

**NORTH SOUND
BEHAVIORAL HEALTH ORGANIZATION
(NORTH SOUND BHO)**

INTERAGENCY AGREEMENT

WITH

WHATCOM COUNTY

CONTRACT #NORTH SOUND BHO-WHATCOM CO-JAIL SERVICES-16-18

APRIL 1, 2016 TO MARCH 31, 2018

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1 **INTERAGENCY AGREEMENT**

2
3
4 **THIS INTERAGENCY AGREEMENT** (the “Contract”), pursuant to Chapter 71.24 RCW and all relevant
5 and associated statutes, as amended, is made and entered into by and between the NORTH SOUND
6 BEHAVIORAL HEALTH ORGANIZATION, LLC dba THE NORTH SOUND BHO (“North Sound BHO”), 301
7 Valley Mall Way, Ste. 110, Mount Vernon, Washington 98273, and WHATCOM COUNTY
8 (“Contractor”), 509 Girard Street, Bellingham, WA 98225.
9

10 This Contract incorporates the Contract’s Exhibits to the Contract and other documents incorporated
11 by reference.
12

13 The effective date of this Contract is April 1, 2016. This Contract shall terminate on March 31, 2018.
14

15 **A. DEFINITIONS**

16 As used anywhere within this Contract or Exhibits the following terms have the indicated meanings:
17

18 7.01 Plan is NORTH SOUND BHO’s Board approved plan, which outlines NORTH SOUND BHO’s
19 commitment to planning and service delivery for American Indian governments and communities
20 (Exhibit G).
21

22 Abuse means “provider practices that are inconsistent with sound fiscal, business, or medical
23 practices and result in an unnecessary cost to the Medicaid program in reimbursement for services
24 that are not medically necessary, or fail to meet professionally recognized standards for health care”
25 (Medicaid Managed Care Fraud and Abuse Guidelines).
26

27 Access refers to the initial request for services, initial screening and related response-time
28 requirements (as defined in the Clinical Eligibility and Care Standards (CECS) section of NORTH
29 SOUND BHO contract).
30

31 Accessibility means the extent to which an eligible recipient can obtain available services.
32 Accessibility includes both the ability to contact the organization, availability of providers and
33 services. For example, outreach may be available, but if a provider does not routinely provide active
34 outreach, outreach is not accessible.
35

36 Accountability means responsibility of Contractor for achieving defined outcomes, goals and contract
37 obligations.
38

39 Administrative Costs mean costs for the general operation of the public mental health system. These
40 activities cannot be identified with specific direct services or direct services support function.
41

42 Advance Directive means a written document in which a principal makes a declaration of instructions,
43 preferences, or appoints an agent to make decisions on behalf of the principal regarding their mental
44 health treatment or both and is consistent with the provisions of Washington’s Mental Health
45 Advance Directive statute.
46

1 Allied Systems means state or local services which provide individuals with assistance to reduce the
2 impact of disabilities, functional impairments, or skill deficits and which promote stable community
3 living.

4
5 Ancillary Crisis Services means costs associated with providing medically necessary crisis services
6 which cannot be covered under the Medicaid state plan including, but not limited to, the cost of
7 room and board for individuals in hospital diversion beds.

8
9 Annual Revenue means all revenue received by the Behavioral Health Organization (BHO) pursuant to
10 the Contract for July of any year through June of the next year.

11
12 Arbitration means the process by which the parties to a dispute submit their differences to the
13 judgment of an impartial person or group appointed by mutual consent or statutory provision.

14
15 Assessment means a process which provides sufficient information to determine medical necessity
16 for mental health services covered under this Contract.

17
18 Behavioral Health Agency (BHA) means a Behavioral Health Agency that is licensed by the State of
19 Washington to provide behavioral health and/or substance use disorder treatment and is
20 subcontracted under this Contract to provide services.

21
22 Case Management means assistance to a recipient and family (or significant other) to obtain,
23 maintain, or develop appropriate resources.

24
25 Community Mental Health Agency (CMHA) means community mental health centers that are
26 subcontracted by the BHO and licensed to provide mental health services covered under this
27 Contract.

28
29 Community Support Services shall have the meaning ascribed to it by RCW 71.24.025(8) and shall
30 include all community-based, outpatient services described in WAC 388-865-0230 and 388-877 and
31 877A.

32
33 Computer Information System (CIS) means a business application of the computer. It is made up of
34 the database, application programs and manual and machine procedures. It also encompasses the
35 computer systems that do the processing.

36
37 Coordinated Quality Improvement Program (CQIP) Health care institutions and medical facilities,
38 other than hospitals that are licensed by the department, professional societies or organizations,
39 health care service Contractors, health maintenance organizations, health carriers approved pursuant
40 to chapter 48.43 RCW and any other person or entity providing health care coverage under chapter
41 48.42 RCW that is subject to the jurisdiction and regulation of any state agency or any subdivision
42 thereof may maintain a CQIP for the improvement of the quality of health care services rendered to
43 patients and the identification and prevention of medical malpractice as set forth in RCW 70.41.200.

44

1 Corrective Action/Compliance Review is when findings from a NORTH SOUND BHO/Health Recovery
2 Services Administration (HRSA) review or other monitoring efforts or audits show that there are
3 apparent violations of this Contract, Contractor shall implement corrective action within specified
4 timeframes determined by NORTH SOUND BHO/HRSA/Department's other auditors.
5

6 Corrective Action Plan (CAP) is a written plan specifying what Contractor is required to do to be in
7 compliance. This includes required improvements and a timeline for such action(s) to be
8 accomplished.
9

10 Crisis may be self-defined or a situation where an individual is acutely mentally ill, or experiencing
11 serious disruption in cognitive, volitional, psychosocial and/or neurophysiological functioning.
12

13 Crisis Plan is a blueprint for action in the case of an individual (or child/family) who is experiencing
14 imminent or substantial risk of harm to self/others or who is at risk of decompensation that could
15 lead to future use of psychiatric inpatient services.
16

17 Crisis Services means a face-to-face evaluation and treatment of mental health emergencies and
18 crises to non-enrolled, as well as, enrolled individuals experiencing a crisis as defined by the WAC.
19 Crisis services shall be available on a 24-hour basis with the goal of stabilizing the person in crisis and
20 providing immediate or short-term treatment and support in the least restrictive environment
21 available. Crisis services may be provided prior to an intake evaluation/assessment.
22

23 Cultural Competence means a set of congruent behaviors, attitudes and policies that come together
24 in a system or agency enabling that system or agency to work effectively in cross-cultural situations. A
25 culturally competent system of care acknowledges and incorporates at all levels the importance of
26 language and culture, assessment of cross-cultural relations, knowledge and acceptance of dynamics
27 of cultural differences, expansion of cultural knowledge and adaptation of services to meet culturally
28 unique needs.
29

30 Day for purposes of this Contract means calendar day unless otherwise specified.
31

32 Detention means, pursuant to RCW 13.16.030, staffed juvenile detention facilities for dependent,
33 wayward and delinquent children, separate and apart from the detention facilities for adults.
34

35 Deliverable means any written information required for submission to NORTH SOUND BHO to satisfy
36 the work requirements of this Contract and that are due by a particular date or on a regularly
37 occurring schedule.
38

39 Diversion means to redirect an individual from being placed in a restrictive setting (i.e., jail, inpatient
40 services) to clinically appropriate less restrictive alternative(s) (LRA).
41

42 Emergent means a situation where an individual is at imminent risk of substantial harm to
43 him/herself or others.
44

1 Evaluation and Treatment (E&T) Facility means a facility which can provide directly or by direct
2 arrangement with other public or private agencies, emergency evaluation and treatment, outpatient
3 care and timely and appropriate inpatient care to persons suffering from a mental disorder and is
4 certified as such by the Department of Social and Health Services (DSHS).

5
6 Fair Hearing means a grievance hearing before Washington State Office of Administrative Hearings.

7
8 Family means:

- 9
10 1. For adults those the individual defines as family or those appointed/assigned (i.e., guardians,
11 siblings, caregivers and significant others) to the individual.
12 2. For children, a child's biological parents, adoptive parents, foster parents, guardian, legal
13 custodian authorized pursuant to Title 26 RCW, a relative with whom a child has been placed
14 by DSHS or a tribe.

