



# Contractual Obligations, Regulations, and Enforcement

## Handbook

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## **Introduction**

The Managing Entity shall be responsible for the planning, coordination, and subcontracting of the Provider Network, as defined by s. 394.9082(2)(f), F.S., thereby providing a comprehensive array of Behavioral Health Services to individuals, including emergency, acute care, residential, outpatient, recovery support, person served support and prevention services.

- A. The SEFBHN Contractual Obligations, Regulations, and Enforcement (CORE) Handbook reflects information integral to your agency's ability to contract with SEFBHN. Information contained in the CORE Handbook is not negotiable and all Chapters and noted Incorporated Documents contained herein are applicable to your contract and agency.

The ME may waive minor irregularities that may be contained within the contract documents when it is in the ME's or the public's best interest to do so.

- B. A copy of the "Master Contract" between the Managing Entity and the Department of Children and Families is located here: <https://facts.fldfs.com/Search/ContractDetail.aspx?AgencyId=600000&ContractId=IHME2>
- C. Contract definitions set by the Department of Children and Families (also referred to as 'DCF' and 'the Department') are herein incorporated by reference and are on DCF's website, located here: <https://www.myflfamilies.com/sites/default/files/2022-11/GlossaryofContractTerms.pdf>.
- D. The Southeast Florida Behavioral Health Network ("ME") Glossary of Contract Terms, which is incorporated herein by reference is available on the ME website, located at [www.sefbhn.org](http://www.sefbhn.org). Additional definitions may be set forth in the **BASE Handbook**.

### **E. Major Program Goals**

1. The goal of the ME is to provide and enhance a seamless, accessible, recovery-oriented system of behavioral health care that is driven by persons served, Providers, and other stakeholders. Additionally, the goal is to improve access to care and promote service continuity; and, the support efficient and effective delivery of service. Innovation and collaboration are the norm and diversified financial resources comfortably support an array of prevention and treatment practices leading to excellent outcomes for individuals served, Providers, and the community.
2. Provider service delivery is to be both trauma informed and co-occurring capable across the array of adult and children's systems of care.
3. Recovery is to be the expectation, rather than the exception.

## **Administrative**

### **A. Official Party Representatives**

Each provider must identify specific staff contacts for the following areas that can be contacted: contract signer and contractual/administrative contact. This contact list will be maintained in the contract file via the **SEFBHN BASE Handbook**. Only an authorized staff member, named for this purpose in the **BASE Handbook**, will be allowed to update this list when staff changes are made.

### **B. Insurance**

Any insurance required of the Provider will also be applicable to any subcontractors used by the Provider.

1. The Provider shall maintain continuous adequate liability insurance coverage during the existence of this Contract and any renewal(s) and extension(s) thereof. With the exception of a state agency or subdivision as defined by subsection 768.28(2), F.S., by execution of this Contract, the Provider accepts full responsibility for identifying and determining the type(s) and extent of liability insurance necessary to provide reasonable financial protections for the Provider and the persons served to be served under this Contract. The Managing Entity and its Network Service Providers at all tiers are not covered by the State of Florida Risk Management Trust Fund for liability created by s. 284.30, F.S
2. Upon the execution of this Contract, the Provider shall furnish the Managing Entity written verification supporting both the determination and existence of such insurance coverage and shall furnish verification of renewal or replacement thereof prior to the expiration or cancellation. The Managing Entity reserves the right to require additional insurance as specified in this Contract.
3. The Provider shall notify the Managing Entity within 30 calendar days if there is a modification to the terms of insurance including but not limited to, cancellation, nonrenewal, or modification to policy limits.
4. The Provider shall obtain and provide proof to the Managing Entity and the Department of Comprehensive General Liability Insurance (broad form coverage), specifically including premises, fire and legal liability to cover the Provider and all its employees. The limits of the Provider's coverage shall be no less than \$300,000 per occurrence with a minimal annual aggregate of no less than \$1,000,000.

The Provider shall secure and maintain, and ensure subcontractors secure and maintain, Commercial General Liability Insurance, including bodily injury, property damage, personal and advertising injury, and products and completed operations. This insurance will provide coverage for all claims that may arise from the services completed under this Contract, whether such services are by

the Provider or anyone employed by it. Such insurance shall include the State as an additional insured for the entire length of this Contract. The Provider shall maintain required limits of liability necessary to provide reasonable financial protections to the Provider, the Managing Entity, and the Department of Children and Families under this Contract.

5. If in the course of the performance of its duties under this Contract any officer, employee, or agent of the Provider operates a motor vehicle, the Managing Entity shall cause the Provider, at all tiers, to obtain and provide proof to the ME and the Department of comprehensive automobile liability insurance coverage with limits no less than \$300,000 per occurrence with a minimal annual aggregate of no less than \$1,000,000.
6. If in the course of the performance of the duties of any Provider, at all tiers, any officer, employee, or agent of the Provider, provides any professional services or provides or administers any prescription drug or medication or controlled substance, the ME shall cause the Provider, at all tiers, to obtain and provide proof to the ME and the Department of professional liability insurance coverage, including medical malpractice liability and errors and omissions coverage, to cover all employees and shall not exclude claims resulting from physical and sexual abuse. The limits of the coverage shall be no less than \$300,000 per occurrence with a minimal annual aggregate of no less than \$1,000,000.
7. The Managing Entity and the Department of Children and Families shall be exempt from, and in no way liable for, any sums of money that may represent a deductible or self-insured retention under any such insurance. The payment of any deductible on any policy shall be the sole responsibility of the Provider purchasing the insurance.
8. All insurance policies, at all tiers, shall be provided by insurers licensed or eligible to do and that are doing business in the State of Florida. Each insurer must have a minimum rating of "A" by A. M. Best or an equivalent rating by a similar insurance rating firm, and shall name the Managing Entity and the Department as an additional insured under the policy or policies. The Provider shall use its best good faith efforts to cause the insurers issuing all such general, automobile, and professional liability insurance to use a policy form with additional insured provisions naming both DCF and the ME as additional insured or a form of additional insured endorsement acceptable to ME in the reasonable exercise of its judgment. The ME reserves the right to require additional insurance. The limits of coverage under each policy maintained by the Provider do not limit the Provider's liability and obligations under this contract. Upon the ME's request, the Provider shall furnish the ME with written verification supporting the existence of such insurance coverage.
9. All insurance policies will be with insurers authorized, and through insurance agents licensed, to transact business in the State, as required by chapter 624,

F.S., or upon approval of the Managing Entity with a commercial self-insurance trust fund authorized under §624.462, F.S. The Provider shall provide thirty (30) calendar days written notice of cancellation of any insurance required herein to the Managing Entity. The Provider shall submit certificates of insurance coverage, or other evidence of insurance coverage acceptable to the Managing Entity, prior to this Contract execution, and provide the Managing Entity 10 days prior Notice of any cancellation or nonrenewal.

10. All such insurance proposed by the Provider shall be submitted to and confirmed by the assigned Primary Point of Contact no later than execution initially and thereafter, updates shall be provided annually which reflect no lapse in insurance coverage.
11. To the extent and degree required by the law, the Provider shall self-insure or maintain Workers' Compensation Insurance (WCI) covering its employees connected with the services provided hereby.
12. The Provider will, for itself if providing Cyber/Network solutions or handling confidential information, secure and maintain liability insurance, written on an occurrence basis, covering civil, regulatory, and statutory damages; contractual damages; data breach management exposure; and, any loss of income or extra expense as a result of actual or alleged breach, violation or infringement of right to privacy, consumer data protection law, confidentiality or other legal protection for personal information within minimum limits.

### **C. Intellectual Property**

1. Intellectual property rights to all property created or otherwise developed as part of this Contract (either directly or through a subcontractor) for the Managing Entity as a work made for hire will be owned by the Department of Children and Families. The Provider's title to intellectual property not developed as a work made for hire is unaffected. If software is being created as a work for hire the Provider shall deliver to the Managing Entity at no additional cost the decompiled source code, data libraries, manuals, documentation, and any other data or material necessary for the software to function as intended and be replicated and modified. If software or other intellectual property is not a work for hire, but is developed through performance of services under this Contract, the Managing Entity and the Department of Children and Families are granted a perpetual, non-exclusive, non-assignable, royalty-free license to use, copy and modify such intellectual property for the Managing Entity or the Department of Children and Families.
2. A thing capable of being trademarked developed in anticipation, or as a result, of this Contract will be trademarked by or on behalf of the Department of Children and Families. Only after the Department of Children and Families and subsequently the Managing Entity declines, by Notice, to hold such trademark, may the Provider trademark such a thing in its own name.

3. Any website developed in anticipation, or as a result, of this Contract will be placed in a domain of the Managing Entity's choice, copyrighted in the Department of Children and Families' name. Only if the Department of Children and Families declines and subsequently the Managing Entity declines, by Notice, such placement or copyright, may the Provider copyright such a thing in its own name.
4. Any inventions or discoveries developed during or as a result of services performed under this Contract which are patentable pursuant to 35 U.S.C. §101 are the sole property of the Department of Children and Families. The Provider shall inform the Managing Entity of any inventions or discoveries developed or made in connection with this Contract and will be referred to the Florida Department of State for a determination on whether patent protection will be sought for the invention or discovery. The Department of Children and Families will be the sole owner of all patents resulting from any invention or discovery made in connection with this Contract.
5. The Provider shall notify the Managing Entity of any intellectual property developed in connection with this Contract. Subsequently, the Managing Entity shall notify the Department of Children and Families of any intellectual property developed in connection with this Contract.
6. If the Provider is a member of the State University System, the Managing Entity and the Department of Children and Families' intellectual property rights herein, will be a fully paid up, perpetual, royalty-free license, including the ability to modify and access to resources unique to the Provider necessary to modify (for software, a decompiled version of the source code).

#### **D. Employee Gifts**

The Provider agrees that it will not offer to give or give any gift to any Department or Managing Entity employee during the service performance period of this Contract and for a period of two years thereafter. In addition to any other remedies available to the Department and the Managing Entity, any violation of this provision will result in referral of the Provider's name and description of the violation of this term to the Department of Management Services for the potential inclusion of the Provider's name on the suspended vendors list for an appropriate period. The Provider will ensure that its subcontractors, if any, comply with these provisions.

#### **E. Provider's Confidential and Exempt Information**

1. By executing this Contract, the Provider acknowledges that, having been provided an opportunity to review all provisions hereof, all provisions of this Contract not specifically identified in writing by the Provider prior to execution hereof as "confidential" or "exempt" will be posted by the Department on the public website maintained by the Department of Financial Services pursuant to section 215.985,

F.S. The Provider agrees that, upon written request of the Managing Entity or Department, it shall promptly provide to the Managing Entity a written statement of the basis for the exemption applicable to each provision identified by the Provider as “confidential” or “exempt”, including the statutory citation to an exemption created or afforded by statute, and state with particularity the reasons for the conclusion that the provision is exempt or confidential.

2. Any claim by Provider of trade secret (proprietary) confidentiality for any information contained in Provider’s documents (reports, deliverables or workpapers, etc., in paper or electronic form) submitted to the Managing Entity in connection with this Contract will be waived, unless the claimed confidential information is submitted in accordance with the following standards:
  - a. The Provider must clearly label any portion of the documents, data, or records submitted that it considers exempt from public inspection or disclosure pursuant to Florida’s Public Records Law as trade secret. The labeling will include a justification citing specific statutes and facts that authorize exemption of the information from public disclosure. If different exemptions are claimed to be applicable to different portions of the protected information, the Provider shall include information correlating the nature of the claims to the particular protected information.
  - b. The Managing Entity, when required to comply with a public records request including documents submitted by the Provider, may require the Provider to expeditiously submit redacted copies of documents marked as trade secret in accordance with Section C.3 of the **Penalties and Termination Chapter** within this **CORE Handbook**. Accompanying the submission shall be an updated version of the justification under Section C.3 of the **Penalties and Termination Chapter** within this **CORE Handbook**, correlated specifically to redacted information, either confirming that the statutory and factual basis originally asserted remain unchanged or indicating any changes affecting the basis for the asserted exemption from public inspection or disclosure. The redacted copy must exclude or obliterate only those exact portions that are claimed to be trade secret. If the Provider fails to promptly submit a redacted copy, the Managing Entity is authorized to produce the records sought without any redaction of proprietary or trade secret information.

The Provider shall be responsible for defending its claim that each and every portion of the redactions of trade secret information are exempt from inspection and copying under Florida’s Public Records Law.

