf of the principal regarding the principal’s mental health treatment, or both, and that is consistent with the provisions of Washington’s Mental Health Advance Directive statute.

1 Allen and Marr Class Members means any DDD enrolled client who was admitted to or in Western State
2 Hospital on or after June 1, 1997 or any DDD enrolled client who was admitted to or in Eastern State
3 Hospital on or after December 2, 1999. The class members are established based on *Allen, et al. v. WSH, et*
4 *al. and Marr, et al. v. ESH, et al. cases.*
5
6 Allied Systems means state or local services which provide consumers with assistance to reduce the impact
7 of disabilities, functional impairments, or skill deficits, and which promote stable community living.
8
9 Ancillary Crisis Services means costs associated with providing medically necessary crisis services which
10 cannot be covered under the Medicaid state plan including but not limited to the cost of room and board
11 for individuals in hospital diversion beds.
12
13 Annual Revenue means all revenue received by the RSN pursuant to the Agreement for July of any year
14 through June of the next year.
15
16 Arbitration means the process by which the parties to a dispute submit their differences to the judgment
17 of an impartial person or group appointed by mutual consent or statutory provision.
18
19 Assessment means a process which provides sufficient information to determine medical necessity for
20 mental health services covered under this Agreement.
21
22 Case Management means assistance to a recipient and family (or significant other) to obtain, maintain, or
23 develop appropriate resources.
24
25 Census Alert means notification provided to the RSN of near-full census at the state psychiatric hospital;
26 may include notification of changes in hospital admission criteria.
27
28 Center for Medicare and Medicaid Services (CMS) A US Federal agency which administers Medicare,
29 Medicaid and the Children's Health Insurance Program.
30
31 Community Mental Health Agency (CMHA) means community mental health centers that are
32 subcontracted by the RSN and licensed to provide mental health services covered under this Agreement.
33
34 Community Support Services shall have the meaning ascribed to it by RCW 71.24.025(8) and shall include
35 all community-based, outpatient services described in WAC 388-865-0230.
36
37 Complaint means a verbal or written statement by a consumer or enrollee that expresses dissatisfaction
38 with some aspect of services covered under this Agreement, the Primary Care Provider, or
39 CONTRACTOR.
40
41 Computer Information System (CIS) means a business application of the computer. It is made up of the
42 database, application programs and manual and machine procedures. It also encompasses the computer
43 systems that do the processing.
44
45 Consumer means a person who has applied for, is eligible for or who has received mental health services.
46 For a child, under the age of thirteen, or for a child age thirteen or older whose parents or legal guardians
47 are involved in the treatment plan, the definition of consumer includes parents or legal guardians.
48

1 Consumer Choice means the individual/child/family’s guaranteed opportunity to choose freely among
2 treatment options and support services (based on identified needs) and to be full partners in the treatment
3 process. “Choice” supports the notion that to the degree possible, individuals/child/families need to play
4 a key role in designing their own service/support “packages”, including involvement of natural supports
5 and culturally specific services.
6

7 Consumer Voice means indicators of ownership in and involvement with planning his/her own supports
8 and services. In Individualized Plans, voice is best indicated by the use of “quotations”.
9

10 Coordinated Quality Improvement Program (CQIP) Health care institutions and medical facilities, other
11 than hospitals, that are licensed by the department, professional societies or organizations, health care
12 service contractors, health maintenance organizations, health carriers approved pursuant to chapter 48.43
13 RCW, and any other person or entity providing health care coverage under chapter 48.42 RCW that is
14 subject to the jurisdiction and regulation of any state agency or any subdivision thereof may maintain a
15 coordinated quality improvement program for the improvement of the quality of health care services
16 rendered to patients and the identification and prevention of medical malpractice as set forth in RCW
17 7041.200.
18

19 Corrective Action/Compliance Review is when findings from a NSMHA and/or Health Recovery
20 Services Administration (HRSA) review or other monitoring efforts or audits show that there are apparent
21 violations of this Agreement, the CONTRACTOR shall implement corrective action within specified
22 timeframes determined by NSMHA and/or MHD and/or Department’s other auditors.
23

24 Corrective Action Plan is a written plan specifying what the CONTRACTOR is required to do to be in
25 compliance. This includes required improvements and a time line for such action(s) to be accomplished.
26

27 Crisis: Crisis may be self-defined or a situation where an individual is acutely mentally ill, or experiencing
28 serious disruption in cognitive, volitional, psychosocial, and/or neurophysiological functioning.
29

30 Crisis Plan is a blueprint for action in the case of an individual (or child/family) who is experiencing
31 imminent or substantial risk of harm to self/others or who is at risk of decompensation that could lead to
32 future use of psychiatric inpatient services.
33

34 Crisis Respite means support and stabilization services that may include, but are not limited to, Crisis
35 Residential Service Options. Crisis respite may include in-home support services and brief periods of
36 services by crisis aide staff to provide relief to a parent or primary in-home care provider.
37

38 Crisis Services means a face-to-face evaluation and treatment of mental health emergencies and crises to
39 non-enrolled, as well as, enrolled individuals experiencing a crisis as defined by the WAC. Crisis services
40 shall be available on a 24-hour basis with the goal of stabilizing the person in crisis and providing
41 immediate or short-term treatment and support in the least restrictive en
42

43 Cross-System Team meetings and consultations is participation and involvement with systems beyond the
44 mental health system, who are also providing services to a mental health consumer, i.e., DCFS, DDD,
45 JRA, DOC, Schools, etc., to assure communication, and integrated, coordinated treatment planning and
46 provision.
47

1 Detention means, pursuant to RCW 13.16.030, staffed juvenile detention facilities for dependent,
2 wayward, and delinquent children, separate and apart from the detention facilities for adults.
3

4 Deliverable means any written information required for submission to NSMHA to satisfy the work
5 requirements of this Agreement and that are due by a particular date or on a regularly occurring schedule.
6

7 Disaster Outreach means persons contacted in their place of residence or in non-traditional settings for
8 the purpose of:
9

- 10 a. Assessing their mental health, or social functioning following a disaster; or
- 11 b. Increasing their utilization of human services and resources.
- 12 c. There are two basic approaches to outreach:
 - 13 i. Mobile (ongoing to person to person);
 - 14 ii. Community settings (e.g. temporary shelters, disaster assistance sites, disaster information
15 forums).
- 16
- 17
- 18 d. Regardless of the approach, the outreach process has five important components:
 - 19
 - 20 i. Locating persons in need of disaster relief services;
 - 21 ii. Assessing their needs;
 - 22 iii. Engaging or linking persons to an appropriate level of support or disaster relief services; and
 - 23 iv. Providing follow-up mental health services when clinically indicated.
 - 24 v. Disaster outreach can be performed by trained volunteers, peers, and/or persons hired under a
25 Federal Crisis Counseling Grant. These persons should be trained in disaster outreach, which
26 is different than traditional mental health crisis intervention.
- 27

28 Discharge is (1) related to end of consumer's inpatient psychiatric hospital stay; (2) occurs when an eligible
29 consumer has completed an episode of care (or active service) and is no longer receiving services (i.e.,
30 closed).
31

32 Discharge Planning (Hospital) is the processes of developing a care regimen for a patient leaving inpatient
33 care, including appropriate timing and follow-up examinations and treatment. A collaborative event,
34 focusing on the development of a regimen of care, designed to support treatment success through the
35 utilization of natural supports and community resources. This planning phase is critical to success, in both
36 the inpatient and outpatient arenas and needs to begin immediately following intake.
37

38 Discharge Planning (Services) is the process of developing a care regimen and community integration plan
39 for a mental health recipient leaving clinical care including appropriate residential treatment/housing
40 supports and community support services prior to the recipient leaving outpatient care.
41

42 Diversion means to redirect an individual from being placed in a restrictive setting (i.e., Jail, inpatient
43 services) to clinically appropriate less restrictive alternative(s).
44

45 Emergent means a situation where an individual is at imminent risk of substantial harm to him or herself
46 or, others.
47

1 Emergent Care means services provided for a person, that, if not provided, would likely result in the need
2 for crisis intervention or hospital evaluation due to concerns of potential danger to self, others, or grave
3 disability according to RCW 71.05.

4
5 Evaluation and Treatment Facility (E&T) means a facility meeting the requirements of RCW
6 71.05.020(16). These are not-for-profit organizations. At a minimum, services include evaluation,
7 stabilization and treatment provided by or under the direction of licensed psychiatrists, nurses and other
8 Mental Health Professionals, and discharge planning involving the individual, Family, significant others so
9 as to ensure continuity of mental health care. Nursing care includes but is not limited to performing
10 routine blood draws, monitoring vital signs, providing injections, administering medications, observing
11 behaviors and presentation of symptoms of mental illness.

12
13 Fair Hearing means a grievance hearing before the Washington State Office of Administrative Hearings.

14
15 Family means those the consumer defines as family or those appointed/assigned (e.g. parents, foster
16 parents, guardians, siblings, caregivers, and significant others).

17
18 Fraud means “an intentional deception or misrepresentation made by a person with the knowledge that
19 the deception could result in some unauthorized benefit to himself or some other person. It includes any
20 act that constitutes fraud under applicable Federal or State law”. (Medicaid Managed Care Fraud and
21 Abuse Guidelines).

22
23 Full-Time Equivalent (FTE) is the term used to define number of full-time staff. One FTE shall be
24 defined as meaning an employee who works 40 hours per week.

25
26 Geographic Area is the NSMHA Service Area consisting of the following geographic areas:

- 27
28 a. Island County
29 b. San Juan County
30 c. Skagit County
31 d. Snohomish County
32 e. Whatcom County
33

34 Grievance means an expression of dissatisfaction about any matter. The term is also used to refer to the
35 overall process that includes grievances handled at the RSN level and access to the state fair hearing
36 process. Possible subjects for grievances include, but are not limited to, the quality of care or services
37 provided, and aspects of interpersonal relationships such as rudeness, or failure to respect the enrollee’s
38 rights.

39
40 HIPAA means Health Insurance Portability and Accountability Act of 1996, as amended, codified at 42
41 U.S.C. §§ 1320d-d8, and its implementing regulations at 45 CFR Parts 160 and 164.

42
43 In-Residence Census (IRC) means the in-residence census of all voluntary and involuntary consumers,
44 regardless of where in the state hospital they are housed.