15
16 Fraud means “an intentional deception or misrepresentation made by a person with the knowledge
17 the deception could result in some unauthorized benefit to self or some other person. It includes any
18 act that constitutes fraud under applicable Federal or State law”.

19
20 Geographic Area is NORTH SOUND BHO’s Service Area consisting of the following geographic areas:

- 21
22 1. Island County
23 2. San Juan County
24 3. Skagit County
25 4. Snohomish County
26 5. Whatcom County

27
28 Grievance means an expression of dissatisfaction about any matter. Possible subjects for grievances
29 include, but are not limited to, the quality of care or services provided, aspects of interpersonal
30 relationships, such as, rudeness of a provider or employee, or failure to respect the individual’s rights.

31
32 Health Insurance Portability and Accountability Act (HIPAA) of 1996 means as amended, codified at
33 42 USC §§ 1320d-d8 and its implementing regulations at 45 CFR Parts 160 and 164.

34
35 Individual means a person who has applied for, is eligible for, or receives BHO-authorized behavioral
36 health services from an agency licensed by the Department as a behavioral health agency. In the case
37 of a minor, the Individual’s parent or, if applicable, the Individual’s custodial parent.

38
39 Individual Choice means the individual/child/families guaranteed opportunity to choose freely among
40 treatment options and support services (based on identified needs) and to be full partners in the
41 treatment process. “Choice” supports the notion that to the degree possible,
42 individuals/child/families need to play a key role in designing their own service/support “packages”,
43 including involvement of natural supports and culturally specific services.

44

1 Individual Voice means indicators of ownership in and involvement with planning his/her own
2 supports and services. In individualized plans, voice is best indicated by the use of “quotations”.

3
4 Involuntary Treatment means treatment provided under the Involuntary Treatment Act (ITA) Chapter
5 71.05 RCW, as amended, and its implementing regulations at Chapter 388-865 WAC for individuals
6 age 13 and older, who do not agree to treatment/hospitalization and are detained against their will
7 after having been evaluated by a County Designated Mental Health Professional (CDMHP) and court
8 hearing found to need treatment/hospitalization by meeting one of the statutory criteria (danger to
9 self, others, or gravely disabled); therefore, ordered or remanded to treatment by court decision.

10
11 Medical Necessity or Medically Necessary means a term for describing a requested service which is
12 reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent the worsening of
13 conditions in the recipient that endanger life, cause suffering or pain, result in illness or infirmity,
14 threaten to cause or aggravate a handicap, or cause physical deformity or malfunction and there is no
15 other equally effective, more conservative, or substantially less costly course of treatment available
16 or suitable for the person requesting service. "Course of treatment" may include mere observation
17 or, where appropriate, no treatment at all.

18
19 Mental Disorder is a disorder as defined in RCW 71.34.020(12) for children and RCW 71.05.020(2) for
20 adults.

21
22 Mental Health Care Provider (MHCP) means the individual with primary responsibility for
23 implementing an individualized plan for mental health rehabilitation services. Minimum qualifications
24 are B.A. level education in a related field or A.A. level education with two years’ experience in the
25 mental health or related fields.

26
27 Office of Management and Budget (OMB) Circular A-133 means the federal “Audits of States, Local
28 Governments and Non-Profit Organizations”.

29
30 Performance Indicator(s) means system level information on the types of service to individuals, the
31 duration and intensity of services, staffing patterns and fiscal viability.

32
33 Personal Information means information identifiable to any person including, but not limited to,
34 information that relates to a person’s name, health, finances, education , business , use or receipt of
35 governmental services or other activities, addresses, telephone numbers, social security numbers,
36 driver license numbers, other identifying numbers and any financial identifiers.

37
38 Publish means an officially sanctioned document provided by HRSA on HRSA Internet or Intranet
39 websites for downloading, reading, or printing. Contractor shall be notified in writing or by e-mail
40 when a document meets the criteria.

41
42 Quality Assurance means a focus on compliance to minimum requirements (i.e., rules, regulations
43 and contract terms), as well as, reasonably expected levels of performance, quality and practice.
44

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

3
4 Quality Management/Strategy means an overarching system/process whereby quality assurance and
5 quality improvement activities are incorporated and infused into all aspects of an organization's or
6 system's operations.

7
8 Rehabilitation means to restore to customary activity through education, skill building and therapy.
9 The purpose of rehabilitation is to increase independence and ability to participate in life meaning
10 activities.

11
12 Reserve Accounts means an allocation of fund balance at the BHO set aside for a specific purpose by
13 the BHO governing board or local legislative authority. The reserve accounts shall include an:

- 14
15 1. Operating Reserve - Funds designated from mental health revenue sources that are set aside
16 into an operating reserve account by official action of the BHO's governing body. Operating
17 reserve funds may only be set aside to maintain adequate cash flow for the provision of
18 mental health services.
19 2. Inpatient Reserve – Funds designated from mental health revenue sources to pay for future
20 inpatient hospital claims.
21

22 Risk means the possibility Contractor may incur a loss because the cost of providing services may
23 exceed the premium payments made by NORTH SOUND BHO to Contractor for services covered
24 under this Contract.
25

26 Subcontract means any written Agreement between Contractor and subcontractor or between
27 Contractor, subcontractor and another subcontractor to provide services or activities otherwise
28 performed under this Contract.
29

30 Subcontractor means an individual or entity performing all or part of the services under this Contract
31 under a separate contract with the Contractor or its subcontractors.
32

33 Transition Youth means anyone age 17-21.
34

35 Underserved means persons who are minorities, children, older adults, disabled and low-income
36 persons (See WAC 388-865-0150).
37

38 Urgent Care means a service to be provided to persons approaching a mental health crisis. If services
39 are not received within 24 hours of the request, the person's situation is likely to deteriorate to the
40 point that emergent care is necessary.
41

42 Youth means anyone age 13-17 (13-20 if Medicaid).
43

1 **B. PERFORMANCE STANDARDS**

2
3 **1. GENERAL OPERATING STANDARDS**

- 4 a. Contractor must ensure that individuals and individuals' families participate in planning
5 activities and participate in the implementation and evaluation of Contractor's
6 contractual functions. Contractor must be able to demonstrate how this requirement is
7 implemented.
- 8 b. Contractor shall encourage and promote Dignity and Respect in the provision of services
9 under this Contract.
- 10 c. Contractor must maintain a written Advance Directive policy and procedure that
11 respects enrollees' advance directives for psychiatric care. Policy and procedures must
12 comply with NORTH SOUND BHO's Advance Directives policy and procedure.
- 13 d. Contractor must ensure benefits are provided in accordance with NORTH SOUND BHO's
14 policies and procedures and are not arbitrarily denied or reduced (i.e., amount, duration,
15 or scope of a required service) based solely upon the diagnosis, type of mental illness, or
16 enrollee's mental health condition.
- 17 e. Contractor shall notify individuals in writing of changes in service, denials/changes, or
18 termination in services in accordance with NORTH SOUND BHO policies and procedures.

19
20 **2. OUTPATIENT INITIAL REFERRAL AND CONTINUED SERVICE COORDINATION**

21 Contractor shall facilitate the transition from Jail Services to Outpatient Services.

22
23 Contractor shall assist the individual with the transition and coordination of services upon
24 release from jail.

25
26 Contractor shall continue to meet the transition needs of the individual provided under this
27 Contract until the individual receives their first outpatient appointment and/or individual has
28 declined further services, whichever occurs first. The duration of jail transition engagement
29 services shall be approximately 90 days or at an end date mutually agreed upon between
30 Contractor and individual for the purpose of transition services.

31
32 **3. MENTAL HEALTH NEEDS ASSESSMENT**

33 Contractor shall conduct a mental health needs assessment on individuals identified by the
34 Contractor who are in need of mental health transition services.