## F. No Other Terms

There are no provisions, terms, conditions, or obligations other than those contained herein, and this Contract shall supersede all previous communications, representations, or agreements, either verbal or written between the parties. As

stated in the Contract, incorporated documents may be revised at SEFBHN's discretion and the provider shall be notified in writing (electronic communication is an acceptable means of notification).

#### **G. Survival of Terms**

The parties agree that, unless a provision of this Contract, its attachments or incorporated documents expressly states otherwise as to itself or a named provision, all provisions of this Contract concerning obligations of the Provider and remedies available to the Department are intended to survive the ending date or an earlier termination of this Contract. The Provider's performance pursuant to such surviving provisions shall be without further payment, as the contract payments received during the term of this Contract are consideration for such performance.

#### **H. Severability of Terms**

If any term or provision of this Contract is legally determined unlawful or unenforceable, the remainder of the Contract shall remain in full force and effect and such term or provision shall be stricken.

#### **I. Modifications**

Modifications of provisions of the Signed Contract shall be valid only when they have been reduced to writing and duly signed by both parties however, incorporated documents can be updated and notifications shared with Providers. The rate of payment and the total dollar amount may be adjusted retroactively to reflect price level increases and changes in the rate of payment when these have been established through the appropriations process and subsequently identified in the Managing Entity's operating budget.

#### **J. Anticompetitive Agreements**

The Provider will not offer, enter into nor enforce any formal or informal agreement with any person, firm or entity under which the parties agree to refrain from competing for any future service contract or limit in any manner the ability of either party to obtain employment by or provide services to the Managing Entity or a provider of services to the Managing Entity.

#### **K. Communications**

Except where otherwise provided in this Contract, communications between the parties regarding this Contract may be by any commercially reasonable means. Where this Contract calls for communication in writing, such communication includes email, and attachments thereto are deemed received when the email is delivered.

## **L. Accreditation**

The Managing Entity is committed to ensuring provision of the highest quality services to the persons we serve. Accordingly, the Managing Entity has expectations that where accreditation is generally accepted nationwide as a clear indicator of quality service, the majority of the Managing Entity's providers will either be accredited, have a plan to meet national accreditation standards, or will initiate a plan within a reasonable period of time.

## **M. Deliverables**

1. Where this Contract requires the delivery of reports to the ME, receipt by the ME shall not be construed to mean or imply acceptance of those reports. The ME reserves the right to reject reports as incomplete, inadequate, or unacceptable according to the Contract.
2. The Provider shall provide performance information or reports other than those required by this Contract at the request of the ME.

## **N. Renewal Clause**

This contract may be renewed in writing for a period not to exceed three years and there is no limit to the number of renewals a contract may receive. Each renewal under this contract shall be contingent upon satisfactory performance or the discretion of Southeast Florida Behavioral Health Network, Inc., subject to the availability of funds.

## **O. Use of Funds for Diversity, Equity, and Inclusion Prohibited**

No state funding under this Contract is being provided for, promoting, advocating for, or providing training or education on "Diversity, Equity, and Inclusion" (DEI). DEI is any program, activity, or policy that classifies individuals on the basis of race, color, sex, national origin, gender identity, or sexual orientation and promotes differential or preferential treatment of individuals on the basis of such classification or promotes the position that a group or an individual's action is inherently, unconsciously, or implicitly biased on the basis of such classification.

## **Employees**

### **A. Employment Screening**

The following is applicable to **all staff** utilized by the Provider and its subcontractors. This is **in addition to** meeting the screening requirements of Florida law stating specific individuals are to be screened in accordance with chapter 435, F.S., are of good moral character and meet the Level 2 Employment Screening standards specified by sections 435.04, 110.1127, and subsection 39.001(2), F.S.

As a condition of initial and continued employment **of all agency staff** screening shall include but not be limited to:

1. Use the E-verify system established by the U.S. Department of Homeland Security to verify the employment eligibility of its employees and its subcontractors' employees performing under this Contract (one time – prior to hiring). This will include the annual completion of the Affidavit Concerning Employment of Unauthorized Aliens (due July 1<sup>st</sup> each fiscal year).
  2. Employment history checks (one time – prior to hiring);
  3. Fingerprinting for all criminal record checks (once prior to hiring and subsequently every five years);
  4. Statewide criminal and juvenile delinquency records checks through the Florida Department of Law Enforcement (FDLE) (once prior to hiring and subsequently every five years);
  5. Federal criminal records checks from the Federal Bureau of Investigation via the Florida Department of Law Enforcement (once prior to hiring and subsequently every five years); and
  6. Security background investigation, which may include local criminal record checks through local law enforcement agencies (once prior to hiring and subsequently every five years).
  7. Attestation by each employee, subject to penalty of perjury, to meeting the requirements for qualifying for employment pursuant to chapter 435 and agreeing to inform the employer immediately if arrested for any of the disqualifying offenses while employed by the employer. This should be accomplished using an Affidavit of Good Moral Character, completed once prior to hiring and subsequently every five years.
- B.** The Provider shall sign an affidavit each State fiscal year for the term of the contract stating that all required staff have been screened or the Provider is awaiting the results of screening.

## **C. Department of Children and Families' Office of the Inspector General Screening**

The Department requires, as applicable, the use of the Office of Inspector General's Request for Reference Check form (CF 774), which states: "As part of the screening of an applicant being considered for appointment to a career service, selected exempt service, senior management, or OPS position with the Department of Children and Families or a Contract Provider Agency, a check with the Office of Inspector General (IG) is required to determine if the individual or has been a subject of an investigation with the IG's Office. The request will only be made on the individual that is being recommended to be hired for the position if that individual has previously worked for the Department or a Contract Provider, or in that individual is being promoted, transferred or demoted within the Department or Agency."

The Florida Department of Children and Families' Office of the Inspector General Screening is not the same as or in lieu of the List of Excluded Individuals and Entities, or LEIE, search. Each Provider is responsible for the following:

### **1. Pre-Employment Screening**

Pre-employment screening is completed on applicants being recommended for a position who have at any point previously worked at the Department of Children and Families; the Managing Entity; or, any Southeast Florida Network Provider.

### **2. Screening of Existing Staff**

Existing staff are to be screened any time they change position whether the change is for a promotion, demotion, or lateral change.

## **D. Professional Qualifications**

The Provider shall ensure its staff successfully completes screening for all mental health personnel, substance abuse personnel, chief executive officers, owners, directors, and chief financial officers according to the standards for Level II screening set forth in Chapter 435, and s. 408.809 F.S., except as otherwise specified in s. 394.4572(1)(b)-(c), F.S. For the purposes of this Contract, "mental health personnel" includes all program directors, professional clinicians, staff members, and volunteers working in public or private mental health programs and facilities that have direct contact with individuals held for examination or admitted for mental health treatment. Screening for substance abuse personnel shall be conducted in accordance with the standards set forth in Chapter 397, F.S. This requirement shall include all personnel who have direct contact with children receiving services or with adults who are developmentally disabled receiving services.

## **E. Undocumented Individuals**

1. Undocumented individuals shall not be employed. Employment of undocumented individuals shall be cause for unilateral cancellation of this Contract by the Managing Entity for violation of § 274A of the Immigration and Nationality Act. The Provider and its subcontractors will enroll in and use the E-verify system established by the U.S. Department of Homeland Security to verify the employment eligibility of its employees and its subcontractors' employees performing under this Contract. Employee assigned to this contract means all persons employed or assigned (including subcontractors) by the Provider or a subcontractor during this Contract term to perform work pursuant to this Contract within the United States and its territories.
2. The Provider represents and warrants that no part of the funding under this Contract will be used in violation of any federal or state law, including but not limited to, 8 U.S.C. §1324 or 8 U.S.C. §1325, or to aid or abet another in violating federal or state law. The Managing Entity may terminate this Contract at any time if the Provider violates, or aids or abets another in violating, any state or federal law.

## **F. Civil Rights Requirements**

1. In accordance with Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, or the Florida Civil Rights Act of 1992, as applicable the Provider shall not discriminate against any employee (or applicant for employment) in the performance of this Contract because of race, color, religion, sex, national origin, disability, age, or marital status. Further, the Provider agrees not to discriminate against any applicant, person served, or employee in service delivery or benefits in connection with any of its programs and activities in accordance with 45 CFR, Parts 80, 83, 84, 90, and 91, Title VI of the Civil Rights Act of 1964, or the Florida Civil Rights Act of 1992, as applicable and CFOP 60-16. These requirements shall apply to all contractors, subcontractors, subgrantees or others with whom it arranges to provide services or benefits to persons served or employees in connection with its programs and activities.
2. The Provider shall complete the Civil Rights Compliance Checklist, CF Form 946 within thirty (30) days of execution of this Contract and annually thereafter by June 1<sup>st</sup>, in accordance with CFOP 60-16 and 45 CFR, Part 80.
3. All Provider staff shall complete the Civil Rights Training created by SEFBHN on an annual basis, or as updated if requested sooner.

## **G. Whistleblower's Act Requirements**

In accordance with subsection 112.3187, F.S., the Provider and its subcontractors shall not retaliate against an employee for reporting violations of law, rule, or

regulation that creates substantial and specific danger to the public's health, safety, or welfare to an appropriate agency. Furthermore, agencies or independent contractors shall not retaliate against any person who discloses information to an appropriate agency alleging improper use of governmental office, gross waste of funds, or any other abuse or gross neglect of duty on the part of an agency, public officer, or employee. The Provider and any subcontractor shall inform its employees that they and other persons may file a complaint with the Office of Chief Inspector General, Agency Inspector General, the Florida Commission on Human Relations or the Whistle-blower's Hotline number at 1-800-543-5353.

Pursuant to Section 11(c) of the OSH Act of 1970 and the subsequent federal laws expanding the act, the Provider is prohibited from discriminating against employees for exercising their rights under the OSH Act. Details of the OSH act can be found at this website: <http://www.whistleblowers.gov/>.

## **H. Staffing Levels**

1. The Provider shall maintain clinical and therapeutic staffing levels in compliance with the approved agency capacity report, applicable professional qualifications, rules, statutes, licensing standards and policies and procedures.
2. The Provider shall engage in recruitment efforts to employ capable and competent staff with the ethnic and racial diversity demonstrated by the persons served. The ME may request documentation evidencing Provider's recruitment efforts in compliance with this requirement.
3. The Provider shall report monthly vacancies of clinical and therapeutic positions that exceed sixty days by the tenth day of each month.

## **I. Staffing Changes**

The Provider shall provide written notification to the ME within three (3) calendar days of any staffing changes in the positions of Chief Executive Officer or equivalent, Chief Financial Officer, Medical Director, Clinical Director, Data Security Officer, or Single Point of Contact in accordance with Section 504 of the Rehabilitation Act of 1973 as required by this Contract, or any individuals with similar functions.

## **Independent Contractor, Subcontracting, and Assignments**

- A.** In performing its obligations under this Contract, the Provider shall at all times be acting in the capacity of an independent contractor and not as an officer, employee, or agent of the State of Florida, except where the Provider is a State agency. Neither the Provider nor any of its agents, employees, subcontractors or assignees shall represent to others that it is an agent of or has the authority to bind the Managing Entity by virtue of this Contract, unless specifically authorized in writing to do so. This Contract does not create any right in any individual to State retirement, leave benefits or any other benefits of State employees as a result of performing the duties or obligations of this Contract.
- B.** The Provider shall take such actions as may be necessary to ensure that it and each subcontractor of the Provider will be deemed to be an independent contractor and will not be considered or permitted to be an officer, employee, or agent of the State of Florida. The Managing Entity will not furnish services of support (e.g., office space, office supplies, telephone service, secretarial or clerical support) to the Provider, or its subcontractor or assignee, unless specifically agreed to by the Managing Entity in this Contract. All deductions for social security, withholding taxes, income taxes, contributions to unemployment compensation funds and all necessary insurance for the Provider, the Provider's officers, employees, agents, subcontractors, or assignees shall be the sole responsibility of the Provider and its subcontractors. The parties agree that no joint employment is intended and that, regardless of any provision directing the manner of provision of services, the Provider and its subcontractors alone shall be responsible for the supervision, control, hiring and firing, rates of pay and terms and conditions of employment of their own employees.
- C.** The Provider shall not assign its responsibilities under this Contract to another party, in whole or part, without prior written approval of the Managing Entity, upon the Managing Entity's sole determination that such assignment will not adversely affect the public interest. No payment shall be made under this Contract to any factor or other person who has been assigned or transferred the right to receive payment in lieu of or on behalf of the Provider except upon full and faithful performance of the Provider's duties hereunder. Any assignment or transfer occurring without prior approval of the Managing Entity shall be null and void. The Provider shall not subcontract for any of the work contemplated under this Contract without prior written approval of the Managing Entity, which shall not be unreasonably withheld.
- D.** The Provider is responsible for all work performed and for all commodities produced pursuant to this Contract whether actually furnished by the Provider or by its subcontractors. Any subcontracts shall be evidenced by a written document. The Provider further agrees that the Managing Entity and the Department of Children and Families shall not be liable to the subcontractor in any way or for any reason relating to this Contract.