45
46 Involuntary Treatment means treatment provided under the Involuntary Treatment Act Chapter 71.05
47 RCW, as amended, and its implementing regulations at Chapter 388-865 WAC for individuals age 13 and
48 older, who do not agree to treatment/hospitalization and are detained against will after having been

1 evaluated by a CDMHP (Designated Mental Health Professional) and court hearing and found to need
2 treatment/hospitalization by meeting one of the statutory criteria (danger to self, others, or gravely
3 disabled) and therefore ordered or remanded to treatment by court decision.
4

5 Local Funds Eligible for Match means sources of revenue that are eligible to be used as federal match are
6 broad based taxes at the county or other local taxing authority level that are spent and have been certified
7 by the local authority as public funds for mental health services allowable under this Agreement. Funds
8 used for federal match under this Agreement may not be used as match for any other federal program. It
9 can be local funds that have not been previously matched with federal funds at any point. Local funds do
10 not include donations.
11

12 Medicaid Waiver is a waiver granted by the Secretary of DSHS to requirements of 42 U.S.C. § 1396a for
13 the purpose of permitting the DSHS Mental Health Division to operate a capitated managed care system
14 to provide services to enrolled recipients of the Medicaid program. Under 42 U.S.C. § 1396n, the
15 Secretary is authorized to grant such waivers to the extent he/she finds proposed improvements or
16 specified practices in the provision of services under Medicaid to be cost-effective, efficient, and consistent
17 with objectives of the Medicaid program.
18

19 Medical Necessity or Medically Necessary means a term for describing a requested service which is
20 reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent the worsening of conditions
21 in the recipient that endanger life, or cause suffering or pain, or result in illness or infirmity, or threaten to
22 cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no other equally
23 effective, more conservative or substantially less costly course of treatment available or suitable for the
24 person requesting service. "Course of treatment" may include mere observation or, where appropriate no
25 treatment at all.
26

27 Mental Disorder is a disorder as defined in RCW 71.34.020(12) for children and RCW 71.05.020(2) for
28 adults.
29

30 Mental Health Care Provider (MHCP) means the individual with primary responsibility for implementing
31 an individualized plan for mental health rehabilitation services. Minimum qualifications are B.A. level
32 education in a related field or A.A. level education with two years experience in the mental health or
33 related fields.
34

35 OMB Circular A-133 means the federal Office of Management and Budget Circular No. A-133 "Audits of
36 States, Local Governments and Non-Profit Organizations".
37

38 Outreach means a mental health service where consumers with severe and persistent mental illness or
39 serious emotional disturbance are contacted in their place of residence or in non-traditional settings for the
40 purpose of:
41

- 42 a. Improving their mental health, health, or social functioning; or
 - 43 b. Increasing their utilization of human services and resources.
 - 44 c. There are two basic approaches to outreach:
 - 45 i. Mobile (going to consumer); and
 - 46 ii. Drop-in centers (e.g. shelters, clubhouses, kitchens, clothing banks).
- 47
48

1 d. Regardless of the approach, the outreach process has five important components:

- 2
- 3 i. Locating individuals in need of services;
- 4 ii. Engaging individuals into service;
- 5 iii. Assessing their needs;
- 6 iv. Linking individuals to an appropriate level of support services; and
- 7 v. Providing follow-up services.
- 8

9 Performance Indicator(s) means system level information on the types of service to consumers, the
10 duration and intensity of services, staffing patterns, and fiscal viability.

11
12 Pre-Admission Screening and Resident Review (PASARR)

13
14 Prepaid Inpatient Health Plan (PIHP) means an entity that provides or arranges for:

- 15
- 16 a. Mental health services to enrollees under contract with the state on the basis of prepaid capitation
- 17 payments, or other payment arrangements that don't use state plan payment rates;
- 18 b. Provides, arranges for, or otherwise has responsibility for the provision of any inpatient hospital or
- 19 institutional services for its enrollees; or
- 20 c. Does not have a comprehensive risk contract.
- 21

22 Psychological Assessment means all psychometric services provided for evaluation, diagnostic, or
23 therapeutic purposes by, or under the supervision of, a licensed psychologist.

24
25 Publish means an officially sanctioned document provided by HRSA on HRSA internet or intranet
26 websites for downloading, reading, or printing. The Contractor shall be notified in writing or by e-mail
27 when a document meets the criteria.

28 Quality Assurance means a focus on compliance to minimum requirements (e.g. rules, regulations, and
29 contract terms) as well as reasonably expected levels of performance, quality, and practice.

30
31 Quality Improvement means a focus on activities to improve performance above minimum standards/
32 reasonably expected levels of performance, quality, and practice.

33
34 Quality Management/Strategy means an overarching system and/or process whereby quality assurance and
35 quality improvement activities are incorporated and infused into all aspects of an organization's or system's
36 operations.

37
38 Rehabilitation means to restore to customary activity through education, skill building and therapy. The
39 purpose of rehabilitation is to increase independence and ability to participate in life meaning activities.

40
41 Reserve Accounts means an allocation of fund balance at the RSN set aside for a specific purpose by the
42 RSN governing board or local legislative authority. The Reserve Accounts shall include an:

- 43
- 44 a. Operating Reserve - Funds designated from mental health revenue sources that are set aside into
- 45 an operating reserve account by official action of the RSN's governing body. Operating reserve
- 46 funds may only be set aside to maintain adequate cash flow for the provision of mental health
- 47 services.

1 b. Inpatient Reserve – Funds designated from mental health revenue sources to pay for future
2 inpatient hospital claims.
3

4 Residential Services are defined in WAC 388-865-0235, NSMHA Standards of Care and Clinical Eligibility
5 Manual and NSMHA Policies and Procedures.
6

7 Risk means the possibility that the CONTRACTOR may incur a loss because the cost of providing
8 services may exceed the premium payments made by NSMHA to CONTRACTOR for services covered
9 under this Agreement. (42 CFR 434.2)
10

11 Routine Care means a setting where evaluation and mental health services are provided to consumers on a
12 regular basis. These services are intended to stabilize, sustain, and facilitate consumer recovery within his
13 or her living situation and they do not meet the definition of urgent or emergent care.
14

15 Routine Services means non-emergent and non-urgent services are offered within fourteen (14) calendar
16 days to individuals authorized to receive services as defined in the access to care standards. Routine
17 services are designed to alleviate symptoms, to stabilize, sustain and facilitate progress toward mental
18 health.
19

20 Screening means initial face-to-face or telephonic interview to assess immediate mental health needs of a
21 client for referral and/or treatment (per HCPCS procedure code). Depending upon level of need, a full
22 multi-axial assessment frequently follows screening.
23

24 Service Area means the geographic area covered by this Agreement for which the RSN is responsible;
25 Section F-1 of this Agreement.
26

27 Special Population Evaluation means an evaluation by a mental health specialist as defined by WAC 388-
28 865-0150, which considers age and cultural variables specific to the individual being evaluated and other
29 culturally and age competent evaluation methods. This evaluation shall provide information relevant to a
30 consumer's continuation in appropriate treatment and assist in treatment planning.
31

32 Subcontract means any written Agreement between CONTRACTOR and subcontractor or between
33 CONTRACTOR, subcontractor, and another subcontractor to provide services or activities otherwise
34 performed under this Agreement.
35

36 Subcontractor means an individual or entity performing all or part of the services under this Agreement
37 under a separate contract with the CONTRACTOR or its subcontractors.
38

39 Title 42 is the CFR Public Health Service.
40

41 Title XIX of the Social Security Act means Subchapter XIX of the Social Security Act, 42 U.S.C. §§ 1396-
42 1396v, providing for grants to states for Medical Assistance Program.
43

44 Title XIX Eligible Month means a calendar month in which an individual is eligible for the Title XIX
45 program for any part of the month.
46

47 Title XXI is the State Children's Health Insurance Program.
48

1 Transition Youth means anyone age 17-21.

2

3 Underserved means persons who are minorities, children, older adults, disabled, and low-income. See
4 WAC 388-865-0150.

5

6 Urgent Care means a service to be provided to persons approaching a mental health crisis. If services are
7 not received within 24 hours of the request, the person's situation is likely to deteriorate to the point that
8 emergent care is necessary.

9

10 Utilization Management Services means to provide independent utilization management process that
11 monitors provider network to ensure services provided are sufficient, but not excessive, which are
12 predicated on the individual needs of the recipient with respect to that person's age, culture, language, and
13 abilities.

14

15 Youth means anyone age 13-17 (13-20 if Medicaid)

16

1 **B. JAIL SERVICES SCOPE OF WORK**

2 CONTRACTOR shall furnish the necessary personnel and services and do all things necessary for the
3 performance of the work set forth herein as presently written or as may be later amended.
4

5 **1. INTENT**

6 Jail Services funding is provided by the Washington Legislature to provide mental health services
7 for mentally ill offenders while confined in a county or city jail. These services are intended to
8 facilitate access to programs that offer mental health services upon mentally ill offenders' release
9 from confinement. This includes efforts to expedite applications for new or re-instated Medicaid
10 benefits.
11

12 Primary responsibility for direct mental health services and medications for individuals while they
13 are in jail is the responsibility of the county or local jail. Services provided with this funding are
14 intended to facilitate safe transition into community services. To that end, the funding provided
15 through this Agreement shall supplement, and not supplant, local or other funding or in-kind
16 resources being used for these purposes that were in effect in April 2005. This restriction does not
17 apply to services previously provided by RSN savings, which can no longer be used to provide
18 Non-Medicaid services.
19

20 **2. ENCOUNTER DATA REPORTING**

21 Services provided under this contract must be reported into the clearinghouse for the North
22 Sound region, which is Sound Data Services. CONTRACTOR must contract with a
23 Subcontractor who can accomplish this requirement. To be reportable into the regional
24 clearinghouse each encounter must be described as an item that is found in the NSMHA data
25 dictionary. Also, a client record is established for each client receiving services and the elements
26 contained in the client record include all of the elements contained in a client record in the
27 NSMHA CIS system.
28

29 **3. SERVICES TO BE PROVIDED**

30 Coordinate with local law enforcement and jail personnel including development or maintenance
31 of Memoranda of Understandings with local county and city jails in the CONTRACTOR service
32 area which detail a referral process for individuals with mental illness who are incarcerated and
33 need mental health services.
34

35 The MOU must identify the process and procedures to be implemented when the local jails
36 contract the placement of offenders in other jurisdictions, such as tribal jails or those in other
37 counties. The MOU must detail a referral process for persons who are incarcerated and have been
38 diagnosed with a mental illness or identified as in need of mental health services. It must also
39 include a process to include services to offenders placed out of jurisdiction contract facilities.
40