35
36 Mental Health Needs Assessment shall, at a minimum, contain the following elements:

- 37
38 a. Individual's identification of problem, in his/her words;
- 39 b. Identifying risk issues to self or others;
- 40 c. Individual's functioning level abbreviated mental health status assessment;
- 41 d. Determination of mental health, medical/chemical dependency issues;
- 42 e. Identify whether the individual is a current or past enrollee of mental health/chemical
43 dependency services;
- 44 f. Medication history and current needs; and
- 45 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 the individual.

3
4 Contractor shall address age, cultural, or disability issues of the individual.

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
8 other systems when appropriate.

9
10 Contractor shall demonstrate the provider has worked with the individual and others at their
11 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
21 treatment, such as, substance abuse treatment.
- 22

23 **4. ACCESS TO AGE AND CULTURALLY COMPETENT SERVICES**

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

- 27
- 28 a. Identify and reduce barriers to people getting the services where and when they need
29 them;
 - 30 b. Comply with the Americans with Disabilities Act 42 USC § 12101 et seq. and Washington
31 State Antidiscrimination Act, Chapter 49.60 RCW;
 - 32 c. Ensure services are timely, appropriate and sensitive to the age, culture, language,
33 gender and physical condition of the individual;
 - 34 d. Encourage alternative service delivery models to make services more available to
35 underserved persons as defined in WAC 388-865-0150;
 - 36 e. Provide access to telecommunication devices or services and certified interpreters for
37 deaf or hearing impaired individuals and limited English proficient individuals;
 - 38 f. Bring services to the individual or locate services at sites where transportation is
39 available to individuals; and
 - 40 g. Ensure compliance with all state and federal non-discrimination laws, rules and plans.
- 41

1 **5. INDIVIDUAL AND FAMILY VOICE**

2 Contractor must ensure all individuals have voice in developing their transition plans, advance
3 directives and crisis plans. At a minimum, transition goals must be written in the words of the
4 individual and documentation must be included in the clinical record describing how the
5 individual sees his/her progress. Contractor must be able to demonstrate how this
6 requirement is implemented and monitored.
7

8 **6. GRIEVANCE, APPEAL AND FAIR HEARING PROCESSES**

9 Contractor must implement grievance, appeal and fair hearing processes that are in
10 conformance with NORTH SOUND BHO policies and procedures.
11

12 Contractor and its subcontractors shall abide by NORTH SOUND BHO, grievance, appeal and
13 fair hearing determinations.
14

15 In addition Contractor shall:
16

- 17 a. Implement a Grievance process that complies with WAC 388-865-0255 and 388-
18 877/877A or any successors;
- 19 b. Coordinate with NORTH SOUND BHO grievance process and Ombuds Services;
- 20 c. Provide assistance to clients filing a grievance;
- 21 d. Provide access to interpreter services and toll free numbers with adequate TTY/TTD and
22 interpreter capability; and
- 23 e. Incorporate concerns from grievances into Contractor services without identifying
24 individual clients.
25

26 **7. LOCAL RESPONSIVENESS AND COMMUNICATIONS**

27 Contractor shall cooperate with NORTH SOUND BHO in the Service Area to provide a locally
28 responsive delivery system. Contractor shall provide individuals and referral sources
29 information and education about the referral process, service availability, service population
30 and common symptoms of mental illness to individuals and referrals sources and shall post
31 and make known individual rights and responsibilities including grievance, appeal and fair
32 hearing procedures and availability of Ombuds services.
33

34 Contractor shall have written policy and procedures that comply with NORTH SOUND BHO's
35 policies on enrollee rights and address the following:
36

- 37 a. Individual mental health rights applicable to non-Medicaid individuals as defined in WAC
38 388-865-0410 and 338-877-0600.
- 39 b. Oral interpretation services provided free of charge to the individual.
- 40 c. Information those written materials are available when requested in alternate formats. These
41 materials must be available and easily understood by individuals.
42

43 Access to translated copies may be downloaded at:

44 <http://www.dshs.wa.gov/dbhr/pubs.shtml#dbhr>
45

1 **8. CRITICAL INCIDENTS**

2 Contractor and its subcontractors shall comply with NORTH SOUND BHO’s Critical Incident
3 Reporting Policy and Procedure and any successor regarding critical incidents.
4

5 **9. STAFF COMPETENCY AND TRAINING**

6 Contractor and its subcontractors shall comply with NORTH SOUND BHO credentialing policies
7 and procedures and shall ensure all staff are qualified for the position they hold and have, at a
8 minimum, education, experience and skills to perform their job requirements, per Chapter
9 388-865 WAC, including any required licenses or certifications.
10

11 Contractor shall require a criminal history background check pursuant to RCW 43.43.830; 832;
12 834 and 43.20A.710 shall be completed for all current employees, volunteers and
13 subcontractors and a criminal history background check shall be initiated for all prospective
14 employees, volunteers and subcontractors who may have unsupervised access to children,
15 people with developmental disabilities, or vulnerable adults.
16

17 Contractor shall collaborate with NORTH SOUND BHO to implement, maintain and revise the
18 Regional Training Plan incorporated as Exhibit K or any successor.
19

20 Contractor must participate in training when requested by NORTH SOUND BHO/HRSA. A
21 request for an exception to participation in required training must be in writing and include a
22 plan for how the required information will be provided to the appropriate
23 Contractor/subcontractor staff.
24

25 **10. MANAGEMENT INFORMATION SYSTEM**

26 Contractor shall:

27
28 Ensure the existence and operation of an electronic health record (EHR) that is compatible
29 with NORTH SOUND BHO’s CIS and has the capability to transmit data timely and accurately.
30 Contractor shall develop and maintain an information system in comport with Exhibit C and
31 Exhibit U incorporated herein.
32

33 NORTH SOUND BHO will require Contractor to provide a Business Continuity and Disaster
34 Recovery Plan (BCDRP) that insures timely reinstatement of the CIS following total loss of the
35 primary system or a substantial loss of functionality. Contractor must submit to NORTH
36 SOUND BHO the most recent version of the BCDRP within 30 calendar days of execution of
37 this Contract and within 30 calendar days of Contractor updating their BCDRP.
38

39 **11. MEDICAID ELIGIBILITY**

40 Contractor shall verify an individual’s Medicaid eligibility at each appointment. For individuals
41 not currently enrolled in Medicaid, Contractor shall refer individuals to the designated in-
42 person assistor agency in their catchment area. Contractor shall act in accordance with
43 NORTH SOUND BHO policy on eligibility verification herein incorporated by reference.
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12. BUSINESS ASSOCIATE AGREEMENT

Contractor shall abide by the provisions of NORTH SOUND BHO/Contractor Business Associates Agreement (Exhibit N).

13. MONITORING

Contractor shall monitor subcontractors providing clinical services under this Contract to ensure services are provided in conformance with laws, regulations, other clinical standards, Behavioral Health State Contract (BHSC) between NORTH SOUND BHO and DBHR that provides for Jail Services and this Contract.

14. DELIVERABLES

Contractor must ensure plans or reports required by this Contract are provided to NORTH SOUND BHO in compliance with the timelines/formats indicated.

1 **C. FINANCIAL TERMS AND CONDITIONS**

2
3 **1. GENERAL FISCAL ASSURANCES**

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

10
11 **2. FINANCIAL ACCOUNTING REQUIREMENTS**

12 Contractor shall:

- 13
- 14 a. Establish and maintain operating reserves at prudent levels sufficient to ensure
 - 15 Contractor has the ability to pay for all expenses incurred during this Contract period,
 - 16 including those whose disposition occurs after the Contract has been terminated, and to
 - 17 cover the risk of financial loss resulting in the event the cost of providing services
 - 18 pursuant to this Contract exceeds the revenues derived therefrom;
 - 19 b. Ensure all funds, including interest earned, provided pursuant to this Contract are used
 - 20 to support the public mental health system within the Service Area.
 - 21 c. Reimburse subcontractors within 60 calendar days of their billings to Contractor.
 - 22 d. Contractor shall produce annual audited financial statements of its fiscal year end upon
 - 23 completion and make such reports available to NORTH SOUND BHO upon request.
- 24

25 **3. FINANCIAL REPORTING**

26 Contractor shall provide the following reports to NORTH SOUND BHO:

- 27
- 28 a. Report Contractor's revenue and expenditure information to NORTH SOUND BHO on a
 - 29 biennial basis. Reports must comply with the provisions in the Budget, Accounting and
 - 30 Reporting System (BARS) Supplemental Instructions for Mental Health Services
 - 31 promulgated by Washington State Auditor's Office. Reports are due within 35 calendar
 - 32 days of the biennial quarter end (December and June of each year).
 - 33 b. Contractor shall participate in HRSA Unit Cost Surveys and actuarial studies when
 - 34 required by HRSA.
- 35

36 **4. RULES COMPLIANCE**

37 Contractor shall:

- 38
- 39 a. Submit the amount spent throughout Service Area on specific items at the request of
 - 40 NORTH SOUND BHO, CMS, the legislature, or State of Washington DSHS in the
 - 41 timeframe specified.
 - 42 b. Account for public mental health expenditures under this Contract in accordance with
 - 43 federal OMB Circulars No. A-133, A-87 and state requirements in accordance with BARS
 - 44 Manual and BARS Supplemental Instructions.