- E.** The Provider shall include, in all subcontracts the substance of all clauses contained in this Contract that mention or describe subcontract compliance, as well as all clauses applicable to that portion of the Provider's performance being performed by or through the subcontract. The Provider may subcontract under this contract if it has been requested and approved via their **Service Delivery Narrative**.
- F.** The Provider shall include in all subcontracts and ensure all resulting contracts include the requirement that such resulting contractors indemnify, defend, and hold harmless the State, the Department, the Managing Entity, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including any and all attorney's fees, arising from or relating to any alleged act or omission by subcontractors, their officers, employees, agents, partners, subcontractors, assignees, or delegees alleged caused in whole or in part by contracted entities, their agents, employees, partners or subcontractors; provided, however, that contracted entities will not indemnify for that portion of any loss or damages proximately caused by the negligent acts or omissions of the Department or Managing Entity. The Provider shall indemnify, defend, and hold harmless the State, the Department, and the Managing Entity from the consequences of such a breach.
- G.** To the extent that a subcontract provides for payment after Provider's receipt of payment from the Managing Entity, the Provider shall make payments to any subcontractor within seven (7) working days after receipt of full or partial payments from the Managing Entity in accordance with section 287.0585, F.S., unless otherwise stated in the contract between the Provider and subcontractor.

#### **H. Coercion for Labor Services Prohibited**

In accordance with §787.06(13), F.S., under penalty of perjury, the Provider's duly authorized official and signatory hereof, declares the Provider does not use coercion for labor or services as those terms are defined in §787.06(2), F.S.

## **Tasks**

- A. The Provider shall perform all tasks and provide units of deliverables, including reports, findings, and drafts, as specified in this Contract, the **BASE Handbook**, and the **SEFBHN CORE Handbook**.

The ME's determination of acceptable services shall be conclusive. SEFBHN's receipt of reports and other submissions by the Provider does not constitute acceptance thereof, which occurs only through a separate and express act of the Primary Point of Contact or designee. Unless otherwise provided in the procurement document, if any, or governing law, the ME reserves the right to increase or decrease the volume of services and to add tasks that are incidental or complimentary to the original scope of services. Except where the method of payment is prescribed by law, compensation will be equitably adjusted to the extent that it prescribes a fixed price (previously called "fixed fee") payment method or does not provide a method of payment for added tasks.

### **B. Notice of Legal Actions**

The Provider shall notify the Managing Entity of potential or actual legal actions taken against the Provider related to services provided through this Contract or that may impact the Provider's ability to deliver the contractual services, or that may adversely impact the Managing Entity. The Managing Entity's Director of Contract Compliance will be notified within ten (10) days of Provider becoming aware of such actions or potential actions or from the day of the legal filing, whichever comes first.

### **C. Publicity and Sponsorship**

In the context of this Contract, "Publicity" implies an endorsement by either DCF or the ME and, "Sponsorship" refers to the requirement to identify the ME and/or DCF as a funding source.

#### **1. Publicity**

Materials being utilized for publicity/endorsement purposes such as, but not limited to press releases, advertising, and other distributed materials must get written approval to use the ME and/or DCF's logo/mark, in each instance, prior to being released.

Without limitation, the Provider and its employees, agents, and representatives will not, without prior written consent from the Managing Entity in each instance, use in advertising, publicity or any other promotional endeavor any Managing Entity logo/DCF State Mark, the name of the Managing Entity or the State, any affiliate or any employee of the Managing Entity, or any Network program or service, or represent, directly or indirectly, that any product or service provided by the Provider has been approved or endorsed by the Managing Entity, or refer to the existence

of this Contract in press releases, advertising or materials distributed to the Provider's prospective customers.

## 2. Sponsorship

Per section 286.25, F.S., if the Provider is a non-governmental organization which sponsors a program financed wholly or in part by State funds, including any funds obtained through this Contract, it shall, in publicizing, advertising, or describing the sponsorship of the program state: "Sponsored by (Provider's name) and Southeast Florida Behavioral Health Network, Inc. and the Department of Children and Families" If the sponsorship reference is in written material, the words "Southeast Florida Behavioral Health Network, Inc." and "Department of Children and Families" shall appear in at least the same size letters or type as the name of the organization.

## D. Service Tasks

The following tasks must be completed for each fiscal year covered in the contract period.

1. Based on person served needs, the Provider agrees to deliver appropriate services from the list of approved programs/activities described in this Contract (including the approved **Service Delivery Narrative**) and the description of such services specified in and as required by Rule 65E-14.021, F.A.C.
2. During the course of the Contract, the Provider shall design services based on the recognition of the needs of individuals and families with co-occurring disorders in the population served, and participate with the ME in a quality improvement process to improve co-occurring disorder service capability in all programs. The Provider shall establish a grievance procedure that applicants for, and persons served of services may use to present concerns to the governing authority of the Provider regarding services being provided under this Contract.

## 3. Cultural and Linguistic Competence

The Provider will implement a Cultural and Linguistic Competence Action Plan for developing strategies to increase cultural competence among board members, staff, and family members where appropriate. The Provider shall ensure access to services that meet linguistic and cultural needs and preferences of persons served, including but not limited to sign language, Spanish, Creole, translation, and interpretive services. This should be maintained as part of the provider's Auxiliary Aids and Services Plan.

#### 4. Human Subject Research

The Provider shall comply with the requirements of CFOP 215-8 for any activity under this Contract involving human subject research within the scope of 45 Code of Federal Regulations (CFR), Part 46, and 42 United States Code (U.S.C.) §§ 289, et seq., and may not commence such activity until review and approval by the Department's Human Protections Review Committee and a duly constituted Institutional Review Board. Approval from the ME is mandatory for all research conducted by the Provider or any of its employees, Contracted organizations or individuals, or any public or private vendor, even if the aforementioned has their own Institutional Review Board, which has granted approval.

5. The Provider shall execute a Memorandum of Understanding (MOU) with the appropriate Federally Qualified Health Center within ninety (90) business days of the effective date of this Contract. The MOU shall provide for the integration of primary care services to the medically underserved. The Provider shall submit copies of any amendment to the MOU to the ME within thirty (30) days of execution.
6. The Provider shall ensure persons served needing treatment services will receive services, depending on the severity of individual need, consistent with industry standards for distance and travel time, and as specified in the Utilization Management (UM) Policy made available at [www.sefbhn.org](http://www.sefbhn.org), and incorporated herein by reference.
7. The Provider shall demonstrate efforts to initiate and support local county implementation of the Medicaid Substance Abuse Local Match Program in order to expand community service capacity through the drawdown of federal funding.
8. The Provider agrees to adhere to their approved **Service Delivery Narrative** for applicable adult, child and emergency services. Billable units of service are limited to those identified in the **Statement of Funding**.
9. The Carisk Portal and any other data reporting system designated by the ME, will be the sources for all data used to determine compliance with performance standards and outcomes in the **BASE Handbook**. Any conflicts will be clarified by the ME and the Provider shall adhere to the ME's determination. The Provider shall submit all service related data for persons served funded in whole or in part by SAMH funds, local match, or Medicaid.

#### 10. Performance Evaluation Methodology

The Provider shall collect information and submit performance data and individual person served outcomes to the Carisk Portal in compliance with DCF FASAMS PAM 155-2 requirements. Information regarding the methodologies for each performance measure may be found in DCF FASAMS PAM 155-2.

- a. The Provider is expected to have the capability to engage in organized performance improvement activities and to be able to participate in partnership with the ME in performance improvement projects that are related to system-wide transformation and improvement of services for individuals and families.
- b. Performance data information may be posted on the Carisk Portal and may be accessed at: <http://www.sefbhn.org>.
- c. By executing this Contract, the Provider recognizes its responsibility for the tasks, activities, and deliverables described herein and warrants that it has fully informed itself of all relevant factors affecting the accomplishment of the tasks, activities and deliverables and agrees to be fully accountable for the performance thereof whether performed by the Provider or its subcontractors.
- d. The Provider shall be engaged in performance improvement activities to improve its ability to recognize accurate prevalence of co-occurring disorders in its data system.

## **11. System Integration Requirement**

The Provider may be required to develop and implement cooperative agreements with other external stakeholders.

### **a. Transitioning Young Adults**

The Provider understands the Managing Entity's interest in assisting young adults aging out of the dependency system. The Managing Entity encourages Provider participation with the local Community-Based Care Lead Agency Independent Living Program to offer gainful employment to youth in foster care and young adults transitioning from the foster care system.

### **b. DEO and Workforce Florida**

The Provider understands that the Department, the Department of Economic Opportunity, and Workforce Florida, Inc., have jointly implemented an initiative to empower recipients in the Temporary Assistance to Needy Families Program to enter and remain in gainful employment. The Managing Entity encourages Provider participation with the Department of Economic Opportunity and Workforce Florida.

## **12. Person Served Trust Fund**

All Providers shall certify whether they are the representative payee for Supplemental Security Income, Social Security Administration, Veterans

Administration, or other federal benefits on behalf of a person served within their annual Service Delivery Narrative.

## **Performance Measures**

To avoid contract termination, Provider's performance must meet the minimum performance standards and required outcomes set forth in the **SEFBHN BASE Handbook**, regardless of any other performance measures in this Contract. By execution of this Contract, the Provider hereby acknowledges and agrees that its performance under the Contract must meet these Minimum Performance Measures and that it will be bound by the conditions set forth therein. If the Provider fails to meet these standards, the ME, at its exclusive option, may allow a reasonable period, not to exceed six (6) months, for the Provider to correct performance deficiencies. If performance deficiencies are not resolved to the satisfaction of the ME within the prescribed time, and if no extenuating circumstances can be documented by the Provider to the ME's satisfaction, the ME must terminate the Contract. SEFBHN has the sole authority to determine whether there are extenuating or mitigating circumstances. The Provider further acknowledges and agrees that during any period in which the Provider fails to meet these standards, regardless of any additional time allowed to correct performance deficiencies, payment for deliverables may be delayed or denied and financial consequences may apply.

## **Financial/Invoicing**

The ME shall pay for services performed by the Provider during the service performance period of this Contract according to the terms and conditions of this Contract in an amount not to exceed that set forth in the signed Contract Document, subject to the availability of funds and satisfactory performance of all terms by the Provider. Except for advances, if any, provided for in this Contract, payment shall be made only upon written acceptance of all services by the ME and shall remain subject to subsequent audit or review to confirm contract compliance. The State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature. Any costs or services paid for under any other contract or from any other source are not eligible for payment under this Contract.

### **A. Prompt Payment**

Per section 215.422, F.S., the Managing Entity has five (5) working days to inspect and approve goods and services, unless the bid specifications, purchase order, or this Contract specify otherwise. Any amount that is authorized for payment but is not available within forty (40) days, measured from the latter of the date a properly completed invoice is received by the Managing Entity or the goods or services are received, inspected, and approved (or within thirty-five (35) days after the date eligibility for payment of a health care provider is determined), a separate interest penalty as described in section 215.422, F.S., will be due and payable in addition to the amount authorized for payment. Interest penalties less than 1 dollar will not be paid unless the Provider requests payment.

### **B. Method of Payment**

#### **1. Payment Clauses**

- a. Language specific to the funding amounts and sources applicable to this Contract are located in the **BASE Handbook** and the **Statement of Funding**.
- b. The ME shall pay the provider for the delivery of service units provided in accordance with the terms and conditions of this Contract, subject to the availability of funds. The unit prices and funding breakouts by fiscal year are listed on the **Statement of Funding**.
- c. Pursuant to s. 394.76(3), Florida Statutes (F.S.), the provider agrees to provide local matching funds for each fiscal year of the Contract. An Annual Match Plan is required within 30 days of Contract execution and annually, within 30 days of July 1 subsequently for each year of the contract.
- d. In accordance with the provisions of s. 402.73(1), F.S., and Rule 65-29.001, Florida Administrative Code (F.A.C.), performance improvement plans may be required for noncompliance, nonperformance, or unacceptable performance

under this Contract. Penalties may be imposed for failures to implement or to make acceptable progress on such performance improvement plans. Financial Penalty information is located in the **BASE Handbook** chapter on **Penalties and Terminations**.