41 Identify individuals within the jail community and provide transition services to those individuals
42 with mental illness to expedite, facilitate, and coordinate their return to the community.
43

44 Identify and accept referrals for intake of individuals for jail transition services who are not
45 enrolled in community mental health services but who meet priority populations as defined in
46 71.24.035(5)(b). The CONTRACTOR shall conduct mental health needs assessments for these
47 individuals and provide transition services prior, and when necessary upon their release from jail.
48

1 Develop a Memoranda of Understanding with local community service offices toward the
2 facilitation of expedited application or reinstatement of medical assistance for individuals in jails,
3 prisons, or Institute for Mental Diseases (IMD). The CONTRACTOR shall assist individuals with
4 mental illness in completing and submitting applications for medical assistance to the local CSO
5 prior to release from jail.
6

7 The client chart must contain notes of services provided through jail services programming. The
8 client chart must make note, in a clearly recognizable manner, of when Jail Services began, and
9 when they ended.
10

11 Pre-release services shall include within the available resources:

- 12 a. Mental health screening for individuals who display behavior consistent with a need for
13 such screening or who have been referred by jail staff, or officers of the court;
- 14 b. Mental health intake assessments for persons identified during the mental health screening
15 as a member of the priority populations as defined in Chapter 71.24 RCW;
- 16 c. Facilitation of expedited medical and financial eligibility determination with the goal of
17 immediate access to benefits upon release from incarceration;
- 18 d. Other prudent pre-release (including pre-trial) case management and transition planning.
19

20
21 Provision of direct mental health services to individuals who are in jails that have no mental health
22 staff.
23

24 Implement intensive post-release outreach to ensure best possible follow-up with the CSO and
25 appointments for mental health and other services (e.g. substance abuse) engagement with mental
26 health services to stabilize client in the community.
27

28 If the Contractor has provided the jail services above the Contractor may use the Jail Coordination
29 Services funds provided to facilitate any of the following activities if there are sufficient resources:
30

31 Daily cross-reference between new bookings and the RSN data base to identify newly booked,
32 persons known to the RSN.
33

34 Development of individual alternative service plans (alternative to the jail) for submission to the
35 courts.
36

37 Inter-local Agreements with juvenile detentions facilities.
38

39 Provision of up to a seven (7) day supply of medications prescribed for the treatment of mental
40 health symptoms following the release from jail.
41

42 Training to local law enforcement and jail services personnel.
43

1 **C. PERFORMANCE STANDARDS**

2
3 **1. GENERAL OPERATING STANDARDS**

- 4 a. CONTRACTOR must ensure that consumers and consumers’ families participate in planning
5 activities and participate in the implementation and evaluation of CONTRACTOR’s clinical
6 functions. CONTRACTOR must be able to demonstrate how this requirement is
7 implemented.
- 8 b. CONTRACTOR must maintain a written Advance Directive policy and procedure that
9 respects enrollees' advance directives for psychiatric care. Policy and procedures must comply
10 with NSMHA’s Advance Directives policy and procedure.
- 11 c. CONTRACTOR shall make best efforts to provide written or oral notification within 15
12 working days of termination of a MHCP to individuals currently open for services who had
13 received a service from the affected MHCP in the previous 60 days. Notification must be
14 verifiable in the client medical record at the CONTRACTOR.
- 15 d. CONTRACTOR must ensure benefits are provided in accordance with NSMHA’s policies and
16 procedures and are not arbitrarily denied or reduced (e.g. the amount, duration, or scope of a
17 required service) based solely upon the diagnosis, type of mental illness, or the enrollee’s
18 mental health condition.
- 19 e. CONTRACTOR shall notify consumers in writing of changes in service, MHCP denials
20 and/or changes, or termination in services in accordance with NSMHA policies and
21 procedures.
22

23 **2. OUTPATIENT INITIAL AUTHORIZATION and CONTINUED SERVICE**
24 **AUTHORIZATION**

25 CONTRACTOR shall facilitate the transition from jail services to Outpatient Services.

26
27 CONTRACTOR shall assist the consumer with the transition and coordination of services upon
28 release from jail.

29
30 CONTRACTOR shall continue to meet the transition needs of the consumer provided under this
31 Agreement until the consumer receives their first outpatient appointment and/or consumer has
32 declined further services, whichever occurs first. The duration of jail transition engagement
33 services shall be approximately ninety (90) days or at a mutually agreed upon end date for the
34 purpose of transition services.
35

36 **3. MENTAL HEALTH NEEDS ASSESSMENT**

37 CONTRACTOR shall conduct a mental health needs assessment on individuals identified by the
38 CONTRACTOR who are in need of mental health transition services.
39

40 The Mental Health Needs Assessment shall at a minimum contain the following elements:

- 41
42 a. Consumer’s identification of problem, in his/her words
43 b. Identifying risk issues, to self or others
44 c. Client’s functioning level- abbreviated mental health status assessment
45 d. Determination of mental health, medical, and/or chemical dependency issues
46 e. Identify whether the consumer is current or past consumer of mental health/chemical
47 dependency services
48 f. Medication history and current needs; and
49 g. Completion of the GAIN Screening Tool

1 CONTRACTOR shall ensure the mental health needs assessment is in language and terminology
2 that is understandable to consumers;

3
4 CONTRACTOR shall address age, cultural, or disability issues of the consumer;

5
6 CONTRACTOR will include measurable goals for progress toward rehabilitation, recovery and
7 reintegration into the mainstream of social, employment and educational choices, involving other
8 systems when appropriate;

9
10 CONTRACTOR shall demonstrate that the provider has worked with the consumer and others at
11 the consumer's request to determine his/her need in the following life domains:

- 12
- 13 a. Housing;
 - 14 b. Food;
 - 15 c. Income;
 - 16 d. Health and dental care;
 - 17 e. Transportation;
 - 18 f. Work, school or other daily activities;
 - 19 g. Social life; and
 - 20 h. Referral services and assistance in obtaining supportive services appropriate to treatment,
21 such as substance abuse treatment.

22
23 **4. ACCESS SERVICES**

24 In accordance with WAC 388-865-0415, CONTRACTOR must document and otherwise ensure
25 that eligible consumers have access to age and culturally competent services when and where those
26 services are needed. They must:

- 27
- 28 a. Identify and reduce barriers to people getting the services where and when they need them;
 - 29 b. Comply with the Americans with Disabilities Act 42 U.S.C. § 12101 et seq. and the
30 Washington State Antidiscrimination Act, chapter 49.60 RCW;
 - 31 c. Assure that services are timely, appropriate and sensitive to the age, culture, language,
32 gender and physical condition of the consumer;
 - 33 d. Encourage alternative service delivery models to make services more available to
34 underserved persons as defined in WAC 388-865-0150;
 - 35 e. Provide access to telecommunication devices or services and certified interpreters for deaf
36 or hearing impaired consumers and limited English proficient consumers;
 - 37 f. Bring services to the consumer or locate services at sites where transportation is available
38 to consumers; and
 - 39 g. Ensure compliance with all state and federal nondiscrimination laws, rules and plans.

40
41 **5. CONSUMER AND FAMILY VOICE**

42 CONTRACTOR must ensure all consumers have voice in developing their transition plans,
43 advance directives and crisis plans. At a minimum, transition goals must be written in the words
44 of the consumer and documentation must be included in the clinical record describing how the
45 consumer sees his/her progress. CONTRACTOR must be able to demonstrate how this
46 requirement is implemented and monitored.

1 **6. COMPLAINT, GRIEVANCE AND FAIR HEARING PROCESSES**

2 CONTRACTOR must implement complaint, grievance, fair hearing and appeal processes that are
3 in conformance with NSMHA policies and procedures.
4

5 CONTRACTOR and its subcontractors shall abide by NSMHA complaint, grievance, fair hearing
6 and appeal determinations. CONTRACTOR shall be responsible for paying 100% of all Medical
7 Director and/or Attorney fees incurred by NSMHA when a consumer goes directly to a fair
8 hearing without utilizing NSMHA's grievance processes and when the ruling favors the consumer,
9 in accordance with NSMHA policies and procedures.
10

11 In addition CONTRACTOR shall:

- 12 a. Implement a Grievance process that complies with WAC 388-865-0255 or any successors
- 13 b. Coordinate with NSMHA grievance process and Ombuds Services.
- 14 c. Provide assistance to clients filing a grievance and
- 15 d. Incorporate concerns from grievances into CONTRACTOR services without identifying
16 individual clients.
17
18

19 **7. LOCAL RESPONSIVENESS AND COMMUNICATIONS**

20 CONTRACTOR shall cooperate with NSMHA in the Service Area to provide a locally responsive
21 delivery system. CONTRACTOR shall provide consumers and referral sources information and
22 education about the referral process, service availability, service population, common symptoms of
23 mental illness to consumers and referrals sources, and shall post and make known consumer rights
24 and responsibilities including complaint, grievance, and fair hearing procedures, and the availability
25 of Ombuds services.
26

27 CONTRACTOR shall have written policy and procedures that comply with NSMHA's policies on
28 consumer rights and that address the following:
29

- 30 a. Individual mental health rights applicable to non-Medicaid individuals as defined in WAC
31 388-865-0410.
- 32 b. Oral interpretation services provided free of charge to the individual.
- 33 c. Information those written materials are available when requested in alternate formats.
34 These materials must be available and easily understood by individuals.
35

36 **8. CRITICAL INCIDENTS**

37 CONTRACTOR and its subcontractors shall comply with NSMHA's Critical Incident Reporting
38 Policy and Procedure and any successor regarding critical incidents.
39

40 **9. STAFF COMPETENCY AND TRAINING**

41 CONTRACTOR and its Subcontractors shall comply with NSMHA credentialing policies and
42 procedures and shall ensure that all staff are qualified for the position they hold and have at a
43 minimum the education, experience, and skills to perform their job requirements, per WAC 388-
44 865, including any required licenses or certifications.
45

46 CONTRACTOR shall collaborate with NSMHA to implement, maintain, and revise the Regional
47 Training Plan incorporated as Attachment II, or any successor.
48

1 CONTRACTOR must participate in training when requested by NSMHA/MHD. To allow an
2 exception to participation in required training must be in writing and include a plan for how the
3 required information will be provided to the appropriate CONTRACTOR/Subcontractor staff.
4