- c. Ensure State or Federal funds are not used to replace local funds from any source, which were being used to finance mental health services in the constituent county/counties in the calendar year prior to January 1, 1990. Contractor shall not use State or Federal funds to replace local funds used to administer the ITA Program in the constituent county/counties in the calendar year prior to January 1, 1974.
- d. Limit administration costs incurred by Contractor and all subcontractors to no more than 15% of the consideration provided under this Contract in any state fiscal year. Administration costs must be measured on a state fiscal year basis according to the reported information submitted by Contractor in its Revenue and Expenditure reports and reviewed by NORTH SOUND BHO.
- e. Funding provided through this Contract shall supplement, and not supplant, local or other funding or in-kind resources being used for these purposes that were in effect in April 2005.

5. FRAUD AND ABUSE

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

- a. Mandatory compliance plan;
- b. Designation of a compliance officer or compliance committee that is accountable to Contractor;
- c. Effective ongoing training and education for compliance officer and employees;
- d. Effective lines of communication between compliance officer, employees and other providers in Contractor's network;
- e. Enforcement of standards through well-publicized disciplinary guidelines;
- f. Provision of internal monitoring and auditing;
- g. Provision for prompt response to detected offenses and for development of corrective action initiatives; and
- h. Written policies, procedures and standards of conduct that articulate Contractor's commitment to comply with all applicable Federal and State standards.

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

Complaints and reports should be directed to the NORTH SOUND BHO contact listed below.

Compliance Officer
301 Valley Mall Way, Ste. 110
Mt. Vernon, WA 98273
360.416.7013
1.800.684.3555

compliance_officer@northsoundbho.org

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

2
3 **1. OVERSIGHT AUTHORITY**

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

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

24 Contractor shall cooperate with and allow access to North Sound Ombuds in order to conduct
25 surveys and review activities in accordance with the terms of this Contract, in accordance with
26 Exhibit P. Contractor shall cooperate with Community Action of Skagit County in resolving any
27 disputes that arise in the provision of Ombuds services.
28

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

34 **2. REMEDIAL ACTION**

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

42 a. CAP must include:

43 i. A brief description of the finding.
44

- 1 ii. Specific actions to be taken, timetable, description of the monitoring to be
2 performed, steps taken and individuals responsible for the resolution of the
3 situation.
4
- 5 b. CAP may:
6
7 Require modification of any policies or procedures by Contractor relating to the
8 fulfillment of its obligations pursuant to this Contract.
9
- 10 c. CAP are subject to approval by NORTH SOUND BHO which may:
11
12 i. Accept the plan as submitted;
13 ii. Accept the plan with specified modifications;
14 iii. Request a modified plan; or
15 iv. Reject the plan.
16
- 17 d. Contractor agrees that NORTH SOUND BHO may initiate remedial action with or without
18 a CAP as outlined in subsection below if NORTH SOUND BHO determines any of the
19 following situations exist:
20
21 i. Problem exists that negatively impacts enrollees.
22 ii. Contractor has failed to perform any of the mental health services required in this
23 Contract, including delegated functions, which includes failure to maintain the
24 required capacity as specified by NORTH SOUND BHO to ensure individuals receive
25 jail transition services.
26 iii. Contractor has failed to develop, produce and/or deliver to NORTH SOUND BHO
27 any of the statements, reports, data, data corrections, accountings, claims and/or
28 documentation described herein in compliance with all the provisions of this
29 Contract.
30 iv. Contractor has failed to perform any administrative function required under this
31 Contract, including delegated functions. For the purposes of this section,
32 “administrative function” is defined as any obligation other than the actual
33 provision of mental health services.
34 v. Contractor has failed to implement corrective action required by the state and
35 within NORTH SOUND BHO prescribed timeframes.
36
- 37 e. NORTH SOUND BHO may impose any of the following remedial actions in response to
38 findings of situations as outlined above.
39
40 i. Withhold one percent of the next monthly payment and each monthly payment
41 thereafter until the corrective action has achieved resolution. NORTH SOUND BHO,
42 at its sole discretion, may return a portion or all of any payments withheld once
43 satisfactory resolution has been achieved.

- ii. 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.
- iii. Revoke delegation of any function delegated under this contract.
- iv. Deny any incentive payment to which Contractor might otherwise have been entitled under this Contract or any other arrangement by which HRSA provides incentives; or
- v. Termination of this Contract for Default as outlined in this Contract.

3. PAYMENT WITHHOLD

Up to two (2) percent of the monthly payment to Contractor will be withheld upon the request of NORTH SOUND BHO’s Program Administrator if a required report or deliverable under this Contract is due and has not been received by NORTH SOUND BHO including required financial reports and data transmissions.

Payment will be withheld until the required report or deliverable has been delivered and meets the requirements specified by NORTH SOUND BHO.

4. ADDITIONAL FINANCIAL PENALTIES – DBHR IMPOSED SANCTIONS

Financial penalties imposed by DBHR or other regulatory agency due to the action or inaction of Contractor may be paid by NORTH SOUND BHO on behalf of Contractor and the amount will be withheld from NORTH SOUND BHO’s payments to Contractor.

5. TERMINATION DUE TO CHANGE IN FUNDING

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

6. TERMINATION FOR CONVENIENCE

Except, as otherwise provided in this Contract, NORTH SOUND BHO may terminate this Contract in whole or in part for convenience by giving Contractor at least 30 calendar days’ written notice. Contractor may terminate this Contract for convenience by giving NORTH SOUND BHO at least 30 calendar days’ written notice addressed to NORTH SOUND BHO’s Program Administrator (or his/her successor) listed on the last page of this Contract.

7. TERMINATION FOR DEFAULT

NORTH SOUND BHO’s Program Administrator may terminate this Contract for default, in whole or in part, by written notice to Contractor if NORTH SOUND BHO or DSHS has a reasonable basis to believe Contractor has:

- a. Failed to meet or maintain any requirement for contracting with DSHS;
- b. Failed to perform under any provision of this Contract;

- c. Violated any law, regulation, rule, or ordinance applicable to the services provided under this Contract; and/or
- d. Otherwise breached any provision or condition of this Contract.

Before the Program Administrator may terminate this Contract for default, NORTH SOUND BHO shall provide Contractor with written notice of the Contractor's noncompliance with this Contract and provide the Contractor a reasonable opportunity to correct the noncompliance. If Contractor does not correct the noncompliance within the period of time specified in the written notice of noncompliance, the Program Administrator may then terminate this Contract. The Program Administrator may terminate this Contract for default without such written notice and without opportunity for correction if NORTH SOUND BHO has a reasonable basis to believe that a client's health or safety is in jeopardy, and/or:

- a. Contractor has violated any law, regulation, rule, or ordinance applicable to services provided under this Contract, or
- b. Continuance of this Contract with Contractor poses a material risk of injury or harm to any person.

Contractor may terminate this Contract in whole or in part by written notice to NORTH SOUND BHO, if Contractor has a reasonable basis to believe NORTH SOUND BHO has:

- a. Failed to meet or maintain any requirement for contracting with Contractor;
- b. Failed to perform under any provision of this Contract;
- c. Violated any law, regulation, rule, or ordinance applicable to work performed under this Contract; and/or
- d. Otherwise breached any provision or condition of this Contract.