- e. All costs associated with performance of the services contemplated by this contract must be both reasonable and necessary and in compliance with the cost principles pursuant to 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards = Subpart E, 45 CFR Part 75 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards – Subpart E, The Reference Guide for State Expenditures, and Ch. 65E-14., F.A.C.

## **2. Additional Release of Funds**

At its sole discretion, the ME may approve the release of more than the monthly prorated amount when the provider submits a written request justifying the release of additional funds, if funds are available and services have been provided.

## **3. Third Party Billing**

- a. Funds received through this contract may not be utilized as reimbursement for services to:
  - (1) Individuals who have third party insurance coverage when services provided are paid under the insurance plan; or
  - (2) Medicaid enrollees or recipients of another publicly funded health benefits assistance program, when the services provided are paid by said program.
- b. Funds received through this contract may be utilized as reimbursement for services to:
  - (1) Individuals who have lost coverage through Medicaid, or any other publicly funded health benefits assistance program coverage for any reason during the period of non-coverage; or
  - (2) Individuals who have a net family income of less than 150 percent of the Federal Poverty Income Guidelines, subject to the sliding fee scale requirements in Rule 65E-14.018 F.A.C.

## **4. Medicaid Billing**

Requirements for all Medicaid-enrolled Network Service Providers, prior to invoicing the Managing Entity for any services provided to any Medicaid-enrolled recipients, to document the Network Service Provider has:

- a. Submitted a prior authorization request for any Medicaid-covered services provided.
- b. Appealed any denied prior authorizations.
- c. Provided assistance to appeal a denial of eligibility or coverage.
- d. Verified the provided service is not a covered service under Florida Medicaid, as defined in Chapter 59G-4, F.A.C., or is not available through the individual's MMA Plan.
- e. In cases where the individual's Medicaid-covered service limit has been exhausted for mental health services, an appropriately licensed mental health professional has issued a written clinical determination that the individual continues to need the specific mental health treatment service provided.
- f. In cases where the individual's Medicaid-covered service limit has been exhausted for substance use disorder treatment services a qualified professional as defined in Section 397.311, F.S., has issued a written clinical determination that the individual continues to need the specific service provided.

#### **5. Payments from Medicaid Health Maintenance Organizations, Prepaid Mental Health Plans, or Provider Services Networks.**

Unless waived in the **Special Provisions Chapter of the CORE or BASE Handbook**, the provider agrees that payments from a health maintenance organization, prepaid mental health plan, or provider services network will be considered to be "third party payer" Contractual fees as defined in Rule 65E-14.001(2)(x), F.A.C. Services which are covered by the subcapitated Contracts and provided to persons covered by these Contracts must not be billed to the ME.

#### **6. Local Match Calculation**

Annually the provider shall complete and submit to SEFBHN the **Local Match Calculation Form**, which is incorporated by reference. Provider will submit the report (along with the **Annual Match Plan**, herein incorporated by reference) to SEFBHN as directed in the **BASE Handbook**. The template may be accessed at <http://www.sefbhn.org>. Match should be calculated using the standards set forth in Rule 65E-14.005.

#### **7. Invoice Requirements**

- a. The provider shall request payment monthly through submission of a properly completed invoice, **SEFBHN Provider Invoice** within ten (10) days (or the next

business day) following the end of the month for which payment is being requested for the delivery of service. The **SEFBHN Provider Invoice** is herein incorporated by reference.

- b. The provider's final invoice must reconcile actual service units provided during the Contract period with the amount paid by the ME. The provider shall submit their fiscal year final invoice to the ME within thirty (30) days after the end of each state fiscal year in the Contract period.
- c. The total number of monthly service units paid under this Contract cannot exceed the total amount of funding as specified on **Statement of Funding**.
- d. Pursuant to 65E-14.021(7)(a)1.a.b., service providers shall only invoice for covered services that are contractually specified and have been delivered during the contract period.
- e. Pursuant to 65E-14.021(7)(a)2.and 3.a.,b., F.A.C., any costs or service units paid for under any other Contract or from any other source are not eligible for payment. The provider must subtract all units which are billable to Medicaid, and all units for SAMH person served services paid from other sources, including Social Security, Medicare payments, and funds eligible for local matching which include patient fees from first, second, and third-party payers, from each monthly request for payment. For services provided based on bed-day availability, the provider must report any payments received from all other sources on the "Schedule of Bed-Day Availability" at the end of the fiscal year and refund any overpayment.
- f. If no services are due to be invoiced from the preceding month, the provider shall submit a written document to the ME indicating this information within thirty (30) days following the end of the month.
- g. The Provider shall submit bills for fees or other compensation for services or expenses in sufficient detail for proper pre-audit and post-audit. Where itemized payment for travel expenses is permitted in this Contract, the Provider shall submit bills for any travel expenses in accordance with section 112.061, F.S., or at such lower rates as may be provided in this Contract.

#### **h. Final Invoice**

The final invoice for payment shall be submitted to the ME no more than **30 days** after the Contract ends or is terminated. If the Provider fails to do so, all rights to payment are forfeited and the ME will not honor any requests submitted after the aforesaid time period. Any payment due under the terms of this Contract may be withheld until performance of services and all reports due from the Provider and necessary adjustments thereto, have been approved by the ME.

### **i. Overpayments and Offsets**

The Provider shall return to the Managing Entity any overpayments due to unearned funds or funds disallowed that were disbursed to the Provider by the Managing Entity and any interest attributable to such funds. Should repayment not be made promptly upon discovery by the Provider or its auditor or upon written notice by the Managing Entity, the Provider will be charged interest at the lawful rate of interest on the outstanding balance until returned. Payments made for services subsequently determined by the Managing Entity to not be in full compliance with contract requirements, including state or federal funding regulations, shall be deemed overpayments. The Managing Entity shall have the right at any time to offset or deduct from any payment due under this or any other contract or agreement any amount due to the Managing Entity from the Provider under this or any other contract or agreement.

## **8. Supporting Documentation**

- a. The provider agrees to maintain service documentation for each service billed to the ME pursuant to this Contract. Proper service documentation for each SAMH covered service is outlined in Rule 65E-14.021(4), F.A.C.
- b. The provider shall maintain documentation to support all units billed to the ME and units subtracted for SAMH person served services on each monthly request for payment.
- c. The ME reserves the right to request supporting documentation at any time after actual units have been delivered.

## **9. Contract Limits**

- a. The Provider is not authorized to bill the ME for more units than are specified in the **Statement of Funding**, or for more units than can be purchased with the amount of funds specified in the **Statement of Funding**, subject to the availability of funds. The **Statement of Funding** is herein incorporated by reference and is attached hereto.
- b. The provision of services required under this Contract are limited to eligible persons served receiving authorized services within the county(ies) identified in the **BASE Handbook** and limited by the availability of funds.
  - (1) The Provider must subtract all units which are billable to Medicaid, and all units for SAMH person served services paid from other sources, including Social Security, Medicare payments, and funds eligible for local matching which include patient fees from first, second, and third-party payers, from each monthly request for payment. Should an overpayment be detected

upon reconciliation of payments, the Provider shall immediately refund any overpayment to the ME.

- (2) The Provider shall ensure the invoices submitted to the ME reconcile with the amount of funding and services specified in this Contract, as well as the Provider's agency audit report and person served information system and reconciled data reporting system designated by the ME.
- (3) The Provider will demonstrate efforts to initiate and support local county implementation of the Medicaid Substance Abuse Local Match Program in order to expand community service capacity through draw down of federal funding.

## **10. Revenue Maximization**

To help ensure revenue maximization, and prior to invoicing, services provided to any individual with Medicaid or a third-party insurance must meet requirements as per SEFBHN contract including required documentation in consumer's record to support the invoice.

## **Penalties and Termination**

### **A. Inspections and Performance Improvement**

The Provider shall permit all persons who are duly authorized by the Managing Entity to inspect and copy any records, papers, documents, facilities, goods and services of the Provider which are relevant to this Contract, and to interview any persons served, employees and subcontractor employees of the Provider to assure the Managing Entity of the satisfactory performance of the terms and conditions of this Contract. Following such review, the Managing Entity may direct the development, by the Provider, of a performance improvement plan where appropriate. The Provider hereby agrees to timely correct all deficiencies identified in the Managing Entity's direction.

At no cost to the Managing Entity, the Provider shall provide complete access to all programmatic, administrative, management, budget and financial information related to services provided under this contract.

This provision will not limit the ME's choice of remedies under law, rule, or this contract, including those listed in the section titled "Termination" below.

The Provider shall cooperate at all times with the ME (and all persons duly authorized by the ME), to conduct these reviews and shall provide all documentation requested by the reviewers in a timely manner, including direct access to view any and all electronic health records and audit logs, data in human resources management software, and/or data in accounting software, at its administrative office or other location, as determined by the ME. The Provider shall cooperate with the ME and DCF when investigations are conducted regarding a regulatory complaint of the Provider.

### **B. Financial Consequences and Penalties**

#### **1. Financial Consequences**

If the Provider fails to perform in accordance with this Contract or perform the minimum level of service required by this Contract, the ME will apply financial consequences as provided for in the section titled "Financial Penalties for Failure to Complete Performance Improvement" below. The parties agree that the penalties provided for under this contract and its' incorporated documents constitute financial consequences under sections 287.058(1)(h) and 215.971(1)(c), F.S. The foregoing does not limit additional financial consequences, which may include but are not limited to refusing payment, withholding payments until deficiency is cured, tendering only partial payments, applying payment adjustments for additional financial consequences or for liquidated damages to the extent that this Contract so provides, or termination of this Contract per the "Termination" section below and requisition of services from an alternate source. Any payment made in reliance on the Provider's evidence of

performance, which evidence is subsequently determined to be erroneous, will be immediately due as an overpayment in accordance with the “Overpayments and Offsets” section of the **Financial/Invoicing Chapter**, to the extent of such error.

## **2. Financial Penalties for Failure to Complete Performance Improvement**

- a. In accordance with the provisions of section 402.73(1), F.S., and Rule 65-29.001, F.A.C., performance improvement plans may be required for noncompliance, nonperformance, or unacceptable performance under this Contract. Penalties may be imposed for failures to implement or to make acceptable progress on such performance improvement plans.
- b. The increments of penalty imposition that shall apply, unless the Managing Entity determines that extenuating circumstances exist, shall be based upon the severity of the noncompliance, nonperformance, or unacceptable performance that generated the need for performance improvement plan. The penalty, if imposed, shall not exceed ten percent (10%) of the total contract payments during the period in which the performance improvement plan has not been implemented or in which acceptable progress toward implementation has not been made. Noncompliance that is determined to have a direct effect on person served health and safety shall result in the imposition of a ten percent (10%) penalty of the total contract payments during the period in which the performance improvement plan has not been implemented or in which acceptable progress toward implementation has not been made.
- c. Noncompliance involving the provision of service not having a direct effect on person served health and safety shall result in the imposition of a five percent (5%) penalty. Noncompliance as a result of unacceptable performance of administrative tasks shall result in the imposition of a two percent (2%) penalty.
- d. Non-compliance with timely access to care for services terms will result in a performance improvement plan and may result in a financial penalty as specified in this section.
- e. The deadline for payment shall be as stated in the Order imposing the financial penalties. In the event of nonpayment the Managing Entity may deduct the amount of the penalty from invoices submitted by the Provider.

### **f. Penalties Related to Data Compliance**

Resubmit corrected records no later than the next monthly submission deadline. The failure to submit any data set or the Provider’s total monthly submission per dataset, which results in a rejection rate of 5% or higher of the number of monthly records submitted will require the Provider to submit a performance improvement plan describing how and when the missing data will

be submitted or how and when the rejected records will be corrected and resubmitted.