5 **10. MANAGEMENT INFORMATION SYSTEM**

6 CONTRACTOR shall:

- 7
- 8 a. Ensure the existence and operation of a single integrated information system. It shall have
9 the ability to collect, use internally and report data as required by NSMHA in order to
10 provide a centralized, seamless system of mental health services and to provide timely
11 monitoring. This data shall be useable as management data for audit purposes, and contain
12 sufficient information to track termination from services. NSMHA shall be notified of
13 changes to the information system, at the time planning begins for implementation that
14 may have an effect on the data submitted to or otherwise required to be collected for
15 NSMHA.
- 16 b. Comply with NSMHA policies and procedures regarding quality, accuracy and data
17 reporting.
- 18 c. Comply with HIPAA implementation requirements and standards (i.e. data collection,
19 submission, privacy, and security).
- 20 d. Provide the NSMHA all data described in the NSMHA data dictionary or any successor,
21 incorporated herein by reference. Encounters must be reported by the 10th calendar day of
22 the close of each calendar month, i.e., data for services rendered in January must be
23 submitted by February 10th. Transmission will retain the CONTRACTOR's location
24 identifiers. Upon receipt of the data, the NSMHA will generate an error report and make
25 available to the CONTRACTOR. Upon receipt of the error report, the CONTRACTOR
26 must remedy all data errors within 20 calendar days of receipt of the error report.
27 Additional Data Cleanup reports shall be routinely generated. Upon receipt of the Data
28 Cleanup reports, the CONTRACTOR must remedy the Data Cleanup reports within 20
29 calendar days of the receipt of the Data Cleanup report.
- 30 e. Participate in NSMHA decisions to add or delete data elements that will include projected
31 cost analysis.
- 32 f. Implement changes made to the NSMHA data dictionary within 90 days from the date of
33 published changes. The intention of NSMHA is to make NSMHA changes to the data
34 dictionary at 6-month intervals.
- 35 g. Provide certification by the CONTRACTOR Program Managers or designees that attests
36 based on best knowledge, information, and belief to the accuracy, completeness, and
37 truthfulness of data on the day of batch submittal. The certification will be sent to the
38 NSMHA Information Systems Specialist. The form is available on the NSMHA website.
- 39 h. Ensure that requested information is received in a manner that will allow NSMHA to make
40 a timely response to inquiries from CMS, the legislature, Health and Recovery Services
41 (HRSA), and other parties about system operations. Such data must be provided in a time
42 frame that NSMHA has developed with the MHD at the time of the request and will take
43 into consideration the needs of the inquiring party.
- 44 i. Submit all data into CONTRACTOR database indicating the provision of any emergency
45 service component within three (3) working days from the completion of that service.
- 46 j. CONTRACTOR shall participate in NSMHA Consumer Information System (CIS)
47 Workgroup.
- 48 k. CONTRACTOR shall transmit data to NSMHA MIS, at a minimum, once per week.

- 1 1. Once transactions are final at NSMHA, CONTRACTOR shall be liable for any costs
2 associated with additional data processing if MHD charges NSMHA.
3

4 **11. BUSINESS ASSOCIATE AGREEMENT**

5 CONTRACTOR shall abide by the provisions of NSMHA/CONTRACTOR Business Associates
6 Agreement (Attachment III).
7

8 **12. MONITORING**

9 CONTRACTOR shall monitor Subcontractors providing clinical services under this Agreement to
10 ensure that services are provided in conformance with laws, regulations, other clinical standards,
11 the state mental health contract between NSMHA and MHD that provides for Jail Services and
12 this Agreement.
13

14 **13. DELIVERABLES**

15 CONTRACTOR must ensure plans or reports required by this Agreement, are provided to the
16 NSMHA in compliance with the timelines and/or formats indicated.
17
18

1 **D. FINANCIAL TERMS AND CONDITIONS**

2
3 **1. GENERAL FISCAL ASSURANCES**

4 CONTRACTOR shall comply with all applicable laws and standards, including Generally
5 Accepted Accounting Principles, and maintain, at a minimum, a financial management system that
6 is a viable, single, integrated system with sufficient sophistication and capability to effectively and
7 efficiently process, track, and manage all fiscal matters and transactions.
8

9 **2. FINANCIAL ACCOUNTING REQUIREMENTS**

10 CONTRACTOR shall:

- 11
- 12 a. Establish and maintain operating reserves at prudent levels sufficient to ensure that
 - 13 CONTRACTOR has the ability to pay for all expenses incurred during this Agreement
 - 14 period, including those whose disposition occurs after the Agreement has been terminated,
 - 15 and to cover the risk of financial loss resulting in the event that the cost of providing
 - 16 services pursuant to this Agreement exceeds the revenues derived therefrom;
 - 17 b. Ensure that all funds, including interest earned, provided pursuant to this Agreement are
 - 18 used to support the public mental health system within the Service Area.
 - 19 c. Reimburse Subcontractors within 60 calendar days of their billings to CONTRACTOR.
 - 20 d. CONTRACTOR shall produce annual audited financial statements within 270 days of its
 - 21 fiscal year end and make such reports available to NSMHA upon request.
22

23 **3. FINANCIAL REPORTING**

24 CONTRACTOR shall provide the following reports to NSMHA:

- 25
- 26 a. Within 15 calendar days from the effective date of this Agreement, a program-specific
 - 27 budget that demonstrates to NSMHA's reasonable satisfaction, compliance with direct
 - 28 service and indirect cost requirements. (Attachment IV).
 - 29 b. Report CONTRACTOR'S revenue and expenditure information to NSMHA on a biennial
 - 30 quarter basis. Reports must comply with the provisions in the BARS Supplemental
 - 31 Instructions for Mental Health Services promulgated by the Washington State Auditor's
 - 32 Office. Reports are due within 35 calendar days of the biennial quarter end (December and
 - 33 June of each year).
 - 34 c. CONTRACTOR shall participate in MHD Unit Cost Surveys and actuarial studies, when
 - 35 required by MHD.
36

37 **4. RULES COMPLIANCE**

38 The CONTRACTOR shall:

- 39
- 40 a. Submit the amount spent throughout the Service Area on specific items at the request of
 - 41 NSMHA, CMS, the legislature, or DSHS in the timeframe specified.
 - 42 b. Account for public mental health expenditures under this Agreement in accordance with
 - 43 federal Office of Management and Budget Circulars No. A-133 and A-87 circular A-133
 - 44 and A-87, and state requirements in accordance with the BARS Manual, and BARS
 - 45 Supplemental Instructions.
 - 46 c. Ensure State or Federal funds are not used to replace local funds from any source, which
 - 47 were being used to finance mental health services in the constituent county/counties in the
 - 48 calendar year prior to January 1, 1990. CONTRACTOR shall not use State or Federal

1 funds to replace local funds used to administer the Involuntary Treatment Program in the
2 constituent county/counties in the calendar year prior to January 1, 1974.

- 3 d. CONTRACTOR shall have a sliding fee scale, which is posted and accessible to staff and
4 service recipients, and does not require payment from service recipients with income levels
5 equal to or below the grant standards for the general assistance program of the State of
6 Washington;
- 7 e. Limit administration costs incurred by CONTRACTOR and all Subcontractors to no more
8 than 15.25 percent of the consideration provided under this Agreement in any state fiscal
9 year. Administration costs must be measured on a state fiscal year basis according to the
10 reported information submitted by the CONTRACTOR in their Revenue and Expenditure
11 reports and reviewed by NSMHA.
- 12 f. The funding provided through this Agreement shall supplement, and not supplant, local or
13 other funding or in-kind resources being used for these purposes that were in effect in
14 April 2005.

15
16 **5. FINANCIAL PROVISIONS – REIMBURSEMENT REQUIREMENTS**

17 The consideration to be paid by NSMHA for the work to be provided by CONTRACTOR
18 pursuant to this Agreement shall consist of the available amount from primary funding sources as
19 described in Attachment IV of this Agreement.

- 20
21 a. The consideration by NSMHA to CONTRACTOR pursuant to this Agreement shall be
22 paid monthly within ten (10) working days of NSMHA's receipt of payment by
23 DSHS/MHD,
- 24 b. Payment Methodology: NSMHA shall pay to CONTRACTOR all allowable and allocable
25 costs incurred as evidenced by proper invoice of CONTRACTOR as submitted on a
26 monthly basis to the extent that those costs do not exceed each funding source maximum
27 as set forth in Attachment IV.

28
29 Funds for July 1, 2011 through September 30, 2011, following the end of the annual legislative
30 session, NSMHA shall offer an Amendment with the proposed funds for the next fiscal year. If
31 for any reason the Contractor does not agree to continue to provide services using the proposed
32 funds, the Contractor must provide the appropriate notice to NSMHA under the termination
33 requirements of Section E.

34
35 **6. FRAUD AND ABUSE**

36 CONTRACTOR shall develop and implement administrative and management procedures that
37 are designed to guard against fraud and abuse including:

- 38
39 a. A mandatory compliance plan;
- 40 b. Designation of a compliance officer or a compliance committee that is accountable to
41 CONTRACTOR;
- 42 c. Effective ongoing training and education for the compliance officer and CONTRACTOR;
- 43 d. Effective lines of communication between the compliance officer and employees and other
44 providers in CONTRACTOR'S network;
- 45 e. Enforcement of standards through well-publicized disciplinary guidelines;
- 46 f. Provision of internal monitoring and auditing;
- 47 g. Provision for prompt response to detected offenses and for development of corrective
48 action initiatives;

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- h. Participation by CONTRACTOR and any Subcontractors in Medicaid fraud and abuse training conducted by the Washington State Attorney General’s Medicaid Fraud Unit.
- i. Written policies, procedures, and standards of conduct that articulate CONTRACTOR’s commitment to comply with all applicable Federal and State standards.

The CONTRACTOR shall report fraud and/or abuse information to NSMHA as soon as it is discovered including the source of the complaint, the party complained against, nature of fraud or abuse complaint, approximate dollars involved, and the legal and administrative disposition of the case.