8. TERMINATION PROCEDURE

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

- a. Contractor and any applicable subcontractors shall cease to perform any services required by this Contract as of the effective date of termination and shall comply with all reasonable instructions contained in the notice of termination which are related to the transfer of clients, distribution of property and termination of services. Each party shall be responsible only for its performance in accordance with the terms of this Contract rendered prior to the effective date of termination. Contractor and any applicable subcontractors shall assist in the orderly transfer/transition of individuals served under this Contract. Contractor and any applicable subcontractors shall promptly supply all information necessary for the reimbursement of any outstanding Medicaid claims.
- b. Contractor and any applicable subcontractors shall immediately deliver to NORTH SOUND BHO's Program Administrator or his/her successor all DSHS and NORTH SOUND BHO assets (property) in Contractor and any applicable subcontractor's possession and any property produced under this Contract. Contractor and any applicable subcontractors grants NORTH SOUND BHO and DSHS the right to enter upon

1 Contractor's and any applicable subcontractors premises for the sole purpose of
2 recovering any NORTH SOUND BHO/DSHS property that Contractor and any applicable
3 subcontractors fails to return within 10 working days of termination of this Contract.
4 Upon failure to return NORTH SOUND BHO/DSHS property within 10 working days of the
5 termination of this Contract, Contractor and any applicable subcontractors shall be
6 charged with all reasonable costs of recovery including transportation and attorney's
7 fees. Contractor and any applicable subcontractors shall protect and preserve any
8 property of NORTH SOUND BHO/DSHS that is in the possession of Contractor and any
9 applicable subcontractors pending return to NORTH SOUND BHO/DSHS.

- 10 c. NORTH SOUND BHO shall be liable for and shall pay for only those services authorized
11 and provided through the date of termination of this Contract. NORTH SOUND BHO may
12 pay an amount agreed to by the parties for partially completed work and services, if
13 work products are useful to or usable by NORTH SOUND BHO. Should the Contract be
14 terminated by either party, NORTH SOUND BHO will require the spend-down of all
15 remaining reserves and fund balances within the termination period. Funds will be
16 deducted from the final months' payments until reserves and fund balances are spent.
- 17 d. If the Program Administrator terminates this Contract for default, NORTH SOUND BHO
18 may withhold a sum from the final payment to Contractor that NORTH SOUND BHO
19 determines is necessary to protect NORTH SOUND BHO against loss or additional liability
20 occasioned by the alleged default. NORTH SOUND BHO shall be entitled to all remedies
21 available at law, in equity, or under this Contract. If it is later determined the Contractor
22 was not in default, or if Contractor terminated this Contract for default, Contractor shall
23 be entitled to all remedies available at law, in equity, or under this Contract.
24

25 **9. NOTICE REQUIREMENTS**

26 Either party to this Contract must provide 180 days' notice of any issue that may cause the
27 party to voluntarily terminate, refuse to renew, or refuse to sign a mandatory amendment to
28 this Contract.
29

- 30 a. If Contractor at any time decides it shall no longer be a Contractor with NORTH SOUND
31 BHO for any reason, Contractor must provide NORTH SOUND BHO's Program
32 Administrator or his/her successor listed on the last page of this Contract with written
33 notice at least 90 days prior to the effective date of termination and work with NORTH
34 SOUND BHO to develop a mutually agreed upon transition plan with the collaborative
35 goal of minimizing the disruption of services. The transition plan shall address all issues
36 leading to the transition of individuals in service and of all items/requirements of
37 Contractor that extend beyond the termination of services.
- 38 b. NORTH SOUND BHO must provide Contractor's Program Administrator or his/her
39 successor listed on the last page of this Contract with written notice at least 90 days
40 written notice if NORTH SOUND BHO decides to voluntarily terminate, refuses to renew,
41 or refuses to sign a mandatory amendment to this Contract. Contractor shall work with
42 NORTH SOUND BHO to develop a mutually agreed upon transition plan with the
43 collaborative goal of minimizing the disruption of services.

- 1 c. If Contractor terminates this Contract or will not be entering into any subsequent
2 Contracts, NORTH SOUND BHO shall require at least 90 days' notice prior to the end of
3 the contract if a decision is made not to enter into a subsequent Contract. Any funds not
4 spent for the provision of services under this Contract shall be returned to NORTH
5 SOUND BHO within 60 days of the last day this Contract is in effect.

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

2
3 **1. BACKGROUND**

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

17
18 **2. MUTUAL COMMITMENTS**

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

25
26 **3. ASSIGNMENT**

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

32
33 **4. AUTHORITY**

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

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

43 Contractor and its subcontractors shall comply with all applicable federal and state statutes,
44 regulations and operational policies whether or not a specific citation is identified in various

1 sections of this Contract and all amendments thereto that are in effect when the Contract is
2 signed or that come into effect during the term of the Contract which may include, but are
3 not limited to, the following "Federal and/or State Law":
4

- 5 a. Title XIX and Title XXI of the Social Security Act and Title 42 CFR.
- 6 b. All applicable Office of the Insurance Commissioner (OIC) statutes and regulations.
- 7 c. All local, State, and Federal professional and facility licensing and certification
8 requirements/standards that apply to services performed under the terms of this
9 Contract.
- 10 d. All applicable standards, orders, or requirements issued under Section 306 of the Clean
11 Air Act (42 US 1857(h)), Section 508 of the Clean Water Act (33 US 1368), Executive
12 Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15),
13 which prohibit the use of facilities included on the EPA List of Violating Facilities. Any
14 violations shall be reported to DSHS, DHHS and the EPA.
- 15 e. Any applicable mandatory standards and policies relating to energy efficiency which are
16 contained in the State Energy Conservation Plan issued in compliance with the federal
17 Energy Policy and Conservation Act.
- 18 f. Those specified for laboratory services in the Clinical Laboratory Improvement
19 Amendments (CLIA).
- 20 g. Those specified in Title 18 RCW for professional licensing.
- 21 h. Reporting of abuse as required by RCW 26.44.030.
- 22 i. Industrial insurance coverage as required by Title 51 RCW.
- 23 j. RCW 38.52, 70.02, 71.05, 71.24, and 71.34.
- 24 k. WAC 388-865, 388-877 and 388-877A.
- 25 l. 42 CFR 438, including 438.58 (conflict of interest) and 438.106 (physician incentive
26 plans).
- 27 m. State of Washington Medicaid State Plan and 1915(b) Medicaid Mental Health Waiver or
28 their successors which documents are incorporated by reference.
- 29 n. DBHR Quality Strategy.
- 30 o. State of Washington mental health system mission statement, value statement and
31 guiding principles for the system attached hereto as Exhibit J.
- 32 p. State Medicaid Manual (SMM), OMB Circulars, BARS Manual and BARS Supplemental
33 Mental Health Instructions.
- 34 q. Any applicable federal and state laws that pertain to Medicaid enrollee or Individual's
35 rights. Contractor shall ensure that its staff takes those rights into account when
36 furnishing services to individuals.
- 37 r. DSHS Administrative policies to the extent that they are applicable to this contract which
38 are attached as Exhibits F, G and H.
- 39 s. 42 USC 1320a-7 and 1320a-7b (Section 1128 and 1128 (b) of the Social Security Act),
40 which prohibits making payments directly or indirectly to physicians or other providers
41 as an inducement to reduce or limit mental health services provided to individuals.
- 42 t. Contractor and any subcontractors must comply with 42-USC 1396u-2 and must not
43 knowingly have a director, officer, partner, or person with a beneficial ownership of
44 more than 5% of Contractor, CMHA, or subcontractor's equity or an employee,

1 Contractor, or consultant who is significant or material to the provision of services under
2 this Contract who has been or is affiliated with someone who has been debarred,
3 suspended, or otherwise excluded by any federal agency.

- 4 u. Federal and State non-discrimination laws and regulations.
- 5 v. HIPAA (45 CFR parts 160-164).
- 6 w. NORTH SOUND BHO-CIS Data Dictionary and its successors.