### **C. Termination**

1. In accordance with Section 22 of PUR 1000 Form, this Contract may be terminated by the Managing Entity without cause upon no less than thirty (30) calendar days' notice in writing to the Provider unless a sooner time is mutually agreed upon in writing.
2. This Contract may be terminated by the Provider upon no less than thirty (30) calendar days' notice in writing to the Managing Entity unless a sooner time is mutually agreed upon in writing.
3. In the event funds for payment pursuant to this Contract become unavailable, the Managing Entity may terminate this Contract upon no less than twenty-four (24) hours' notice in writing to the Provider. The Managing Entity shall be the final authority as to the availability and adequacy of funds.
4. The Provider represents and warrants that no part of the funding under this Contract will be used in violation of any federal or state law, including but not limited to, 8 U.S.C. §1324 or 8 U.S.C. §1325, or to aid or abet another in violating federal or state law. The Managing Entity may terminate this Contract at any time if the Provider violates, or aids or abets another in violating, any state or federal law.
5. In the event the Provider fails to fully comply with the terms and conditions of this Contract, the Managing Entity may terminate the Contract upon no less than twenty-four (24) hours' (excluding Saturday, Sunday, and Holidays) notice in writing to the Provider. Such notice may be issued without providing an opportunity for cure if it specifies the nature of the noncompliance and states that provision for cure would adversely affect the interests of the State or is not permitted by law or regulation. Otherwise, notice of termination will be issued after the Provider's failure to fully cure such noncompliance within the time specified in a written notice of noncompliance issued by the Managing Entity specifying the nature of the noncompliance and the actions required to cure such noncompliance. In addition, the Managing Entity may employ the default provisions in Rule 60A-1.006(3), F.A.C., but is not required to do so in order to terminate the Contract. The Managing Entity's failure to demand performance of any provision of this Contract shall not be deemed a waiver of such performance. The Managing Entity's waiver of any one breach of any provision of this Contract shall not be deemed to be a waiver of any other breach and neither event shall be construed to be a modification of the terms and conditions of this Contract. The provisions herein do not limit the Managing Entity's right to remedies at law or in equity.
6. Failure to have performed any contractual obligations under any other contract with the Managing Entity in a manner satisfactory to the Managing Entity will be a

sufficient cause for termination. To be terminated under this provision, the Provider must have:

- a. previously failed to satisfactorily perform in a contract with the Managing Entity, been notified by the Managing Entity of the unsatisfactory performance, and failed to timely correct the unsatisfactory performance to the satisfaction of the Managing Entity; **or**
- b. had a contract terminated by the Managing Entity for cause. Termination shall be upon no less than twenty-four (24) hours' notice in writing to the Provider.

## **7. Conflict-Based Terminations**

- a. In accordance with Section 394.90825, Florida Statutes, Board Members and Officers of the ME are obligated to share any conflicts (or potential conflicts) they or their relative may have with a Provider. In the event of a conflict (or potential conflict) of interest, this Contract may be terminated by the ME immediately following Board action at a noticed public meeting. Pursuant to Section 394.90825(4)(b), Florida Statutes, if the contract is terminated due to a conflict of interest, the ME is only liable for the reasonable value of the goods and services provided up to the time of cancellation and is not liable for any termination fee, liquidated damages, or other form of penalty for such cancellation.
  - b. In accordance with Section 394.90825, Florida Statutes, Board Members and Officers of the ME are obligated to share any conflicts (or potential conflicts) they or their relative may have with a Provider. If a conflict is not properly disclosed as a conflict of interest or potential conflict of interest, the contract becomes voidable and will terminate upon the filing of a written notice terminating the contract with the ME's Board of Directors which contains the consent of at least 20% of the voting interests of the ME.
8. In the event of termination under Sections C.1 or C.3 of this Chapter, the Provider will be compensated for any work satisfactorily completed through the date of termination or an earlier date of suspension of work per Section 21 of the PUR 1000.

## **9. Performance Measure Noncompliance**

To avoid contract termination, Provider's performance must meet the minimum performance standards and required outcomes set forth in the **SEFBHN BASE Handbook**, regardless of any other performance measures in this Contract. By execution of this Contract, the Provider hereby acknowledges and agrees that its performance under the Contract must meet these Minimum Performance Measures and that it will be bound by the conditions set forth therein. If the Provider fails to meet these standards, the ME, at its exclusive option, may allow

a reasonable period, not to exceed six (6) months, for the Provider to correct performance deficiencies. If performance deficiencies are not resolved to the satisfaction of the ME within the prescribed time, and if no extenuating circumstances can be documented by the Provider to the ME's satisfaction, the ME may terminate the Contract. SEFBHN has the sole authority to determine whether there are extenuating or mitigating circumstances. The Provider further acknowledges and agrees that during any period in which the Provider fails to meet these standards, regardless of any additional time allowed to correct performance deficiencies, payment for deliverables may be delayed or denied and financial consequences may apply.

**10.** The Managing Entity shall not subcontract for Behavioral Health Services with any person or entity which:

- a. Is barred, suspended, or otherwise prohibited from doing business with any government entity, or has been barred, suspended, or otherwise prohibited from doing business with any government entity in accordance with s. 287.133, F.S.;
- b. Is under investigation or indictment for criminal conduct, or has been convicted of any crime which would adversely reflect on its ability to provide services, or which adversely reflects its ability to properly handle public funds;
- c. Has had a contract terminated by the Department for failure to satisfactorily perform or for cause;
- d. Has failed to implement a corrective action plan approved by the Department or any other governmental entity, after having received due notice; or
- e. Is ineligible for contracting pursuant to the standards in s. 215.473(2), F.S.

**11.** Regardless of the amount of the subcontract, the Managing Entity shall immediately terminate the subcontract for cause, if at any time during the lifetime of the subcontract, the Provider is:

- a. Found to have submitted a false certification under s. 287.135, F.S., or
- b. Is placed on the Scrutinized Companies with Activities in Sudan List or
- c. Is placed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or
- d. Is placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

12. If the Provider is a common carrier or any of its subcontractors are a common carrier, the Provider and/or its subcontractors must complete an attestation (PUR 1808) as required by §908.111, F.S. and Rule 60A-1.020, F.A.C. A violation of the attestation by the Provider or subcontractor shall be grounds for termination with cause. Extensions, amendments, and renewals are subject to the requirements of §908.111, F.S.
13. If the Provider has access to an individual's Personal Identifying Information as defined in Rule 60A-1.020, F.A.C, and §501.171, F.S. the Provider and/or its subcontractors must complete an attestation (PUR 1355) as required by §287.138, F.S. and Rule 60A-1.020, F.A.C. A violation by the Provider or subcontractor shall be grounds for consequences as provided in §287.138, F.S. Extensions and renewals are subject to the requirements of §287.138, F.S.

#### **D. Transition Activities Following Termination Decision**

Continuity of service is critical when service under this Contract ends and service commences under a new contract. Accordingly, when service will continue through another provider upon the expiration or earlier termination of this Contract, the Provider shall, without additional compensation, complete all actions necessary to smoothly transition service to the new provider. This includes but is not limited to the transfer of relevant data and files, as well as property funded or provided pursuant to this Contract. The Provider shall be required to support an orderly transition to the next provider no later than the expiration or earlier termination of this Contract and shall support the requirements for transition as specified in a Managing Entity-approved Transition Plan, which shall be developed jointly with the new provider in consultation with the Managing Entity.

#### **E. Dispute Resolution**

1. Any dispute concerning performance of this Contract or payment hereunder shall be decided by the Managing Entity, which shall be reduced to writing and a copy of the decision shall be provided to the Provider by the Director of Contract Compliance. The decision shall be final and conclusive unless within twenty-one (21) calendar days from the date of receipt of the Managing Entity's decision, the Provider delivers to the Director of Contract Compliance a petition for alternative dispute resolution.
2. After receipt of a petition for alternative dispute resolution the Managing Entity and the Provider shall attempt to amicably resolve the dispute through negotiations. Timely delivery of a petition for alternative dispute resolution and completion of the negotiation process shall be a condition precedent to any legal action by the Provider concerning this Contract.
3. After timely delivery of a petition for alternative dispute resolution, the parties may employ any dispute resolution procedures described in the Contract or its'

Incorporated Documents, or mutually agree to an alternative binding or nonbinding dispute resolution process, the terms of which shall be reduced to writing and executed by both parties.

4. Completion of such agreed process shall be deemed to satisfy the requirement for completion of the negotiation process.
5. This section shall not limit the parties' rights of termination as noted elsewhere in this Contract.
6. Within five working days of the execution of this contract, each party shall designate one person with the requisite authority to act as its representative for dispute resolution purposes. Each party shall notify the other party of the person's name and business address and telephone number. Within five working days from delivery to the designated representative of the other party of a written request for dispute resolution, the representatives will conduct a face-to-face meeting to resolve the disagreement amicably. If the representatives are unable to reach a mutually satisfactory resolution, either representative may request referral of the issue to the Managing Entity's Chief Executive Officer (CEO) and the Provider's Chief Executive Officer (CEO)/Executive Director (ED). Upon referral to this second step, the respective parties shall confer in an attempt to resolve the issue.
7. If the ME CEO and Provider CEO/ED are unable to resolve the issue within 10 days, the parties' appointed representatives shall meet within 10 working days and select a third representative. These three representatives shall meet within 10 working days to seek resolution of the dispute. If the representatives' good faith efforts to resolve the dispute fail, the representatives shall make written recommendations to the Secretary who will work with both parties to resolve the dispute. The parties reserve all their rights and remedies under Florida law. Venue for any court action will be in Palm Beach County, Florida.

All notices provided by the Managing Entity under the "Termination" section of this Chapter shall be in writing on paper, physically sent to the appropriate person identified in the **BASE Handbook** by U.S. Postal Service or any other delivery service that provides verification of delivery, or by hand delivery. All notices provide by the Provider under the "Termination" Section of this Chapter shall be in writing on paper, physically sent to the agency's identified Contract Signer by U.S. Postal Service or any other delivery service that provides verification of delivery, or by hand delivery.

## **Rules and Regulations**

### **A. Compliance with Statutes, Rules and Regulations**

In performing its obligations under this Contract, the Provider shall without exception be aware of and comply with all State and Federal laws, rules, regulations, codes, ordinances, and certifications relating to its performance under this Contract as they may be enacted or amended from time-to-time, as well as any court or administrative order, judgment, settlement or compliance agreement involving the Managing Entity which by its nature affects the services provided under this Contract.

The Provider shall comply with all applicable federal and state laws and regulations and all policies, directives and guidelines published by the Managing Entity. In the event the Managing Entity amends any policies, directives, or guidelines after contract execution, the Managing Entity will provide electronic notice to the Provider.

### **B. State Policies**

The Provider shall comply with the policies set forth in the Department of Financial Services' Reference Guide for State Expenditures and active Comptroller/Chief Financial Officer Memoranda issued by the Division of Accounting and Auditing.

### **C. Federal Funds Applicability**

To the extent this contract serves persons served, the following terms and conditions apply:

#### **1. Person Served Risk Prevention**

If services to persons served are to be provided under this contract, the Provider and any subcontractors shall, in accordance with the person served risk prevention system, report those reportable situations listed in CFOP 215-6 in the manner prescribed in CFOP 215-6. The Provider shall immediately report any knowledge or reasonable suspicion of abuse, neglect, or exploitation of a child, aged person, or disabled adult to the Florida Abuse Hotline on the statewide toll-free telephone number (1-800-96ABUSE). As required by Chapters 39 and 415, F.S., this provision is binding upon both the Provider and its employees.

#### **2. Emergency Preparedness Plan**

If the tasks to be performed pursuant to this contract include the physical care or supervision of persons served, the Provider shall, within thirty (30) days of the execution of this contract and subsequently each June 1st, submit to the electronic contract file an emergency preparedness plan which shall include provisions for records protection, alternative accommodations for persons served in substitute care, supplies, and a recovery plan that will allow the Provider to continue

functioning in compliance with the executed contract in the event of an actual emergency. For the purpose of disaster planning, the term “supervision” includes a child who is under the jurisdiction of a dependency court. Children may remain in their homes, be placed in a non-licensed relative/non-relative home, or be placed in a licensed foster care setting. No later than twelve months following the Managing Entity’s original acceptance of a plan and every twelve (12) months thereafter, the Provider shall submit a written certification that it has reviewed its plan, along with any modifications to the plan, or a statement that no modifications were found necessary. The Managing Entity agrees to respond in writing within thirty (30) days of receipt of the original or updated plan, accepting, rejecting, or requesting modifications. In the event of an emergency, the Managing Entity may exercise oversight authority over such Provider in order to assume implementation of agreed emergency relief provisions.