1 **E. OVERSIGHT, REMEDIES AND TERMINATION**

2
3 **1. OVERSIGHT AUTHORITY**

4 NSMHA, the Department of Social and Health Services (DSHS), Office of the State Auditor, the
5 Department of Health and Human Services, Centers for Medicare and Medicaid Services, the
6 Comptroller General, or any of their duly-authorized representatives (e.g. External Quality Review
7 Organizations), have the authority to conduct announced and unannounced: a) surveys; b) audits;
8 c) reviews of compliance with licensing and certification requirements and compliance with this
9 Agreement; d) audits regarding the quality, appropriateness, and timeliness of mental health
10 services of the CONTRACTOR and Subcontractors; and e) audits and inspections of financial
11 records of the CONTRACTOR and Subcontractors. CONTRACTOR shall notify NSMHA when
12 an entity other than NSMHA performs any audit described above related to any activity governed
13 by this Agreement.
14

15 In addition, NSMHA will conduct reviews in accordance with its oversight of resource, utilization
16 and quality management, as well as to ensure that CONTRACTOR have the clinical,
17 administrative and fiscal structures to enable them to perform in accordance with the terms of the
18 contract. Such reviews may include, but are not limited to encounter data validation, utilization
19 reviews, clinical record reviews, and reviews of administrative structures, fiscal management and
20 contract compliance. Reviews may include desk reviews, requiring CONTRACTOR to submit
21 requested information. NSMHA will also review activities delegated under this contract to
22 CONTRACTOR.
23

24 CONTRACTOR shall cooperate with and allow access to NSMHA Ombuds and Quality Review
25 Team (“QRT”) in order to conduct surveys and review activities in accordance with the terms of
26 this contract, in accordance with Attachment V. CONTRACTOR shall cooperate with Skagit
27 County Community Action Agency in resolving any disputes that arise in the provision of Ombuds
28 and QRT services.
29

30 Findings as a result of NSMHA conducted reviews may result in remedial action as outlined below.
31 Federal and State agencies may impose remedial action or financial penalties either directly upon
32 CONTRACTOR or through NSMHA. CONTRACTOR shall comply with the terms of such
33 remedial action and be responsible for the payment of financial penalties.
34

35 **2. REMEDIAL ACTION**

36 NSMHA may require CONTRACTOR to plan and execute corrective action. Corrective action
37 plans developed by CONTRACTOR must be submitted for approval to the NSMHA within 30
38 calendar days of notification. Corrective action plans must be provided in a format acceptable to
39 NSMHA. The NSMHA may extend or reduce the time allowed for corrective action depending
40 upon the nature of the situation as determined by the NSMHA.
41

42 a. Corrective action plans must include:

- 43
- 44 i. A brief description of the finding.
 - 45 ii. Specific actions to be taken, a timetable, a description of the monitoring to be
46 performed, the steps taken and individuals responsible for the resolution of the
47 situation.
- 48

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- b. Corrective action plans may:
 - i. Require modification of any policies or procedures by CONTRACTOR relating to the fulfillment of its obligations pursuant to this Agreement.
 - c. Corrective action plans are subject to approval by the NSMHA, which may:
 - i. Accept the plan as submitted.
 - ii. Accept the plan with specified modifications.
 - iii. Request a modified plan; or,
 - iv. Reject the plan.
 - d. CONTRACTOR agrees that NSMHA may initiate remedial action with or without a corrective action plan as outlined in subsection below if the NSMHA determines any of the following situations exist:
 - i. A problem exists that negatively impacts enrollees.
 - ii. CONTRACTOR has failed to perform any of the mental health services required in this Agreement, including delegated functions, which includes the failure to maintain the required capacity as specified by NSMHA to ensure that enrollees receive medically necessary services.
 - iii. CONTRACTOR has failed to develop, produce, and/or deliver to the NSMHA any of the statements, reports, data, data corrections, accountings, claims, and/or documentation described herein, in compliance with all the provisions of this Agreement.
 - iv. CONTRACTOR has failed to perform any administrative function required under this Agreement, including delegated functions. For the purposes of this section, “administrative function” is defined as any obligation other than the actual provision of mental health services.
 - v. CONTRACTOR has failed to implement corrective action required by the state and within NSMHA prescribed time frames.
 - e. The NSMHA may impose any of the following remedial actions in response to findings of situations as outlined above.
 - f. Withhold one percent of the next monthly payment and each monthly payment thereafter until the corrective action has achieved resolution. The NSMHA, at its sole discretion, may return a portion or all of any payments withheld once satisfactory resolution has been achieved.
 - g. Compound withholdings identified above by an additional one-half of one percent for each successive month during which the remedial situation has not been resolved.
 - h. Revoke delegation of any function delegated under this contract.
 - i. Deny any incentive payment to which the CONTRACTOR might otherwise have been entitled under this Agreement or any other arrangement by which the MHD provides incentives; or
 - j. Termination of this Agreement for Default, as outlined in this Agreement.

1 **3. PAYMENT WITHHOLD**

2 Up to two (2) percent of the monthly payment will be withheld upon the request of the NSMHA
3 program manager if a required report or deliverable under this Agreement is due and has not been
4 received by NSMHA, including required financial reports and data transmissions.
5

6 Payment will be withheld until the required report or deliverable has been delivered and meets the
7 requirements specified by NSMHA.
8

9 **4. ADDITIONAL FINANCIAL PENALTIES – MHD IMPOSED SANCTIONS**

10 Financial penalties imposed by MHD or other regulatory agency due to the action or inaction of
11 CONTRACTOR may be paid by NSMHA on behalf of CONTRACTOR and the amount will be
12 withheld from NSMHA’s payments to CONTRACTOR.
13

14 **5. TERMINATION DUE TO CHANGE IN FUNDING**

15 In the event funding from State, Federal, or other sources is withdrawn, reduced, or limited in any
16 way after the effective date of this Agreement and prior to its normal completion, NSMHA may
17 terminate this Agreement, by providing at least five (5) business days’ written notice to the
18 Contractor. The termination shall be effective on the date specified in the notice of termination.
19

20 **6. TERMINATION DUE TO CHANGE IN 1915(B) MENTAL HEALTH SERVICES
21 WAIVER**

22 In the event that changes to the terms of the 1915(b) (Medicaid) Mental Health Services Waiver
23 render this Agreement invalid in any way after the effective date of this Agreement and prior to its
24 normal completion, NSMHA may terminate this Agreement, subject to re-negotiation, if
25 applicable, under those new special terms and conditions.
26

27 **7. TERMINATION FOR CONVENIENCE**

28 Except as otherwise provided in this Agreement, a party may terminate this Agreement upon 90
29 calendar days written notification by certified mail to the other party. The effective date of
30 termination shall be the ninetieth day after receipt of written notification to the other party or the
31 last day of the calendar month in which the ninetieth day occurs, whichever is later.
32

33 **8. TERMINATION FOR DEFAULT**

34 NSMHA’s Program Manager may terminate this Agreement for default, in whole or in part, by
35 written notice to the CONTRACTOR if NSMHA or DSHS has a reasonable basis to believe that
36 the CONTRACTOR has or have:
37

- 38 a. Failed to meet or maintain any requirement for contracting with DSHS.
- 39 b. Failed to perform under any provision of this Agreement.
- 40 c. Violated any law, regulation, rule, or ordinance applicable to the services provided under
41 this Agreement; and/or
- 42 d. Otherwise breached any provision or condition of this Agreement.
43

44 Before NSMHA’s Program Manager may terminate this Agreement for default, in whole or in
45 part, NSMHA shall provide CONTRACTOR with written notice of CONTRACTOR’s
46 noncompliance with this Agreement which notice shall provide the CONTRACTOR a reasonable
47 time period to correct its/their noncompliance. If the CONTRACTOR has or have not corrected
48 its/their noncompliance within the period of time specified in the written notice of

1 noncompliance, NSMHA Program Manager may then terminate this Agreement, provided, that
2 the NSMHA Program Manager may terminate this Agreement in whole or in part for default
3 without such written notice and without opportunity for correction if NSMHA and/or DSHS has
4 a reasonable basis to believe that:

- 5
- 6 a. CONTRACTOR has violated any law, regulation, rule or ordinance applicable to services
7 provided under this Agreement, or
- 8 b. Continuance of this Agreement with CONTRACTOR poses a material risk of injury or
9 harm to any person.

10

11 CONTRACTOR may terminate this Agreement in whole or in part, by written notice to NSMHA,
12 if CONTRACTOR has a reasonable basis to believe that NSMHA has:

- 13
- 14 a. Failed to meet or maintain any requirement for contracting with CONTRACTOR.
- 15 b. Failed to perform under any provision of this Agreement.
- 16 c. Violated any law, regulation, rule, or ordinance applicable to work performed under this
17 Agreement; and/or
- 18 d. Otherwise breached any provision or condition of this Agreement.

19

20 **9. TERMINATION PROCEDURE**

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

- 23
- 24 a. CONTRACTOR and any applicable Subcontractors shall cease to perform any services
25 required by this Agreement as of the effective date of termination and shall comply with all
26 reasonable instructions contained in the notice of termination which are related to the
27 transfer of clients, distribution of property, and termination of services. Each party shall
28 be responsible only for its performance in accordance with the terms of this Agreement
29 rendered prior to the effective date of termination. CONTRACTOR and any applicable
30 Subcontractors shall assist in the orderly transfer/transition of the consumers served under
31 this Agreement. CONTRACTOR and any applicable Subcontractors shall promptly
32 supply all information necessary for the reimbursement of any outstanding Medicaid
33 claims.
- 34 b. CONTRACTOR and any applicable Subcontractors shall immediately deliver to NSMHA
35 Program Manager or to his/her successor, all DSHS and NSMHA assets (property) in
36 CONTRACTOR and any applicable Subcontractor's possession and any property
37 produced under this Agreement. CONTRACTOR and any applicable Subcontractors
38 grants NSMHA and DSHS the right to enter upon CONTRACTOR and any applicable
39 Subcontractors premises for the sole purpose of recovering any NSMHA or DSHS
40 property that CONTRACTOR and any applicable Subcontractors fails to return within ten
41 (10) working days of termination of this Agreement. Upon failure to return NSMHA
42 and/or DSHS property within ten (10) working days of the termination of this Agreement,
43 CONTRACTOR and any applicable Subcontractors shall be charged with all reasonable
44 costs of recovery, including transportation and attorney's fees. CONTRACTOR and any
45 applicable Subcontractors shall protect and preserve any property of NSMHA and/or
46 DSHS that is in the possession of CONTRACTOR and any applicable Subcontractors
47 pending return to NSMHA and/or DSHS.

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- c. NSMHA shall be liable for and shall pay for only those services authorized and provided through the date of termination of this Agreement.. NSMHA may pay an amount agreed to by the parties for partially completed work and services, if work products are useful to or usable by NSMHA. Should the Agreement be terminated by either party, NSMHA will require the spend-down of all remaining reserves and fund balances within the termination period. Funds will be deducted from the final months' payments until reserves and fund balances are spent.
- d. CONTRACTOR shall adhere to timelines requiring notice, stated in Sections E.5 and E. 7 of this Agreement.