7
8 If Contractor is in violation of a federal law or regulation and Federal Financial Participation is
9 recouped from NORTH SOUND BHO, Contractor shall reimburse the federal amount to NORTH
10 SOUND BHO within 20 days of such recoupment.

11
12 Upon notification from DSHS, NORTH SOUND BHO shall notify Contractor in writing of
13 changes/modifications in CMS policies and DSHS/HRSA contract requirement changes.

14 15 **6. COMPLIANCE WITH NORTH SOUND BHO OPERATIONAL POLICIES**

16 Contractor shall comply with all NORTH SOUND BHO operational policies that pertain to the
17 delivery of services under this Contract that are in effect when the Contract is signed or that
18 come into effect during the term of the Contract. NORTH SOUND BHO policies shall not
19 exceed that required to implement Federal and state requirements or to implement
20 continuous quality improvement efforts determined by the Integrated Quality Management
21 Process as approved by NORTH SOUND BHO's Board. All proposed new policies shall
22 specifically reference Federal or State requirements they implement and shall be limited to
23 such requirements. NORTH SOUND BHO shall notify Contractor of any proposed change in
24 Federal or State requirements affecting this Contract immediately upon NORTH SOUND BHO
25 receiving knowledge of such change. Such policies shall include, but not limited to:

- 26
27 a. NORTH SOUND BHO Core Values and Principles, attached hereto as Exhibit J provide a
28 framework of principles for the regional system and Contractor shall take these
29 principles into account when providing services under this Contract.
- 30 b. Contractor and its subcontractors must recognize the unique social/legal status of Indian
31 nations as required by both the Supremacy and Indian Commerce Clauses of the United
32 States Constitution; federal treaties; executive orders; Indian Citizens Act of 1924
33 statutes; and state and federal court decisions; or any Memorandum of Agreement or
34 MOU signed by State of Washington and a federally recognized tribe of recognized
35 organization; shall maintain compliance with Exhibit G, DSHS Admin. Policy No. 7.01
36 American Indian Policy or any successor pursuant to the Centennial Accord between
37 Washington State government and Washington Tribes and maintain compliance with
38 NORTH SOUND BHO 7.01 Plan or any successor (Exhibit G).
- 39 c. NORTH SOUND BHO's Strategic Plan.
- 40 d. NORTH SOUND BHO's clinical policies and procedures including crisis services policies.
- 41 e. NORTH SOUND BHO's medical records documentation and data reporting policies and
42 procedures.
- 43 f. NORTH SOUND BHO's quality management/strategy plan.

- 1 g. NORTH SOUND BHO's enrollee rights policies and procedures, including grievance,
2 appeal and fair hearing policies.
- 3 h. Any other policies designated by NORTH SOUND BHO as applicable to Contractor.
4

5 Along with all NORTH SOUND BHO stakeholders, Contractor will be included in the process for
6 developing relevant operational policies and procedures in accordance with Exhibit K. NORTH
7 SOUND BHO's policies and procedures are posted on NORTH SOUND BHO's website as
8 indicated on Exhibit K. NORTH SOUND BHO shall notify Contractor of new and revised policies
9 through its Numbered Memoranda. Training will be provided on policies that impact
10 providers, upon request.
11

12 In the event there is a disagreement between NORTH SOUND BHO and Contractor in an
13 operational committee regarding a proposed new policy or modification to a current policy,
14 the following process will apply. NORTH SOUND BHO will provide a summary of the regulatory
15 requirement or other rationale for the proposed policy or policy modification. Contractor will
16 provide an analysis of its objection to the proposed policy or policy modification within 30
17 days from the receipt of NORTH SOUND BHO summary. If the objection is primarily due to
18 increased cost, Contractor will provide substantiation of the additional costs and, if possible,
19 an alternative to achieving the policy goal in a less costly manner. The proposed policy or
20 policy modification will be discussed at the next Regional Management Council. If resolution is
21 not obtained, the proposed policy or policy modification will be discussed at the next Quality
22 Management Oversight Committee meeting. If resolution is not obtained, the proposed policy
23 or policy modification will be discussed at the next NORTH SOUND BHO's Board meeting.
24

25 NORTH SOUND BHO will make best efforts to maintain currency of policies with applicable
26 Federal or State law, regulation, or policy. In the event of a conflict, Federal or State laws or
27 policies supersede NORTH SOUND BHO policies and procedures and requirements of this
28 contract.
29

30 **7. CONFIDENTIALITY OF PERSONAL INFORMATION**

31 Pursuant to 42 CFR 431.301 and 431.302, information concerning applicants and recipients
32 may be disclosed for purposes directly concerning the administration of this Contract.

33 Purposes include, but are not limited to:
34

- 35 a. Establishing eligibility.
- 36 b. Determining the amount of medical assistance.
- 37 c. Providing services for recipients.
- 38 d. Conducting or assisting in investigation, prosecution, or civil or criminal proceeding
39 related to the administration of the plan.
- 40 e. Assuring compliance with Federal and State laws, regulations, terms and requirements
41 of this Contract.
- 42 f. Improving quality.
43

44 Contractor shall comply with all confidentiality requirements of HIPAA (45 CFR 160 and 164).
45

1 Contractor shall protect all information, records and data collected from unauthorized
2 disclosure in accordance with 42 CFR 431.300 through 431.307, RCW's 70.02, 71.05, and
3 71.34, HIPAA and for service recipients receiving alcohol and drug abuse services, in
4 accordance with 42 CFR Part 2. Contractor shall have a process in place to ensure that all
5 components of its CMHA and system understand and comply with confidentiality
6 requirements for publicly funded mental health services.
7

8 Contractor shall ensure access to the information is restricted to persons or agency
9 representatives who are subject to standards of confidentiality that are comparable to those
10 of NORTH SOUND BHO and DSHS.
11

12 The parties acknowledge that coordination, planning, screening and referral require the
13 sharing of information among the various treatment providers. Disclosure of information to
14 verify eligibility, determine the amount of assistance and provide medically necessary mental
15 health services are all "purposes directly connected with the administration of the Contract"
16 and are all appropriate justifications for sharing information.
17

18 Contractor shall assure that all staff and subcontractors providing services under this Contract
19 receive annual training on confidentiality policies and procedures. In addition, Contractor
20 shall assure that all staff and subcontractors providing services under this Contract sign an
21 annual Oath of Confidentiality statement. Signed copies of the Oath of Confidentiality shall be
22 kept in Contractor's personnel files.
23

24 **8. CONTRACT PERFORMANCE/ENFORCEMENT**

25 NORTH SOUND BHO shall be vested with the rights of a third party beneficiary including the
26 "cut through" right to enforce performance should Contractor be unwilling or unable to
27 enforce action on the part of its subcontractor(s). In the event Contractor dissolves or
28 otherwise discontinues operations, NORTH SOUND BHO may, at its sole option, assume the
29 right to enforce the terms and conditions of this Contract directly with Contractor's
30 subcontractors; provided, NORTH SOUND BHO keeps Contractor reasonably informed
31 concerning such enforcement. Contractor shall include this clause in its contracts with its
32 subcontractors. In the event of the dissolution of Contractor, NORTH SOUND BHO's rights in
33 indemnification shall survive.
34

35 **9. COOPERATION**

36 The parties to this Contract shall cooperate in good faith to effectuate the terms and
37 conditions of this Contract.
38

39 **10. DEBARMENT CERTIFICATION**

40 Contractor, by signature to this Contract, certifies Contractor and any Owners are not presently
41 debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any
42 Federal department or agency from participating in transactions (Debarred) and is not listed in the
43 Excluded Parties List System in the System for Award Management (SAM) website. Contractor shall
44 immediately notify NORTH SOUND BHO if, during the term of this Contract, Contractor becomes
45 debarred.
46

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

3 Although NORTH SOUND BHO, Contractor and subcontractors mutually recognize that
4 services under this Contract may be provided by Contractor and subcontractors to clients
5 under the Medicaid program, RCW 71.05 and 71.34 and Community Mental Health Services
6 Act, RCW 71.24, it is not the intention of either NORTH SOUND BHO or Contractor that such
7 individuals or any other persons occupy the position of intended third-party beneficiaries of
8 the obligations assumed by either party to this Contract. Such third parties shall have no right
9 to enforce this Contract.
10