### **3. Emergency Support to the Deaf or Hard-of-Hearing**

- a. The Provider and its subcontractors shall comply with section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as implemented by 45 CFR Part 84 (hereinafter referred to as Section 504), the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131, as implemented by 28 CFR Part 35 (hereinafter referred to as ADA), and the Children and Families Operating Procedure (CFOP) 60-10, Chapter 4, entitled Auxiliary Aids and Services for the Deaf or Hard-of-Hearing.
- b. The Provider and any of its subcontractors, shall designate a Single-Point-of-Contact (one per firm) to ensure effective communication with deaf or hard-of-hearing customers or companions in accordance with Section 504 of the ADA, and CFOP 60-10, Chapter 4. The Provider’s Single-Point-of-Contact and that of its Subcontractors will process the compliance data into the Department’s HHS Compliance reporting Database by the 5th business day of the month, covering the previous month’s reporting, and forward confirmation of submission to the electronic contract file. The name and contact information for the Provider’s Single-Point-of-Contact shall be furnished to the Managing Entity annually and upon change via the Contact List maintained in the **BASE Handbook**.
- c. The Provider shall, within thirty (30) days of the effective date of this requirement, contractually require that its subcontractors comply with Section 504, the ADA, and CFOP 60-10, Chapter 4. A Single-Point-of-Contact shall be required for each subcontractor. This Single-Point-of-Contact will ensure effective communication with deaf or hard-of-hearing customers or companions in accordance with Section 504 and the ADA and coordinate activities and reports with the Provider’s Single-Point-of-Contact.
- d. The Single-Point-of-Contact shall ensure that employees are aware of the requirements, roles & responsibilities, and contact points associated with

compliance with Section 504, the ADA, and CFOP 60-10, Chapter 4. Further, employees of providers and their subcontractors shall attest in writing that they are familiar with the requirements of Section 504, the ADA, and CFOP 60-10, Chapter 4. This attestation shall be maintained in the employee's personnel file.

- e. The Provider's Single-Point-of-Contact will ensure that conspicuous Notices which provide information about the availability of appropriate auxiliary aids and services at no-cost to the deaf or hard-of-hearing customers or companions are posted near where people enter or are admitted within the agent locations. Such Notices must be posted immediately by the Provider and its subcontractors. The approved Notice is available at: <https://www.myflfamilies.com/about/additional-services-offices/office-civil-rights/individual-disability/information-dcf-service>.
- f. The Provider and its subcontractors shall document the customer's or companion's preferred method of communication and any requested auxiliary aids/services provided in the customer's record. Documentation, with supporting justification, must also be made if any request was not honored. The Provider shall distribute Customer Feedback forms to customers or companions, and provide assistance in completing the forms as requested by the customer or companion.
- g. If customers or companions are referred to other agencies, the Provider must ensure that the receiving agency is notified of the customer's or companion's preferred method of communication and any auxiliary aids/service needs.
- h. All employees are to complete training on serving our Customers who are Deaf or Hard-of-Hearing and sign the Attestation of Understanding. Employees will print their certificate of completion, attach it to their Attestation of Understanding, and maintain them in their personnel file.

#### **4. Confidential Person Served and Other Information**

Except as provided in this Contract, the Provider shall not use or disclose but shall protect and maintain the confidentiality of any person served information and any other information made confidential by Florida law or Federal laws or regulations that is obtained or accessed by the Provider or its subcontractors incidental to performance under this Contract.

- a. Person Served and Other Confidential Information. State laws providing for the confidentiality of person served and other information include but are not limited to sections 39.0132, 39.00145, 39.202, 39.809, 39.908, 63.162, 63.165, 383.412, 394.4615, 397.501, 409.821, 409.175, 410.037, 410.605, 414.295, 415.107, 741.3165 and 916.107, F.S.

- b. Federal laws and regulations to the same effect include section 471(a)(8) of the Social Security Act, section 106(b)(2)(A)(viii) of the Child Abuse Prevention and Treatment Act, 7 U.S.C. § 2020(e)(8), 42 U.S.C. § 602 and 2 CFR § 200.303 and 2 CFR § 200.337, 7 CFR § 272.1(c), 42 CFR §§ 2.1-2.3, 42 CFR § 431.300-306, 45 CFR § 205.
- c. A summary of Florida Statutes providing for confidentiality of this and other information are found in Part II of the Attorney General's Government in the Sunshine Manual, as revised from time-to-time.

## 5. Federal Block Grant

- a. The Provider must maintain compliance with state or federal requests for information related to the SAPT and SMHS block grants.
- b. The Provider must maintain compliance with **Exhibit B1, Federal Block Grant Requirements**, herein incorporated by reference and available in the Master Contract between Southeast Florida Behavioral Health Network, Inc. and the Department of Children and Families.
- c. A Provider that receives federal block grant funds from the Substance Abuse Prevention and Treatment or Community Mental Health Block Grants agrees to comply with Subparts I and II of Part B of Title XIX of the Public Health Service Act, s. 42 U.S.C. 300x-21 et seq. (as approved September 22, 2000) and the Health and Human Services (HHS) Block Grant regulations (45 CFR Part 96).
- d. A Provider that receives funding from the SAPTBG certifies compliance with all of the requirements of the Substance Abuse and Mental Health Services Administration ("SAMHSA") Charitable Choice provisions and the implementing regulations of 42 CFR 54a.
- e. Pursuant to 45 CFR s. 96.131, Providers that receive SAPT block grant funding shall prioritize treatment services for pregnant women. This shall include:
  - (1) The utilization of an electronic waitlist to ensure preference is given in admitting people into treatment as follows:
    - I. Pregnant injecting drug users;
    - II. Pregnant drug users;
    - III. People who inject drugs; and
    - IV. All others.

- (2) The utilization of an electronic waitlist to ensure preference is given in admitting people into treatment as follows:
  - (3) If the clinically appropriate services cannot be provided for the pregnant woman, interim services shall be provided not later than 48 hours after the woman seeks treatment services.
  - (4) The tracking and reporting of the type of service, number of pregnant women served, and amount of services purchased by federal and state sources.
  - (5) Policies and procedures relating to treatment services for pregnant women and, where appropriate, ensure that families are able to remain together when parents require treatment.
- d. Pursuant to 45 CFR s. 96.126, the Managing Entity shall maintain an electronic waitlist for Providers that receive SAPT block grant funding and serve injection drug users, and ensure the implementation of the 14/120-day requirement of 45 CFR s. 96.126(b), and provide interim services until such time as the clinically appropriate level of treatment can be provided to the individual.:
- (1) Outreach services shall be provided, pursuant to 45 CFR s. 96.126(e), and documented to demonstrate the provision of these services.
  - (2) The Managing Entity shall maintain a report of the Network Service Providers that reach 90% capacity, and the monitoring procedures to ensure that this occurs.
- e. Pursuant to 45 CFR s. 96.125, the Managing Entity shall prepare and implement a comprehensive primary prevention program that uses a variety of strategies. The Provider is to assist in this effort, as requested.
- f. Pursuant to 45 CFR s. 95.127, the Provider shall deliver tuberculosis services, in compliance with Ch. 65D-30.004(9). F.A.C.
- g. Pursuant to 45 CFR s. 96.128, the Provider shall deliver early intervention services for HIV and in compliance with Ch. 65D-30.004(9), F.A.C., and in accordance with **Guidance 33, HIV Early Intervention Services**, herein incorporated by reference.
- h. Pursuant to 45 CFR s. 96.123(a)(7) and s. 96.132(b), the Provider shall ensure staff receive continuing education, and this shall be documented to demonstrate the provision of said education.

- i. Pursuant to 45 CFR s.96.123(a)(7) and s. 96.132(a), the Provider shall develop and implement a process for improving referrals of individuals to the treatment modality that is most appropriate for the individuals.
- j. The Provider shall ensure that each year, an evaluation of the procedures and activities undertaken to comply with the block grant requirements shall be completed.
- k. The Provider shall ensure that each year, an assessment of need is undertaken that complies with the requirements of 45 CFR s. 96.133, and 42 U.S.C. s. 300x-1 for adults with a serious mental illness, and children with serious emotional disturbances.
- l. The Provider shall ensure that block grant funding is not expended on the restricted activities pursuant to 45 CFR s. 96.135, 42 U.S.C. s. 300x-5, and 42 U.S.C. s.300x-31. Restricted activities include, but are not necessarily limited to, the following. Providers may consult the Managing Entity for technical assistance to address allowability of specific cases before service delivery.

**(1)** The CMHS block grant and the SAPT block grant may not be used to:

- I. Provide inpatient hospital services;
- II. Fund the enforcement of alcohol, tobacco, or drug laws;
- III. Make cash payments to intended recipients of health services;
- IV. Purchase or improve land; purchase, construct, or permanently improve (other than minor remodeling) any building or other facility; or purchase major medical equipment;
- V. Satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds;
- VI. Provide financial assistance to any entity other than a public or nonprofit private entity; or
- VII. Provide any services within prisons or jails.

**(2)** Primary prevention set-aside funds from the SAPT block grant may not be used to:

- I. Provide Screening, Brief Intervention, and Referral to Treatment (SBIRT) programs; or
- II. Provide Mental Health First Aid or Crisis Intervention Training programs.

## 6. Federal Laws

- a. The Provider shall comply with the provisions of Federal law and regulations including, but not limited to, 2 CFR, Part 200, and other applicable regulations.
- b. If this Contract contains \$10,000 or more of Federal Funds, the Provider shall comply with Executive Order 11246, Equal Employment Opportunity, as amended by Executive Order 11375 and others, and as supplemented in Department of Labor regulation 41 CFR, Part 60 if applicable.
- c. If this Contract contains over \$150,000 of Federal Funds, the Provider shall comply with all applicable standards, orders, or regulations issued under section 306 of the Clean Air Act, as amended (42 U.S.C. § 7401 et seq.), section 508 of the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 et seq.), Executive Order 11738, as amended and where applicable, and Environmental Protection Agency regulations (2 CFR, Part 1500). The Provider shall immediately report any violations of the above to the Managing Entity who will in turn report to the Department.
- d. No Federal Funds received in connection with this Contract may be used by the Provider, or agent acting for the Provider, or subcontractor to influence legislation or appropriations pending before the Congress or any State legislature. If this Contract contains Federal funding in excess of \$100,000, the Provider must, prior to contract execution, complete the **Certification Regarding Lobbying form**, available within the **BASE Handbook**. If a **Disclosure of Lobbying Activities form**, Standard Form LLL, is required, it may be obtained from the Director of Contract Compliance. All disclosure forms as required by the Certification Regarding Lobbying form must be completed and returned to the Director of Contract Compliance, prior to payment under this Contract.
- e. If this Contract provides services to children up to age 18, the Provider shall comply with the Pro-Children Act of 1994 (20 U.S.C. § 6081). Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation or the imposition of an administrative compliance order on the responsible entity, or both.
- f. If the Provider is a subrecipient or pass-through entity of federal funds originating from HHS, the Provider must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 CFR part 382, which adopts the governmentwide implementation (2 CFR Part 182) of sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701-707).

## 7. Federal Funding Accountability and Transparency Act (FFATA)

The FFATA Act of 2006 is an act of Congress that requires the full disclosure to the public of all entities or organizations receiving federal funds.

- a. The Provider will complete and sign the FFATA Certification of Executive Compensation Reporting Requirements form (CF 1111 or successor) if this Contract includes \$30,000 or more in Federal Funds (as determined over its entire term). The Provider shall also report the total compensation of its five most highly paid executives if it also receives in excess of 80% of its annual gross revenues from Federal Funds and receives more than \$25 million in total federal funding.
- b. The Digital Accountability and Transparency Act (DATA) of 2014 is an expansion of the FFATA Act of 2006, and the purpose is for further transparency by establishing government-wide data identifiers and standardized reporting formats to recipient and subrecipients.

## D. Service Provision Requirements for Substance Abuse Prevention and Treatment Block Grants

1. The Provider agrees to comply with the data submission requirements outlined in DCF FASAMS PAM 155-2 and as outlined in the SAPTBG section, **Restrictions on Expenditure of Grant**, 45 CFR 96.135, herein incorporated by reference.
2. Modifiers to procedure codes are currently required to be utilized as per DCF FASAMS PAM 155-2, Appendix 2. Requests to use modifiers in a specific way may be requested of the ME.
3. The Provider shall make available, either directly or by arrangement with others, tuberculosis services to include counseling, testing, and referral for evaluation and treatment.
4. The Provider shall use SAPTBG funds provided under this Contract to support both substance abuse treatment services and appropriate co-occurring disorder treatment services for individuals with a co-occurring mental disorder only if the funds allocated are used to support substance abuse prevention and treatment services. These funds must be tracked to the specific substance abuse activity as listed in the **Statement of Funding** for this Contract.
5. The Provider is required to participate in the peer-based fidelity assessment process to assess the quality, appropriateness, and efficacy of treatment services provided to individuals under this Contract pursuant to 45 CFR 96.136.
6. In accordance with 45 CFR ss. 96.131(a) and (b), Providers that receive Block Grant funds and that serve injection drug users shall publicize the following notice:

“This program receives federal Substance Abuse Prevention and Treatment Block Grant funds and serves people who inject drugs. This program is therefore federally required to give preference in admitting people into treatment as follows: 1. Pregnant injecting drug users; 2. Pregnant drug users; 3. People who inject drugs; and 4. All others.”