1 **F. GENERAL TERMS AND CONDITIONS FOR CONTRACTOR**

2
3 **1. BACKGROUND**

4 NSMHA is an entity formed by inter-local Agreement between Island, San Juan, Skagit,
5 Snohomish and Whatcom Counties, each a county authority recognized by the Secretary of
6 Department of Social and Health Services (“Secretary”). These counties entered into an inter-local
7 Agreement to allow NSMHA to contract with the Secretary pursuant to RCW 71.24.025(13), to
8 operate a single managed system of services for persons with mental illness living in the service
9 area covered by Island, San Juan, Skagit, Snohomish and Whatcom Counties (“Service Area”).
10 NSMHA is party to an interagency Agreement with the Secretary, pursuant to which NSMHA has
11 agreed to provide integrated community support, crisis response, and inpatient management
12 services to people needing such services in its Service Area. NSMHA, through this Agreement, is
13 subcontracting with CONTRACTOR for the provision of specific mental health services as
14 required by the Agreement with the Secretary. CONTRACTOR, by signing this Agreement,
15 attests that it is willing and able to provide such services in the Service Area.
16

17 **2. MUTUAL COMMITMENTS**

18 The parties to this Agreement are mutually committed to the development of an efficient, cost
19 effective, integrated, consumer-driven, age specific recovery and resilience model approach to the
20 delivery of quality community mental health services. To that end, the parties are mutually
21 committed to maximizing the availability of resources to provide needed mental health services in
22 the Service Area, maximizing the portion of those resources used for the provision of direct
23 services and minimizing duplication of effort.
24

25 **3. ASSIGNMENT**

26 Except as otherwise provided within this Agreement, this Agreement may not be assigned,
27 delegated, or transferred by CONTRACTOR without the express written consent of NSMHA,
28 and any attempt to transfer or assign this Agreement without such consent shall be void. The
29 terms “assigned”, “delegated”, or “transferred” shall include change of business structure to a
30 limited liability company, of any CONTRACTOR Member or Affiliate Agency.
31

32 **4. AUTHORITY**

33 Concurrent with the execution of this Agreement, CONTRACTOR shall furnish NSMHA with a
34 copy of the explicit written authorization of its governing body to enter into this Agreement and
35 accept the financial risk and responsibility to carry out all terms of this Agreement including the
36 ability to pay for all expenses incurred during the contract period. Likewise, concurrent with the
37 execution of this Agreement, NSMHA shall furnish CONTRACTOR with a written copy of the
38 motion, resolution, or ordinance passed by NSMHA Board of Directors (NSMHA Board)
39 authorizing NSMHA to execute this Agreement.
40

41 **5. COMPLIANCE WITH APPLICABLE LAWS, REGULATIONS AND OPERATIONAL**
42 **POLICIES**

43 The CONTRACTOR and its subcontractors shall comply with all applicable federal and state
44 statutes, regulations, and operational policies whether or not a specific citation is identified in
45 various sections of this Agreement, and all amendments thereto that are in effect when the
46 Agreement is signed, or that come into effect during the term of the Agreement, which may
47 include but are not limited to, the following (“Federal and/or State Law”):

- 1 a. Title XIX and Title XXI of the Social Security Act and Title 42 of the Code of Federal
2 Regulations.
- 3 b. All applicable Office of the Insurance Commissioner (OIC) statutes and regulations.
- 4 c. All local, State, and Federal professional and facility licensing and certification
5 requirements/standards that apply to services performed under the terms of this
6 Agreement.
- 7 d. All applicable standards, orders, or requirements issued under Section 306 of the Clean Air
8 Act (42 US 1857(h)), Section 508 of the Clean Water Act (33 US 1368), Executive Order
9 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15), which
10 prohibit the use of facilities included on the EPA List of Violating Facilities. Any
11 violations shall be reported to Department of Social and Health Services (DSHS),
12 Department of Health and Human Service (DHHS), and the EPA.
- 13 e. Any applicable mandatory standards and policies relating to energy efficiency, which are
14 contained in the State Energy Conservation Plan, issued in compliance with the federal
15 Energy Policy and Conservation Act.
- 16 f. Those specified for laboratory services in the Clinical Laboratory Improvement
17 Amendments (CLIA).
- 18 g. Those specified in Title 18 RCW for professional licensing.
- 19 h. Reporting of abuse as required by RCW 26.44.030.
- 20 i. Industrial insurance coverage as required by Title 51 RCW.
- 21 j. RCW 38.52, 70.02, 71.05, 71.24, and 71.34.
- 22 k. WAC 388-865.
- 23 l. 42 CFR 438, including 42 CFR 438.58 (conflict of interest) and 42 CFR 438.106 (physician
24 incentive plans).
- 25 m. The State of Washington Medicaid State Plan and the 1915(b) Medicaid Mental Health
26 Waiver or their successors, which documents are incorporated by reference.
- 27 n. MHD Quality Strategy.
- 28 o. The State of Washington mental health system mission statement, value statement, and the
29 guiding principles for the system, attached hereto as Exhibit A.
- 30 p. The State Medicaid Manual (SMM), Office of Management and Budget (OMB) Circulars,
31 the Budgeting, Accounting, and Reporting System (BARS) Manual, and BARS
32 Supplemental Mental Health Instructions.
- 33 q. Any applicable federal and state laws that pertain to Medicaid enrollee or consumer rights.
34 CONTRACTOR shall ensure that its staff takes those rights into account when furnishing
35 services to consumers.
- 36 r. DSHS Administrative policies, to the extent that they are applicable to this contract, which
37 are attached as Exhibit F, Exhibit G and Exhibit H.
- 38 s. 42 U.S.C. 1320a-7 and 1320a-7b (Section 1128 and 1128 (b) of the Social Security Act),
39 which prohibits making payments directly or indirectly to physicians or other providers as
40 an inducement to reduce or limit mental health services provided to consumers.
- 41 t. Any policies and procedures developed by Medical Assistance Administration for
42 compliance with WAC 388-519-0110, which governs the spend-down of client assets.
- 43 u. The CONTRACTOR and any subcontractors must comply with 42-USC 1396u-2 and
44 must not knowingly have a director, officer, partner, or person with a beneficial ownership
45 of more than 5% of the CONTRACTOR, CMHA or subcontractor's equity, or an
46 employee, contractor, or consultant who is significant or material to the provision of
47 services under this Agreement, who has been, or is affiliated with someone who has been,
48 debarred, suspended, or otherwise excluded by any federal agency.

- v. Federal and State non-discrimination laws and regulations.
- w. The Health Insurance Portability and Accountability Act (HIPAA), 45 CFR parts 160-164.
- x. MHD-CIS Data Dictionary and its successors.
- y. Federal funds must not be used for any lobbying activities.

If the CONTRACTOR is in violation of a federal law or regulation, and Federal Financial Participation is recouped from NSMHA, the CONTRACTOR shall reimburse the federal amount to the NSMHA within 20 days of such recoupment.

Upon notification from DSHS, NSMHA shall notify CONTRACTOR in writing of changes/modifications in Center for Medicare and Medicaid Services (CMS) policies and DSHS/MHD contract requirement changes.

6. COMPLIANCE WITH NSMHA OPERATIONAL POLICIES

CONTRACTOR shall comply with all NSMHA operational policies that pertain to the delivery of services under this Agreement that are in effect when the Agreement is signed or that come into effect during the term of the Agreement. NSMHA policies shall not exceed that required to implement Federal and state requirements or to implement continuous quality improvement efforts determined by the Integrated Quality Management Process as approved by the NSMHA Board. All proposed new policies shall specifically reference the Federal or state requirements they implement and shall be limited to such requirements. NSMHA shall notify CONTRACTOR of any proposed change in Federal or state requirements affecting this Agreement immediately upon NSMHA receiving knowledge of such change. Such policies shall include, but not limited to:

- a. NSMHA Core Values and Principles, attached hereto as Attachment I provide a framework of principles for the regional system and CONTRACTOR shall take these principles into account when providing services under this Agreement.
- b. The CONTRACTOR and its subcontractors must recognize the unique social/legal status of Indian nations as required by both the Supremacy and the Indian Commerce Clauses of the United States Constitution; federal treaties; executive orders; Indian Citizens Act of 1924 statutes; and state and federal court decisions; or any Memoranda of Agreement or Understanding signed by the State of Washington and a federally recognized tribe of recognized organization; shall maintain compliance with Exhibit G, DSHS Admin. Policy No. 7.01 American Indian Policy, or any successor, pursuant to the Centennial Accord between the Washington State government and the Washington Tribes; and maintain compliance with NSHMA 7.01 Plan, or any successor (Attachment II).
- c. NSMHA's Strategic Plan.
- d. NSMHA clinical policies and procedures, including crisis services policies.
- e. NSMHA medical records documentation and data reporting policies and procedures.
- f. NSMHA quality management policies and procedures.
- g. NSMHA consumer rights policies and procedures, including complaint, grievance, fair hearing and appeal policies.
- h. Any other policies designated by NSMHA as applicable to CONTRACTOR.

Along with all NSMHA stakeholders, CONTRACTOR will be included in the process for developing relevant operational policies and procedures. NSMHA's Provider Policy & Procedure Grid and successors contain a list of NSMHA's policies and their applicability to CONTRACTOR in accordance with Attachment II. The Grid and NSMHA's policies and procedures are posted on

1 NSMHA's website. NSMHA shall notify CONTRACTOR of new and revised policies through its
2 NSMHA Policy Numbered Memoranda. Training will be provided on policies that impact
3 providers.
4

5 In the event there is disagreement between NSMHA and CONTRACTOR in an operational
6 committee regarding a proposed new policy or modification to a current policy, the following
7 process will apply. NSMHA will provide a summary of the regulatory requirement or other
8 rationale for the proposed policy or policy modification. CONTRACTOR will provide an analysis
9 of its objection to the proposed policy or policy modification within 30 days from the receipt of
10 the NSMHA summary. If the objection is primarily due to increased cost, CONTRACTOR will
11 provide substantiation of the additional costs and, if possible, an alternative to achieving the policy
12 goal in a less costly manner. The proposed policy or policy modification will be discussed at the
13 next Regional Management Council. If resolution is not obtained, the proposed policy or policy
14 modification will be discussed at the next Quality Management Oversight Committee meeting. If
15 resolution is not obtained, the proposed policy or policy modification will be discussed at the next
16 NSMHA Board meeting. On a quarterly basis CONTRACTOR will calculate the cumulative fiscal
17 impact of resource reallocation due to new policies or policy modifications since the inception of
18 the contract, and present that information for review and discussion at the next Regional
19 Management Council.
20