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

12 This Contract shall be binding on all parties only upon signature by authorized representatives
13 of each party. This Contract or any provision may be amended during the contract period if
14 circumstances warrant by a written amendment executed by all parties. Only NORTH SOUND
15 BHO's Program Administrator or designee has authority to waive any provision of this
16 Contract on behalf of NORTH SOUND BHO.
17

18 **13. HEADINGS AND CAPTIONS**

19 The headings and captions used in this Contract are for reference and convenience only, and
20 in no way define, limit, or decide the scope or intent of any provisions or sections of this
21 Contract.
22

23 **14. INDEMNIFICATION**

24 Contractor shall be responsible for and shall indemnify and hold NORTH SOUND BHO harmless
25 (including all costs and attorney fees) from all claims for personal injury, property damage and/or
26 disclosure of confidential information, including claims against NORTH SOUND BHO for the negligent
27 hiring, retention and/or supervision of the Contractor and/or from the imposition of governmental
28 fines or penalties resulting from the acts or omissions of Contractor and its subcontractors related to
29 the performance of this contract. NORTH SOUND BHO shall be responsible and shall indemnify and
30 hold Contractor harmless (including all costs and attorney fees) from all claims for personal injury,
31 property damage and disclosure of confidential information and from the imposition of governmental
32 fines or penalties resulting from the acts or omissions of NORTH SOUND BHO. Each party agrees to be
33 responsible and assume liability for its own wrongful and/or negligent acts or omissions or those of
34 their officials, officers, agents, or employees, to the fullest extent required by law, and further agree to
35 save, indemnify, defend, and hold the other party harmless from any such liability. For the purposes of
36 these indemnifications, the Parties specifically and expressly waive any immunity granted under the
37 Washington Industrial Insurance Act, Title 51 RCW. This waiver has been mutually negotiated and
38 agreed to by the Parties. The provision of this section shall survive the expiration or termination of the
39 Contract.
40

41 **15. INDEPENDENT CONTRACTOR FOR NORTH SOUND BHO**

42 The parties intend that an independent Contractor relationship be created by this contract.
43 Contractor acknowledges that neither the Contractor nor its employees or subcontractors are
44 not officers, employees, or agents of NORTH SOUND BHO. Contractor shall not hold the
45 Contractor or any of Contractor's employees and subcontractors out as, nor claim status as

1 officers, employees, or agents of NORTH SOUND BHO. Contractor shall not claim for the
2 Contractor or Contractor's employees or subcontractors any rights, privileges, or benefits
3 which would accrue to an employee of NORTH SOUND BHO. Contractor shall indemnify and
4 hold NORTH SOUND BHO harmless from all obligations to pay or withhold Federal or State
5 taxes or contributions on behalf of the Contractor or Contractor's employees and
6 subcontractors unless specified in this Contract.
7

8 **16. INSURANCE**

9 NORTH SOUND BHO certifies it is a member of Washington Governmental Entity Pool for all
10 exposure to tort liability, general liability, property damage liability, and vehicle liability, if
11 applicable, as provided by RCW 43.19.
12

13 Contractor shall maintain Commercial General Liability Insurance (CGL). If Contractor is not a
14 member of a risk pool, Contractor shall carry CGL to include coverage for bodily injury,
15 property damage and contractual liability with the following minimum limits: Each
16 Occurrence - \$1,000,000; General Aggregate - \$2,000,000. Any risk pool shall provide
17 coverage with the same minimum limits. Any policy (non-risk pool and risk pool) shall include
18 liability arising out of premises, operations, independent Contractors, personal injury,
19 advertising injury and liability assumed under an insured contract. Contractor shall provide
20 evidence of such insurance to NORTH SOUND BHO within 15 days of execution of this
21 Contract and 15 days post renewal date thereafter. All non-risk pool policies shall name
22 NORTH SOUND BHO as a covered entity under said policy(s).
23

24 **17. INTEGRATION**

25 This Contract, including Exhibits, contains all the terms and conditions agreed upon by the
26 parties. No other understandings, oral, or otherwise regarding the subject matter of this
27 Contract shall be deemed to exist or to bind any of the parties hereto.
28

29 **18. MAINTENANCE OF RECORDS**

30 During the term of this Contract and for six (6) years following termination or expiration of
31 this Contract or if any audit, claim, litigation, or other legal action involving the records set
32 forth below is started before expiration of the six (6) year period, records shall be maintained
33 until completion and resolution of all issues arising there from or until the end of the six (6)
34 year period, whichever is later. Contractor shall maintain records sufficient to:
35

- 36 a. Maintain the content of all medical records in a manner consistent with utilization
37 control requirements of 42 CFR 456, 434.34 (a), 456.111 and 456.211.
- 38 b. Document performance of all acts required by law, regulation, or this Contract.
- 39 c. Substantiate Contractor statement of its organizations' structures, tax status, capabilities
40 and performance.
- 41 d. Demonstrate accounting procedures, practices and records which sufficiently and
42 properly document Contractor invoices to NORTH SOUND BHO and all expenditures
43 made by Contractor to perform as required by this Contract.

- e. Contractor and its subcontractors shall cooperate in all reviews including, but not limited to, surveys and research conducted by NORTH SOUND BHO, DSHS, or other Washington State Departments.
- f. Evaluations shall be done by inspection or other means to measure quality, appropriateness and timeliness of services performed under this Contract and to determine whether Contractor and its subcontractors are providing service to individuals in accordance with the requirements set forth in this Contract and applicable state and federal regulations as existing or hereafter amended.

19. NO WAIVER OF RIGHTS

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

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

20. ONGOING SERVICES

Contractor and its subcontractors shall ensure that in the event of labor disputes or job actions, including work slowdowns, such as “sick outs”, or other activities, within its service CMHA network, uninterrupted services shall be available as required by the terms of this Contract.

21. ORDER OF PRECEDENCE

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

- a. Applicable Medicaid 1915(b) Waiver, Provisions of Title XIX of the Social Security Act and Federal regulations concerning the operations of PIHP.
- b. State statutes and regulations concerning the operation of the community mental health programs.
- c. Federal and State Law.
- d. NORTH SOUND BHO-DSHS Agreement or its successors that covers the provision of mental health services covered under this Contract which shall include any exhibit, document, or material incorporated by reference. NORTH SOUND BHO shall promptly notify Contractor of any amendment to NORTH SOUND BHO-DSHS Agreement which affects any term or condition herein.
- e. This Contract.

1 **22. OVERPAYMENTS**

2 In the event Contractor fails to comply with any of the terms and conditions of this Contract
3 and that failure results in an overpayment, NORTH SOUND BHO may recover the amount due
4 DSHS, CMS, or other federal or state agency subject to dispute resolution as set forth in the
5 contract. In the case of overpayment, Contractor shall cooperate in the recoupment process
6 and return to NORTH SOUND BHO the amount due upon demand.
7

8 **23. OWNERSHIP OF MATERIALS**

9 Materials created by Contractor and its subcontractors and paid for by NORTH SOUND BHO as
10 a part of this Contract shall be owned by NORTH SOUND BHO and shall be "works for hire" as
11 defined by the U.S. Copyright Act of 1976. This material includes, but is not limited to: books,
12 computer programs, documents, films, pamphlets, reports, sound reproductions, studies,
13 surveys, tapes and/or training materials. Material which Contractor and its subcontractors use
14 to perform this Contract but which is not created for or paid for by NORTH SOUND BHO is
15 owned by Contractor or relevant subcontractors; however, NORTH SOUND BHO and DSHS
16 shall have a perpetual license to use this material for DSHS internal purposes at no charge to
17 DSHS.
18

19 **24. PERFORMANCE**

20 Contractor shall furnish the necessary personnel, materials/mental health services and
21 otherwise do all things for, or incidental to, the performance of the work set forth here and as
22 attached. Unless specifically stated, Contractor is responsible for performing or ensuring all
23 fiscal and program responsibilities required in this contract. No subcontract will terminate the
24 legal responsibility of Contractor to perform the terms of this Contract.
25