7. Providers shall discuss the option of medication-assisted treatment with individuals with opioid use disorders or alcohol use disorders.
  - a. For individuals with opioid use disorders, the Network Service Provider shall discuss medication-assisted treatment using FDA-approved medications including but not limited to methadone, buprenorphine, and naltrexone.
  - b. For individuals with alcohol use disorders, the Network Service Provider shall discuss medication-assisted treatment using FDA-approved medications including but not limited to disulfiram, and acamprosate products.
8. Providers shall actively link individuals to medication-assisted treatment providers upon request of the individual served.
9. Providers shall ensure a prohibition on a denial of an eligible individual’s access to the Provider’s program or services based on the individual’s current or past use of FDA-approved medications for the treatment of substance use disorders. Specifically, this must include requirements to:
  - a. Ensure the Provider’s programs and services do not prevent the individual from participating in methadone treatment rendered in accordance with current federal and state methadone dispensing regulations from an Opioid Treatment Program when ordered by a physician who has evaluated the person served and determined that methadone is an appropriate medication treatment for the individual’s opioid use disorder;
  - b. Permit the individual to access medications for FDA-approved medication-assisted treatment by prescription or office-based implantation if the medication is appropriately authorized through prescription by a licensed prescriber or provider.
  - c. Permit continuation in medication-assisted treatment for as long as the prescriber or medication-assisted treatment provider determines that the medication is clinically beneficial; and
  - d. Prohibit compelling an individual to no longer use medication-assisted treatment as part of the conditions of any program or services if stopping is inconsistent with a licensed prescriber’s recommendation or valid prescription.

- E. The Provider will maintain compliance with the following: 2 CFR Part 300.1 – Adoption of 2 CFR Part 200; 45 CFR Part 75 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS; the Reference Guide for State Expenditures; Chapter 65E-14, F.A.C., Block Grant requirements, including maintenance of effort; state and federal grant requirements; TANF requirements, if applicable; and, Department of Children and Families’ policies related to the delivery of service – all of which are herein incorporated by reference.

## F. Mandatory Reporting Requirements

### 1. Mandatory Reporting Requirements to the Office of the Inspector General

The Provider and any subcontractor must comply with and inform its employees of the following mandatory reporting requirements. Each employee of the Provider, and of any subcontractor, providing services in connection with this Contract who has any knowledge of a reportable incident shall report such incident as follows: 1) reportable incidents that may involve an immediate or impending impact on the health or safety of a person served shall be immediately reported to the Quality Assurance Manager; and 2) other reportable incidents shall be reported to the Department’s Office of Inspector General through the Internet at <https://www.myflfamilies.com/about/additional-services-offices/office-inspector-general> or by completing a Notification/Investigation Request (Form CF 1934) and emailing the request to the Office of Inspector General at [IG.Complaints@myflfamilies.com](mailto:IG.Complaints@myflfamilies.com). The Provider and subcontractor may also mail the completed form to the Office of Inspector General, 1317 Winewood Boulevard, Building 5, 2nd Floor, Tallahassee, Florida, 32399-0700; or via fax at (850) 488-1428. A reportable incident is defined in Children and Families Operating Procedure (CFOP) 180-4, which can be obtained from <https://www.myflfamilies.com>.

### 2. Incident Reporting

To ensure the safety and security of individuals and staff served through Department of Children and Families’ funding and the public, adherence with the Critical Incident reporting process is required as described in **Southeast Florida Behavioral Health Network Inc.’s Policy 302.00, Incident Reporting**, herein incorporated by reference.

The critical incident reporting process includes uniform standards/procedures for all programs and services within the Network to ensure adherence with applicable federal and state laws, rules, and regulations, including the **Department of Children and Families’ CFOP 215-6, Incident Reporting and Analysis System (IRAS)**, herein incorporated by reference.

## **G. Real Property**

Any State funds provided for the purchase of or improvements to real property are contingent upon the Provider granting to the State a security interest in the property at least to the amount of the State funds provided for at least five (5) years from the date of purchase or the completion of the improvements or as further required by law. As a condition of receipt of State funding for this purpose, the Provider agrees that, if it disposes of the property before the Managing Entity's interest is vacated, the Provider will refund the pro-rata share of the State's initial investment [(initial investment) x (length of time from purchase to disposal/the term of the security interest)].

## **H. Governing Law and Venue**

This Contract is executed and entered into in the State of Florida, and shall be construed, performed and enforced in all respects in accordance with Florida law, without regard to Florida provisions for conflict of laws. Courts of competent jurisdiction in Florida shall have exclusive jurisdiction in any action regarding this Contract and venue shall be in Palm Beach County, Florida. Unless otherwise provided in any other provision or amendment hereof, any amendment, extension or renewal (when authorized) may be executed in counterparts as provided in Section 46 of the PUR 1000 Form.

## **I. Use for Funds for Lobbying Prohibited**

The Provider shall comply with the provisions of sections 11.062 and 216.347, F.S., which prohibit the expenditure of contract funds for the purpose of lobbying the Legislature, judicial branch, or a State agency.

## **J. Indemnity**

### **1. Personal Injury and Damage to Real or Tangible Personal Property**

The Provider shall be fully liable for, and fully indemnify, defend, and hold harmless the State, the Department, the Managing Entity and their officers, agents, and employees, from any suits, actions, damages, attorneys' fees, and costs of every name and description, arising from or relating to personal injury and damage to real or personal tangible property allegedly caused in whole or in part by the Provider, provided however, the Provider need not indemnify, defend and hold harmless the State, the Department, and the Managing Entity for that portion of any loss or damages proximately caused by the negligent act or omission of the State, the Department, and their officers, agents, and employees. However, should conflict arise between the terms of this agreement and §§39.011, 394.9085, and 409.993, F.S., these statutory provisions control.

## **2. Intellectual Property Liability**

The Provider shall fully indemnify, defend, and hold harmless the State, the Department, the Managing Entity and their officers, agents, and employees from any suits, actions, damages, attorney's fees, and costs of every name and description, arising from or relating to violation or infringement of a trademark, copyright, patent, trade dress, trade secret or other intellectual property right. This intellectual property liability indemnification obligation will not apply to the Department's misuse or modification of the Provider's products or the Department's operation or use of the Provider's products in a manner not contemplated by this Contract. If any product is the subject of an infringement suit, or in the Provider's opinion, is likely to become the subject of such a suit, the Provider shall, at its sole expense, procure for the Department the right to continue using the product or to modify it to become non-infringing. If the Provider is not reasonably able to modify or otherwise secure the Department the right to continue using the product, the Provider shall remove the product and refund the Department the amounts paid more than a reasonable rental for past use. The State and the Department will not be liable for any royalties, or licensing fees, not included in this Contract.

## **3. Actions Related to this Contract**

The Provider shall fully indemnify, defend, and hold harmless the State, the Department, and the Managing Entity and their officers, employees, and agents from any suits, actions, damages, fines, claims, assessments, attorney's fees, and costs of every name and description, arising from or relating to any acts, actions, breaches, neglect, or omissions of the Provider related to this Contract, as well as for any determination arising out of or relating to this Contract that the Provider is not an independent contractor vis-a-vis the Department.

## **K. Records, Audits, and Data Security**

### **1. Records, Retention, Audits, Inspections, and Investigation**

- a.** The Provider shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by the Managing Entity and the Department under this Contract.
- b.** Retention of all persons served records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to this Contract shall be maintained by the Provider during the term of this Contract and retained for a period of six (6) years after completion of the Contract or longer when required by law. In the event an audit is required under this Contract, records shall be retained for a minimum period of six (6) years after the audit report is issued or until resolution of any audit

- findings or litigation based on the terms of this Contract, at no additional cost to the Managing Entity or the Department.
- c.** Upon demand, at no additional cost to the Managing Entity, the Provider will facilitate the duplication and transfer of any records or documents during the term of this Contract and the required retention period as noted in this Contract.
  - d.** These records shall be made available at all reasonable times for inspection, review, copying, or audit by Federal, State, or other personnel duly authorized by the Managing Entity.
  - e.** At all reasonable times for as long as records are maintained, persons duly authorized by the Department and Federal auditors, pursuant to 2 CFR § 200.336, shall be allowed full access to and the right to examine any of the Provider's contracts and related records and documents, regardless of the form in which kept. The Managing Entity should be treated as having the same access listed in the 2 CFR § 200.336 for the Department and Federal auditors.
  - f.** A financial and compliance audit shall be provided to the Managing Entity as specified in this Contract.
  - g.** The Provider shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by The Office of the Inspector General (section 20.055, F.S.).
  - h.** No record may be withheld nor may the Provider attempt to limit the scope of any of the foregoing inspections, reviews, copying, transfers or audits based on any claim that any record is exempt from public inspection or is confidential, proprietary or trade secret in nature; provided, however, that this provision does not limit any exemption to public inspection or copying to any such record.
  - i.** The Provider shall be responsible for the fiscal integrity of all funds under this Contract, and for demonstrating that a comprehensive audit and tracking system exists to account for funding by person served, and have the ability to provide an audit trail. The Provider's financial management and accounting system must have the capability to generate financial reports on individual service recipient utilization, cost, claims, billing, and collections for the ME. The Provider must maximize all potential sources of revenue to increase services, and institute efficiencies that will consolidate infrastructure and management functions in order to maximize funding.
  - j.** The Provider shall make available to the ME all evaluations, assessments, surveys, monitoring or other reports and any corrective action or performance improvement plans, pertaining to outside licensure, accreditation, or other reviews conducted by funding entities or others and received from such other entities within ten (10) days of receipt by Provider. The Provider shall

implement a process for tracking all performance improvement or corrective action plans and submit a copy of the tracking log to the ME upon request.

- k. The Provider shall maintain in one place for easy accessibility and review by ME all policies, procedures, tools, and plans adopted by the Provider. The Provider's policies, procedures, and plans, must conform to state and federal laws, regulations, rules, and minimally meet the expectations and requirements contained in applicable DCF and ME operating procedures.
- l. The Provider shall maintain a mechanism for monitoring, updating, and disseminating policies and procedures regarding compliance with current laws, rules, practices, regulations, and the ME's policies and procedures.

## **2. Health Insurance Portability and Accountability Act (HIPAA)**

- a. In compliance with 45 CFR § 164.504(e), the Provider shall comply with the provisions of the **Health Insurance Portability and Accountability Act (HIPAA) Chapter of the CORE Handbook**, governing the safeguarding, use and disclosure of Protected Health Information created, received, maintained, or transmitted by the Provider or its subcontractors incidental to the Provider's performance of this Contract.
- b. As required by HIPAA (45 CFR Parts 160, 162, or 164); the following provisions shall apply:
  - (1) The Provider agrees to use appropriate safeguards, secure methods, and security measures to prevent use or disclosure of Protected Health Information ("PHI") other than as provided for by this Contract or applicable law. This applies to all manual and electronic data.
  - (2) The Provider agrees to report to the ME any use or disclosure of the information not provided for by this Contract or applicable law.
  - (3) The Provider hereby assures the ME any PHI received by the Provider, is furnished to the Provider's subcontractors or agents in the performance of tasks required by this Contract, that those subcontractors or agents must first have agreed to the same restrictions and conditions that apply to the Provider with respect to such information.
  - (4) The Provider agrees to make its internal practices, books and records relating to the use and disclosure of PHI created or received by the Provider available for purposes of determining the Provider's compliance with these assurances.
  - (5) A violation or breach of any of these assurances shall constitute a material breach of this Contract.

- c. Additional information about HIPAA is available in the **Health Insurance Portability and Accountability Act (HIPAA) Chapter** of the **SEFBHN CORE Handbook**.