21 NSMHA will make best efforts to maintain currency of policies with applicable Federal or State
22 Law, regulation or policy. In the event of a conflict, Federal or State Laws or policies supersede
23 NSMHA policies and procedures and requirements of this contract.
24

25 7. **CONFIDENTIALITY OF CLIENT INFORMATION**

26 Pursuant to 42 CFR 431.301 and 431.302, information concerning applicants and recipients may
27 be disclosed for purposes directly concerning the administration of this Agreement. Purposes
28 include, but are not limited to:

- 29 a. Establishing eligibility.
- 30 b. Determining the amount of medical assistance.
- 31 c. Providing services for recipients.
- 32 d. Conducting or assisting in investigation, prosecution, or civil or criminal proceeding related
33 to the administration of the plan.
- 34 e. Assuring compliance with Federal and State laws, regulations, with terms and requirements
35 of this Agreement.
- 36 f. Improving quality.
37

38 CONTRACTOR shall protect all information, records and data collected from unauthorized
39 disclosure in accordance with 42 CFR 431.300 through 431.307, RCW's 70.02, 71.05, and 71.34,
40 HIPAA, and for service recipients receiving alcohol and drug abuse services, in accordance with 42
41 CFR Part 2. CONTRACTOR shall have a process in place to ensure that all components of its
42 Community Mental Health Agency (CMHA) and system understand and comply with
43 confidentiality requirements for publicly funded mental health services.
44

45 CONTRACTOR shall ensure that access to the information is restricted to persons or agency
46 representatives who are subject to standards of confidentiality that are comparable to those of
47 NSMHA and DSHS.
48

1 The parties acknowledge that coordination, planning, screening, and referral require the sharing of
2 information among the various treatment providers. Disclosure of information to verify eligibility,
3 determine the amount of assistance, and to provide medically necessary mental health services are
4 all “purposes directly connected with the administration of the Agreement”, and are all
5 appropriate justifications for sharing information.
6

7 CONTRACTOR shall assure that all staff and subcontractors providing services under this
8 Agreement receive annual training on confidentiality policies and procedures. In addition,
9 CONTRACTOR shall assure that all staff and subcontractors providing services under this
10 Agreement sign an annual Oath of Confidentiality statement. Signed copies of the Oath of
11 Confidentiality shall be kept in CONTRACTOR’s personnel files.
12

13 **8. CONTRACT PERFORMANCE/ENFORCEMENT**

14 NSMHA shall be vested with the rights of a third party beneficiary, including the "cut through"
15 right to enforce performance should CONTRACTOR be unwilling or unable to enforce action on
16 the part of its subcontractor(s). In the event that CONTRACTOR dissolves or otherwise
17 discontinues operations, NSMHA may, at its sole option, assume the right to enforce the terms
18 and conditions of this Agreement directly with CONTRACTOR’s subcontractors; provided, that
19 NSMHA shall keep CONTRACTOR reasonably informed concerning such enforcement.
20 CONTRACTOR shall include this clause in its contracts with its subcontractors. In the event of
21 the dissolution of CONTRACTOR, NSMHA’s rights in indemnification shall survive.
22

23 **9. COOPERATION**

24 The parties to this Agreement shall cooperate in good faith to effectuate the terms and conditions
25 of this Agreement.
26

27 **10. DEBARMENT CERTIFICATION**

28 The CONTRACTOR certifies that it is not presently debarred, suspended, proposed for
29 debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any
30 federal or state department or agency. If requested by DSHS or NSMHA, the CONTRACTOR
31 shall complete a Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary
32 Exclusion. Any Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary
33 Exclusion pertaining to this Agreement shall be incorporated into this Agreement by reference.
34

35 **11. DECLARATION THAT CLIENTS UNDER THE MEDICAID AND OTHER**
36 **MENTAL HEALTH PROGRAMS ARE NOT THIRD-PARTY BENEFICIARIES**
37 **UNDER THIS CONTRACT**

38 Although NSMHA, CONTRACTOR, and subcontractors mutually recognize that services under
39 this Agreement may be provided by the CONTRACTOR and subcontractors to clients under the
40 Medicaid program, RCW 71.05 and 71.34, and the Community Mental Health Services Act, RCW
41 71.24, it is not the intention of either NSMHA, the CONTRACTOR, that such individuals, or any
42 other persons, occupy the position of intended third-party beneficiaries of the obligations assumed
43 by either party to this Agreement. Such third parties shall have no right to enforce this Agreement.
44

45 **12. EXECUTION, AMENDMENT, AND WAIVER**

46 This Agreement shall be binding on all parties only upon signature by authorized representatives
47 of each party. This Agreement, or any provision, may be amended during the contract period, if
48 circumstances warrant, by a written amendment executed by all parties. Only the NSMHA
49 Program Manager or the NSMHA Program Manager’s designee has authority to waive any
50 provision of this Agreement on behalf of NSMHA.

1 **13. HEADINGS AND CAPTIONS**

2 The headings and captions used in this Agreement are for reference and convenience only, and in
3 no way define, limit, or decide the scope or intent of any provisions or sections of this Agreement.
4

5 **14. INDEMNIFICATION**

6 CONTRACTOR shall be responsible for and shall indemnify and hold NSMHA harmless
7 (including all costs and attorney fees) from all claims for personal injury, property damage and/or
8 disclosure of confidential information and/or from the imposition of governmental fines or
9 penalties resulting from the acts or omissions of CONTRACTOR and its subcontractors related to
10 the performance of this contract. NSMHA shall be responsible and shall indemnify and hold
11 CONTRACTOR harmless (including all costs and attorney fees) from all claims for personal
12 injury, property damage and disclosure of confidential information and from the imposition of
13 governmental fines or penalties resulting from the acts or omissions of NSMHA. For the
14 purposes of these indemnifications, the Parties specifically and expressly waive any immunity
15 granted under the Washington Industrial Insurance Act, Title 51 RCW. This waiver has been
16 mutually negotiated and agreed to by the Parties. The provision of this section shall survive the
17 expiration or termination of the Agreement.
18

19 **15. INDEPENDENT CONTRACTOR FOR NSMHA**

20 The parties intend that an independent contractor relationship be created by this contract. The
21 CONTRACTOR acknowledges that neither the CONTRACTOR nor its employees or
22 subcontractors are not officers, employees, or agents of NSMHA. The CONTRACTOR shall not
23 hold the CONTRACTOR or any of the CONTRACTOR's employees and subcontractors out as,
24 nor claim status as, officers, employees, or agents of NSMHA. The CONTRACTOR shall not
25 claim for the CONTRACTOR or the CONTRACTOR's employees or subcontractors any rights,
26 privileges, or benefits which would accrue to an employee of NSMHA. The CONTRACTOR
27 shall indemnify and hold NSMHA harmless from all obligations to pay or withhold Federal or
28 State taxes or contributions on behalf of the CONTRACTOR or the CONTRACTOR's
29 employees and subcontractors unless specified in this Agreement.
30

31 **16. INSURANCE**

32 NSMHA certifies it is a member of Washington Governmental Entity Pool for all exposure to tort
33 liability, general liability, property damage liability, and vehicle liability, if applicable, as provided by
34 RCW 43.19.
35

36 CONTRACTOR shall maintain a Commercial General Liability Insurance (CGL). If the
37 Contractor is not a member of a risk pool, the Contractor shall carry CGL to include coverage for
38 bodily injury, property damage, and contractual liability, with the following minimum limits: Each
39 Occurrence - \$1,000,000; General Aggregate - \$2,000,000. Any risk pool shall provide coverage
40 with the same minimum limits. Any policy (non-risk pool and risk pool) shall include liability
41 arising out of premises, operations, independent contractors, personal injury, advertising injury,
42 and liability assumed under an insured contract. Contractor shall provide evidence of such
43 insurance to NSMHA within 15 days of execution of this Agreement and 15 days post renewal
44 date thereafter. All non-risk pool policies shall name NSMHA as a covered entity under said
45 policy(s).
46

1 **17. INTEGRATION**

2 This Agreement, including Exhibits and Attachments contains all the terms and conditions agreed
3 upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of
4 this Agreement shall be deemed to exist or to bind any of the parties hereto.
5

6 **18. MAINTENANCE OF RECORDS**

7 During the term of this Agreement and for six (6) years following termination or expiration of this
8 Agreement, or if any audit, claim, litigation, or other legal action involving the records set forth
9 below is started before expiration of the six year period, the records shall be maintained until
10 completion and resolution of all issues arising there from or until the end of the six year period,
11 whichever is later. The CONTRACTOR shall maintain records sufficient to:

- 12
- 13 a. Maintain the content of all Medical Records in a manner consistent with utilization control
- 14 requirements of 42 CFR 456, 42 CFR 434.34 (a), 42 CFR 456.111, and 42 CFR 456.211.
- 15 b. Document performance of all acts required by law, regulation, or this Agreement.
- 16 c. Substantiate the CONTRACTOR statement of its organizations' structures, tax status,
- 17 capabilities, and performance.
- 18 d. Demonstrate accounting procedures, practices, and records, which sufficiently and
- 19 properly document the CONTRACTOR invoices to NSMHA and all expenditures made
- 20 by the CONTRACTOR to perform as required by this Agreement.
- 21 e. The CONTRACTOR and its subcontractors shall cooperate in all reviews, including but
- 22 not limited to, surveys, and research conducted by NSMHA, DSHS or other Washington
- 23 State Departments.
- 24 f. Evaluations shall be done by inspection or other means to measure quality,
- 25 appropriateness, and timeliness of services performed under this Agreement, and to
- 26 determine whether the CONTRACTOR and its subcontractors are providing service to
- 27 individuals in accordance with the requirements set forth in this Agreement and applicable
- 28 state and federal regulations as existing or hereafter amended.
- 29

30 **19. NO WAIVER OF RIGHTS**

31 A failure by either party to exercise its rights under this Agreement shall not preclude that party
32 from subsequent exercise of such rights and shall not constitute a waiver of any other rights under
33 this Agreement unless stated to be such in a writing signed by an authorized representative of the
34 party and attached to the original Agreement.
35

36 Waiver of any breach of any provision of this Agreement shall not be deemed to be a waiver of
37 any subsequent breach and shall not be construed to be a modification of the terms and conditions
38 of this Agreement.
39

40 **20. ONGOING SERVICES**

41 CONTRACTOR and its subcontractors shall ensure that in the event of labor disputes or job
42 actions, including work slowdowns, so called "sick outs", or other activities, within its service
43 CMHA network, uninterrupted services shall be available as required by the terms of this
44 Agreement.
45
46

1 **21. ORDER OF PRECEDENCE**

2 In the event of an inconsistency in the terms of this Agreement, or any inconsistency between the
3 terms of this Agreement and any applicable statute, rule or contract, unless otherwise provided
4 herein, the conflict shall be resolved by giving precedence in the following order, to:
5

- 6 a. The applicable Medicaid 1915(b) Waiver, Provisions of Title XIX of the Social Security Act
7 and Federal regulations concerning the operations of Prepaid Inpatient Health Plans.
- 8 b. State statutes and regulations concerning the operation of the community mental health
9 programs.
- 10 c. Federal and State Law.
- 11 d. The NSMHA-DSHS Agreement, or its successors, that covers the provision of the mental
12 health services covered under this Agreement, which shall include any exhibit, document,
13 or material incorporated by reference. NSMHA shall promptly notify CONTRACTOR of
14 any amendment to the NSMHA-DSHS Agreement which affects any term or condition
15 herein.
- 16 e. This Agreement.