26 **25. RESOLUTION OF DISPUTES**

27 The parties wish to provide for prompt, efficient, final and binding resolution of disputes and
28 controversies that may arise under this Contract and therefore establish this dispute
29 resolution procedure. All claims, disputes and other matters in question between the parties
30 arising out of, or relating to, this Contract shall be resolved exclusively by the following
31 dispute resolution procedure unless the parties mutually agree in writing otherwise:
32

- 33 a. The parties shall use their best efforts to resolve issues prior to giving written Notice of
34 Dispute.
- 35 b. Within 10 working days of receipt of the written Notice of Dispute, the parties (or a
36 designated representative) shall together or, if both parties agree, with a mediator
37 meet, confer and attempt to resolve the claim within 5 working days.
- 38 c. The terms of the resolution of all claims concluded in meetings shall be memorialized in
39 writing and signed by each party.
40

41 **Arbitration:** If the claim is not resolved within 30 days, the parties shall proceed to arbitration
42 as follows:
43

- 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 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 arbitrator shall determine which party, if any, is the prevailing party.
- d. The parties agree that the arbitrator's decision shall be binding, final and enforceable subject to timely appeal 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. Provisions of this section shall, with respect to any controversy or claim, survive the termination or expiration of this Contract.
- g. Nothing contained in this Contract shall be deemed to give the arbitrator the power to change any of the terms and conditions of this Contract in any way.
- h. 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 Contract shall be governed by laws of the State of Washington both as to interpretation and performance.

26. SEVERABILITY AND CONFORMITY

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

27. SINGLE AUDIT ACT

If the Contractor or its subcontractor is a subrecipient 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. Contractor and its subcontractors shall make Contractor and subcontractors' records available for review or audit by officials of the Federal awarding agency, the General Accounting Office and DSHS. Contractor and its subcontractors shall incorporate OMB Circular A-133 audit requirements into all contracts between Contractor and its subcontractors who are subrecipients. Contractor and its subcontractors shall comply with any future amendments to OMB Circular A-133 and any successor or replacement Circular or regulation.

If the Contractor/subcontractors are a subrecipient and expends \$500,000 or more in Federal awards from any and/or all sources in any fiscal year, Contractor and applicable

1 subcontractors shall procure and pay for a single or program-specific audit for that fiscal year.
2 Upon completion of each audit, Contractor and applicable subcontractors shall submit to
3 NORTH SOUND BHO's Program Administrator the data collection form and reporting package
4 specified in OMB Circular A-133, reports required by the program-specific audit guide, if
5 applicable, and a copy of any management letters issued by the auditor.
6

7 For purposes of "subrecipient" status under the rules of OMB Circular A-133 205(i) Medicaid
8 payments to a subrecipient for providing patient care services to Medicaid eligible individuals
9 are not considered Federal awards expended under this part of the rule unless a State
10 requires the fund to be treated as Federal awards expended because reimbursement is on a
11 cost-reimbursement basis.
12

13 **28. SUBCONTRACTS**

14 Contractor may subcontract services to be provided under this Contract subject to the
15 following requirements.
16

- 17 a. Contractor shall be responsible for the acts and omissions of any subcontractor.
- 18 b. Contractor must ensure that subcontractor neither employs any person nor contracts
19 with any person or CMHA excluded from participation in federal health care programs
20 under either 42 USC 1320a-7 (§§1128 or 1128A Social Security Act) or debarred or
21 suspended per this Contract's General Terms and Conditions.
- 22 c. Contractor shall require subcontractors to comply with all applicable federal and state
23 laws, regulations and operational policies as specified in this Contract.
- 24 d. Contractor shall require subcontractors to comply with all applicable NORTH SOUND
25 BHO operational policies as specified in this Contract.
- 26 e. Subcontracts for the provision of mental health services must require subcontractors to
27 provide individuals access to translated information and interpreter services.
- 28 f. Contractor shall ensure a process is in place to demonstrate that all third-party
29 resources are identified and pursued.
- 30 g. Contractor shall oversee, be accountable for and monitor all functions and
31 responsibilities delegated to a subcontractor for conformance with any applicable
32 statement of work in this Contract on an ongoing basis including written reviews.
- 33 h. Contractor will monitor performance of subcontractors on an annual basis and notify
34 NORTH SOUND BHO of any identified deficiencies or areas for improvement requiring
35 corrective action by Contractor.
- 36 i. Contractor shall ensure that all subcontracts are in writing and subcontracts specify all
37 duties, reports and responsibilities delegated under this Contract. Those written
38 subcontracts shall:
 - 39 i. Require subcontractors to hold all necessary licenses, certifications and/or permits
40 as required by law for the performance of the services to be performed under this
41 Contract.
 - 42 ii. Subcontracts must require subcontractors to notify Contractor in the event of a
43 change in status of any required license or certification.
44

- 1 iii. Include clear means to revoke delegation, impose corrective action, or take other
- 2 remedial actions if subcontractor fails to comply with the terms of the subcontract.
- 3 iv. Require the subcontractor correct any areas of deficiencies in subcontractor's
- 4 performance that are identified by Contractor, NORTH SOUND BHO and/or HRSA.
- 5 v. Require best efforts to provide written or oral notification within 15 working days
- 6 of termination of an MHCP to individuals currently open for services who had
- 7 received a service from the affected MHCP in the previous 60 days. Notification
- 8 must be verifiable in the client medical record at the subcontractor.
- 9

10 **29. SURVIVABILITY**

11 The terms and conditions contained in this Contract that by their sense and context are intended to

12 survive the expiration of this Contract shall so survive. Surviving terms include, but are not limited to:

13 Financial Terms and Conditions, Single Audit Act, Order of Precedence, Contract Performance and

14 Enforcement, Confidentiality of Client Information, Resolution of Disputes, Indemnification, Oversight

15 Authority, Maintenance of Records, Ownership of Materials, Contract Administration, Warranties and

16 Survivability.

17

18 **30. TREATMENT OF CLIENT PROPERTY**

19 Unless otherwise provided in this Contract, Contractor shall ensure that any adult individual

20 receiving services from Contractor under this Contract has unrestricted access to the

21 individual's personal property. Contractor shall not interfere with any adult individual's

22 ownership, possession, or use of the individual's property unless clinically indicated.

23 Contractor shall provide individuals under age 18 with reasonable access to their personal

24 property that is appropriate to the individual's age, development and needs. Upon

25 termination of this Contract, Contractor shall immediately release to the individual and/or

26 individual's guardian or custodian all of the individual's personal property.

27

28 **31. WARRANTIES**

29 The parties' obligations are warranted and represented by each to be individually binding for

30 the benefit of the other party. Contractor warrants and represents that it is able to perform

31 its obligations set forth in this Contract and such obligations are binding upon Contractor and

32 other subcontractors for the benefit of NORTH SOUND BHO.

33

1 **32. CONTRACT ADMINISTRATION**

2 The Program Administrator for each of the parties shall be responsible for and shall be the
3 contact person for all communications and billings regarding the performance of this
4 Contract.
5

6 The Program Administrator for NORTH SOUND BHO is:

7 Joe Valentine, Executive Director
8 North Sound Behavioral Health Organization
9 301 Valley Mall Way, Suite 110
10 Mount Vernon, WA 98273
11

12 The Program Administrator for Whatcom County is:

13 Anne Deacon, Human Services Manager
14 Whatcom County Human Services
15 509 Girard Street
16 Bellingham, WA 98225
17

18 Changes regarding contact information shall be provided to the other party in writing within
19 10 working days of occurrence.

1 **THIS CONTRACT**, consisting of 37 Pages, plus Exhibits is executed by the persons signing below who
2 warrant that they have the authority to execute this Contract.
3

4
5 **FOR NORTH SOUND BEHAVIORAL HEALTH:**
6 **ORGANIZATION, LLC**

FOR WHATCOM COUNTY:

7
8
9
10
11 _____
12 Joe Valentine Date
13 Executive Director

_____ Date
Regina Delahunt
Director