17
18 **22. OVERPAYMENTS**

19 In the event CONTRACTOR fails to comply with any of the terms and conditions of this
20 Agreement and that failure results in an overpayment, NSMHA may recover the amount due
21 DSHS, CMS or other federal or state agency, subject to dispute resolution as set forth in the
22 contract. In the case of overpayment, CONTRACTOR shall cooperate in the recoupment process
23 and return to NSMHA the amount due upon demand.
24

25 **23. OWNERSHIP OF MATERIALS**

26 Materials created by the CONTRACTOR and its subcontractors and paid for by NSMHA as a
27 part of this Agreement shall be owned by NSMHA and shall be, "works for hire" as defined by the
28 U.S. Copyright Act of 1976. This material includes but is not limited to: books, computer
29 programs, documents, films, pamphlets, reports, sound reproductions, studies, surveys, tapes,
30 and/or training materials. Material which the CONTRACTOR and its subcontractors use to
31 perform this Agreement, but which is not created for or paid for by NSMHA, is owned by the
32 CONTRACTOR or relevant subcontractors; however, NSMHA and DSHS shall have a perpetual
33 license to use this material for DSHS internal purposes at no charge to DSHS.
34

35 **24. PERFORMANCE**

36 CONTRACTOR shall furnish the necessary personnel, materials, and/or mental health services
37 and otherwise do all things for, or incidental to, the performance of the work set forth here and as
38 attached. Unless specifically stated, the CONTRACTOR is responsible for performing or ensuring
39 all fiscal and program responsibilities required in this contract. No subcontract will terminate the
40 legal responsibility of the CONTRACTOR to perform the terms of this Agreement.
41

42 **25. RESOLUTION OF DISPUTES**

43 The parties wish to provide for prompt, efficient, final, and binding resolution of disputes and
44 controversies that may arise under this Agreement and therefore establish this dispute resolution
45 procedure. All claims, disputes, and other matters in question between the parties arising out of,
46 or relating to, this Agreement shall be resolved exclusively by the following dispute resolution
47 procedure unless the parties mutually agree in writing otherwise:
48

- a. The parties shall use their best efforts to resolve issues prior to giving written Notice of Dispute.
- b. Within ten (10) working days of receipt of the written Notice of Dispute, the parties (or a designated representative) shall together or, if both parties agree, with a mediator meet, confer, and attempt to resolve the claim.
- c. The terms of the resolution of all claims concluded in meetings shall be memorialized in writing and signed by each party.

Arbitration: If the claim is not resolved within thirty (30) days, the parties shall proceed to arbitration as follows:

- a. Demand for arbitration shall be made in writing to the other party. The parties shall select one person as arbitrator.
- b. If there is a delay of more than ten (10) days in the naming of the arbitrator, either party can ask the presiding judge of Skagit County to name the arbitrator.
- c. The prevailing party shall be entitled to recover from the other party all costs and expenses, including reasonable attorney fees. The arbitrators shall determine which party, if any, is the prevailing party.
- d. The parties agree that the arbitrators' decision shall be binding, final and appealable to Skagit County Superior Court only as provided in Chapter 7.04A RCW.
- e. Unless the parties agree in writing otherwise, the unresolved claims in each notice of dispute shall be considered at an arbitration session which shall occur in Skagit County no later than 30 days after the close of the meeting described in paragraph (b) above.
- f. The Provisions of this section shall, with respect to any controversy or claim, survive the termination or expiration of this Agreement.
- g. Nothing contained in this Agreement shall be deemed to give the arbitrator the power to change any of the terms and conditions of this Agreement in any way.
- h. The prevailing party in any action to compel arbitration or to enforce an arbitration award shall be awarded its costs, including attorney fees. Venue for any such action is exclusively Skagit County Superior Court.
- i. This Agreement shall be governed by laws of the State of Washington, both as to interpretation and performance.

26. SEVERABILITY AND CONFORMITY

The provisions of this Agreement are severable. If any provision of this Agreement, 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 Agreement and the invalid provision shall be considered modified to conform to existing law.

27. SINGLE AUDIT ACT

If the CONTRACTOR or its subcontractor is a sub recipient of Federal awards as defined by OMB Circular A-133, the CONTRACTOR 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 and numbers, award years, if awards are for research and development, as well as names of the Federal agencies. The CONTRACTOR and its subcontractors shall make the CONTRACTOR and its subcontractors records available for review or audit by officials of the Federal awarding agency, the General Accounting Office, and DSHS. The CONTRACTOR and its subcontractors shall

1 incorporate OMB Circular A-133 audit requirements into all contracts between the
2 CONTRACTOR and its subcontractors who are sub recipients. The CONTRACTOR and its
3 subcontractors shall comply with any future amendments to OMB Circular A-133 and any
4 successor or replacement Circular or regulation.
5

6 If the CONTRACTOR and/or its subcontractors are a sub recipient and expends \$500,000 or
7 more in Federal awards from any and/or all sources in any fiscal year, the CONTRACTOR and
8 applicable subcontractors shall procure and pay for a single or program-specific audit for that fiscal
9 year. Upon completion of each audit, the CONTRACTOR and applicable subcontractors shall
10 submit to NSMHA Program Manager the data collection form and reporting package specified in
11 OMB Circular A-133, reports required by the program-specific audit guide, if applicable, and a
12 copy of any management letters issued by the auditor.
13

14 For purposes of “sub recipient” status under the rules of OMB Circular A-133 205(i) Medicaid
15 payments to a sub recipient for providing patient care services to Medicaid eligible individuals are
16 not considered Federal awards expended under this part of the rule unless a State requires the fund
17 to be treated as Federal awards expended because reimbursement is on a cost-reimbursement
18 basis.
19

20 **28. SUBCONTRACTS**

21 The CONTRACTOR may subcontract services to be provided under this Agreement subject to
22 the following requirements.
23

- 24 a. The CONTRACTOR shall be responsible for the acts and omissions of any subcontractor.
- 25 b. The CONTRACTOR must ensure that the subcontractor neither employs any person nor
26 contracts with any person or Community Mental Health Agency (CMHA) excluded from
27 participation in federal health care programs under either 42 U.S.C. 1320a-7 (§§1128 or
28 1128A Social Security Act) or debarred or suspended per this Agreement’s General Terms
29 and Conditions.
- 30 c. The CONTRACTOR shall require subcontractors to comply with all applicable federal and
31 state laws, regulations, and operational policies as specified in this Agreement.
- 32 d. The CONTRACTOR shall require subcontractors to comply with all applicable NSMHA
33 operational policies as specified in this Agreement.
- 34 e. The CONTRACTOR shall ensure a process is in place to demonstrate that all third-party
35 resources are identified and pursued.
- 36 f. The CONTRACTOR shall oversee, be accountable for, and monitor all functions and
37 responsibilities delegated to a subcontractor for conformance with any applicable statement
38 of work in this Agreement on an ongoing basis including written reviews.
- 39 g. CONTRACTOR will monitor performance of the subcontractors on an annual basis and
40 notify NSMHA of any identified deficiencies or areas for improvement requiring corrective
41 action by CONTRACTOR.
- 42 h. The CONTRACTOR shall ensure that all subcontracts are in writing and that subcontracts
43 specify all duties, reports, and responsibilities delegated under this Agreement. Those
44 written subcontracts shall:
 - 45 i. Require subcontractors to hold all necessary licenses, certifications, and/or permits
46 as required by law for the performance of the services to be performed under this
47 Agreement.
48

- ii. 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.
- iii. Require that the subcontractor correct any areas of deficiencies in the subcontractor's performance that are identified by the CONTRACTOR, NSMHA, and/or MHD.
- iv. Require best efforts to provide written or oral notification within 15 working days of termination of a Mental Health Care Provider (MHCP) to consumers currently open for services who had received a service from the affected MHCP in the previous 60 days. Notification must be verifiable in the client medical record at the subcontractor.

29. SURVIVABILITY

The terms and conditions contained in this Agreement that by their sense and context are intended to survive the expiration of this Agreement shall so survive. Surviving terms include, but are not limited to: Order of Precedence, Contract Performance and Enforcement, Confidentiality of Client Information, Resolution of Disputes, Indemnification, Oversight Authority, Maintenance of Records and Ownership of Materials.

30. TREATMENT OF CLIENT PROPERTY

Unless otherwise provided in this Agreement, CONTRACTOR shall ensure that any adult individual receiving services from the CONTRACTOR under this Agreement has unrestricted access to the individual's personal property. The CONTRACTOR shall not interfere with any adult individual's ownership, possession, or use of the individual's property unless clinically indicated. The CONTRACTOR 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 Agreement, the CONTRACTOR shall immediately release to the individual and/or the individual's guardian or custodian all of the individual's personal property.

31. WARRANTIES

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

32. CONTRACT ADMINISTRATION

The Program Manager for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Agreement.

The Program Manager for NSMHA is:

Charles R. Benjamin, Executive Director
North Sound Regional Support Network
117 North First Street, Suite 8
Mount Vernon, WA 98273

The Program Manager for CONTRACTOR is:

Ken Stark, Human Services Division Supervisor
Snohomish County Human Services

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3000 Rockefeller, MS 305
Everett, WA 98201

Changes shall be provided to the other party in writing within ten (10) working days.

1 **THIS AGREEMENT**, consisting of 42 Pages, plus Exhibits and Attachments, is executed by the
2 persons signing below who warrant that they have the authority to execute this Agreement.
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5 **FOR NSMHA:**

FOR CONTRACTOR:

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7
8 _____
9 Charles R. Benjamin Date
10 Executive Director
11

Authorized Signature Date