### **3. Data Security**

The Provider shall comply with the following data security requirements whenever the Provider or its subcontractors have access to Managing Entity data systems or maintain any person served or other confidential information in electronic form:

- a. An appropriately skilled individual shall be identified by the Provider to function as its Data Security Officer. The Data Security Officer shall act as the liaison to the Managing Entity's security staff and will maintain an appropriate level of data security for the information the Provider is collecting or using in the performance of this Contract. An appropriate level of security includes approving and tracking all Provider employees that request or have access to any Managing Entity data system or information. The Data Security Officer will ensure that user access to the data system or information has been removed from all terminated Provider employees.
- b. The Provider shall provide the latest Departmental security awareness training to its staff prior to granting access to Departmental, Carisk, or Managing Entity information. Systems or any client or other confidential information.
- c. All Provider employees who have access to Departmental, Carisk, or Managing Entity information shall comply with, and be provided a copy of CFOP 50-2, and shall sign the DCF Security Agreement form CF 0114 annually. A copy of CF 0114 may be obtained from the Director of Contract Compliance.
- d. The Provider shall prevent unauthorized disclosure or access, from or to Departmental, Carisk, or Managing Entity information systems or client or other confidential information. Client or other confidential information on systems and network capable devices will be encrypted per CFOP 50-2. If encryption of data or mobile storage devices is not possible, then the Provider shall assure that unencrypted personal and confidential Managing Entity data will not be stored on unencrypted storage devices.
- e. The Provider agrees to notify the Quality Assurance Manager as soon as possible, but no later than 120 hours following the determination of any potential or actual unauthorized disclosure or access to Departmental, Carisk, or Managing Entity information systems or to any other confidential information. The Managing Entity will then report this information to the Department.
- f. The Provider shall at its own cost provide notice to affected parties no later than thirty (30) days following the determination of any potential breach of personal

or confidential Managing Entity data as provided in section 501.171, F.S. The Provider shall also at its own cost implement measures deemed appropriate by the Managing Entity or the Department to avoid or mitigate potential injury to any person due to a breach or potential breach of personal and confidential Managing Entity or Department data.

- g.** The Provider shall cause each of its subcontractors having access to Managing Entity, Carisk, or Departmental data systems or maintaining any person served or other confidential information in electronic form to comply with the provisions of this Contract and the term “Provider” shall be deemed to mean the subcontractor for such purposes.
- h.** The Provider’s confidentiality procedures shall be at least as protective as the most recent version of both the Department and the Managing Entity’s security policies and comply with any applicable professional confidentiality standards.

#### **4. Public Records**

- a.** The Provider shall allow public access to all documents, papers, letters, or other public records as defined in subsection 119.011(12), F.S. as prescribed by subsection 119.07(1) F.S., made or received by the Provider in conjunction with this Contract except that public records which are made exempt or confidential by law must be protected from disclosure. As required by section 287.058(1)(c), F.S., it is expressly understood that the Provider’s failure to comply with this provision shall constitute an immediate breach of contract for which the Managing Entity may unilaterally terminate this Contract.
- b.** As required by section 119.0701, F.S., to the extent that the Provider is acting on behalf of the Managing Entity within the meaning of section 119.011(2), F.S., the Provider shall:
  - (1)** Keep and maintain public records that ordinarily and necessarily would be required by the Managing Entity in order to perform the service.
  - (2)** Upon request from the Managing Entity’s custodian of public records, provide to the Managing Entity a copy of requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.
  - (3)** Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Provider does not transfer the records to the Managing Entity.

(4) Upon completion of the contract, transfer, at no cost, to the Managing Entity all public records in possession of the Provider or keep and maintain public records required by the Managing Entity to perform the service. If the Provider transfers all public records to the Managing Entity upon completion of the contract, the Provider shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Provider keeps and maintains public records upon completion of the contract, the Provider shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Managing Entity, upon request from the Managing Entity's custodian of public records, in a format that is compatible with the information technology systems of the Managing Entity.

**c. IF THE PROVIDER HAS QUESTIONS REGARDING THE APPLICATION OR CHAPTER 119, F.S., TO THE PROVIDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS, MS. MELISSA MCINTURFF AT (561) 203-2485, OR BY EMAIL AT MELISSA.MCINTURFF@SEFBHN.ORG, OR BY MAIL AT: SEFBHN, 8895 NORTH MILITARY TRAIL, SUITE E-102, PALM BEACH GARDENS, FL 33410.**

## **Service Description and Scope**

### **A. Scope of Service**

The Provider is responsible for the administration and provision of services to the target population(s) in accordance with the tasks outlined in both the **CORE and BASE Handbooks**. Services shall be delivered at the locations specified in, and in accordance with, the Provider's ME approved **Service Delivery Narrative**, which is herein incorporated by reference.

### **B. Persons to be Served**

Information regarding target populations to be served and the county of service services will be offered in will be contained within the **BASE Handbook**.

#### **1. Person Served Eligibility**

- a. The Provider agrees that all persons meeting the target population descriptions in the **BASE Handbook** are eligible for services based on the availability of resources. A detailed description of each target population is contained in s. 394.674, Florida Statutes and as described in the Department's FASAMS Pamphlet 155-2 (PAM 155-2), based on the availability of resources. The Department's FASAMS Pamphlet 155-2 is incorporated herein by reference and is available on the Department's website:  
<https://www.myflfamilies.com/services/substance-abuse-and-mental-health/samh-providers/FASAMS>.
- b. This Contract precludes the Provider from billing the ME for services provided to Medicaid eligible individuals, which are reimbursable by Medicaid.
- c. Behavioral Health services shall be provided to persons to s. 394.674, F.S., including those individuals who have been identified as requiring priority by state or federal law. These identified priorities include, but are not limited to, the categories listed in the bullet points below. Persons in bullets 1 and 2 below are specifically identified as persons to be given immediate priority over those in any other sections.
  - (1) Pursuant to 45 CFR s. 96.131, priority admission to pregnant women and women with dependent children by Network Service Providers receiving SAPT Block Grant funding;
  - (2) Pursuant to 45 CFR s. 96.126, compliance with interim services, for injection drug users, by Network Service Providers receiving SAPT Block Grant funding and treating injection drug users;

- (3)** Priority for services to families with children that have been determined to require substance abuse and mental health services by child protective investigators and also meet the target populations in either of the bullet points below. Such priority shall be limited to individuals that are not enrolled in Medicaid or another insurance program, or require services that are not paid by another payor source:

    - I.** Parents or caregivers in need of adult mental health services pursuant to s. 394.674(1)(a)2., F.S., based upon the emotional crisis experienced from the potential removal of children; or
    - II.** Parents or caregivers in need of adult substance abuse services pursuant to s. 394.674(1)(c)3., F.S., based on the risk to the children due to a substance use disorder.
  - (4)** Individuals who reside in civil and forensic State Mental Health Treatment Facilities and individuals who are at risk of being admitted into a civil or forensic State Mental Health Treatment Facility;
  - (5)** Individuals who are voluntarily admitted, involuntarily examined, or placed under Part I, Chapter 394, F.S.;
  - (6)** Individuals who are involuntarily admitted under Part V, Chapter 397, F.S.;
  - (7)** Residents of assisted living facilities as required in ss. 394.4574 and 429.075, F.S.;
  - (8)** Children referred for residential placement in compliance with Ch. 65E-9.008, F.A.C
  - (9)** Inmates approaching the End of Sentence pursuant to Children and Families Operating Procedure (CFOP) 155-47: "Processing Referrals from the Department of Corrections;" and
  - (10)** In the event of a Presidential Major Disaster Declaration, Crisis Counseling Program (CCP) services shall be contracted for according to the terms and conditions of any CCP grant award approved by representatives of the Federal Emergency Management Agency (FEMA) and the Substance Abuse and Mental Health Services Administration (SAMHSA).
- d.** Mental health crisis intervention and crisis stabilization facility services, and substance abuse detoxification and addiction receiving facility services, shall be provided to all persons meeting the criteria for admission, subject to the availability of beds and/or funds.

## 2. Person Served Determination

- a. The Provider is responsible for determining initial person served eligibility and adhering to the eligibility requirements as specified in the **BASE Handbook**. The ME reserves the right to review the Provider's determination of persons served determined ineligible; override that determination; and subsequently reimburse the Provider for services rendered and invoiced. When this occurs, the Provider will immediately provide services to the person served until such time the person served completes his/her treatment, voluntarily leaves the program, or the ME's decision is reversed as a result of the dispute resolution.
- b. In the event of a dispute as to the ME's determination regarding eligibility, the dispute resolution process, as described in the **Penalties and Termination Chapter of this CORE Handbook**, shall be entered into.

## C. Service Location

The location, days and times of services will be as specified in the approved **Service Delivery Narrative**. The county in which services are rendered will be specified in the **BASE Handbook**. The Provider shall submit a written request to and receive written approval from the ME at least 10 calendar days prior to changes in locations where services are being provided.

## D. Reports and Data Submission

1. The Provider shall submit treatment data, as outlined in subsection 394.74(3)(e), Florida Statutes and the DCF FASAMS PAM 155-2.
2. In addition to utilizing the modifiers to procedure codes for block grant funds identified by the **Rules and Regulations Chapter of the CORE Handbook**, the Provider, upon request by the ME, shall submit information regarding the amount and number of services paid for by the Community Mental Health Services Block Grant and/or the Substance Abuse Prevention and Treatment Block Grant.
3. Data shall be submitted electronically to the ME by the tenth day of each month following the month of service into the Carisk Portal, and data reporting system designated by the ME. The Provider shall also:
  - a. Ensure data submitted clearly documents all person served admissions and discharges which occurred under this Contract;
  - b. Ensure all data submitted to the Portal, or other data reporting system designated by the ME is consistent with the data maintained in the Provider's persons served' files;

- c. Review the ME's File Upload History screen in the Carisk Portal to determine the number of records accepted, updated and rejected. Based on this review, the Provider shall download any associated error files to determine which person served records were rejected and to make sure the rejected records are corrected and resubmitted in the Carisk Portal on or before the tenth of the month or next business day.
- d. The Provider shall make available source documentation of units billed by Provider upon request from the ME.
- e. The Provider shall provide services in accordance with the current **Statement of Funding**.

## **Special Provisions**

### **A. National Provider Identifier (“NPI”)**

1. All health care providers are eligible to be assigned a Health Insurance Portability and Accountability Act (HIPAA) National Provider Identifier (NPI). However, health care providers who are covered entities (which includes all state-contracted community SAMH providers and State Treatment Facilities) must obtain and use NPIs.
2. An application for a NPI may be submitted online at: <https://nppes.cms.hhs.gov>.
3. Additional information can be obtained from one of the following websites:
  - a. The Florida Medicaid Health Insurance Portability and Accountability Act located at: <http://www.fdhc.state.fl.us/medicaid/hipaa/>
  - b. The National Plan and Provider Enumeration System (NPPES) located at: <https://nppes.cms.hhs.gov/NPPES/Welcome.do>
  - c. The CMS NPI located at: <https://www.cms.gov/Regulations-and-Guidance/Administrative-Simplification/NationalProvIdentStand/>

### **B. Ethical Conduct**

The Provider hereby acknowledges it understands performance under this Contract involves the expenditure of public funds from both the state and/or federal governments, and the acceptance of such funds obligates the Provider to perform its services in accordance with the very highest standards of ethical conduct. No employee, director, officer, agent of the Provider shall engage in any business, financial or legal relationships that undermine the public trust, whether the conduct is unethical, or lends itself to the appearance of ethical impropriety. Providers’ directors, officers or employees shall not participate in any matter that would inure to their special private gain or loss, and shall recuse themselves accordingly. The Provider understands that the ME is mandated to conduct business in the Sunshine, pursuant to section 286.011, Florida Statutes, and chapter 119, Florida Public Records Law, and that all issues relating to the business of the ME and the Provider are public record and subject to full disclosure. The Provider understands attempting to exercise undue influence on the ME, DCF, and either of their employees to allow deviation or variance from the terms of this Contract other than a negotiated, publicly disclosed amendment, is prohibited by the State of Florida, pursuant to section 286.011, F.S. The Provider’s conduct is subject to all state and federal laws governing the conduct of entities engaged in the business of providing services to government.

### **C. Person Served Grievance**

The Provider shall establish a grievance procedure for applicants and persons served of services to be used to present concerns to the governing authority of the Provider regarding services being provided under this Contract. The Provider's procedure shall be approved by the ME and must include a progressive process that allows for a step level of review that may include the first level supervisor(s), Program Director, Risk Management, Executive Management, and the Provider's Board of Directors. Providers will refer persons served with unresolved grievances related to civil rights and denial of services to SEFBHN. The Provider shall maintain compliance with **Southeast Florida Behavioral Health Network Inc.'s Policy 314.00, Consumer Grievances**, herein incorporated by reference.

### **D. Equipment and Tangible Property**

1. The Provider shall supply all equipment necessary to provide services and fulfill the terms and conditions of this contract, including but not limited to; computers, telephones, copiers, fax machines, supplies and maintenance, and necessary office supplies.
2. The Provider shall comply with requirements in the **DCF Guidance Document 2, Tangible Property Requirements**, and **Template 1 – Provider Tangible Property Inventory Form**, both of which are herein incorporated by reference.

**E.** The Provider agrees to maximize the use of state residents, state products, and other Florida-based businesses in fulfilling their Contractual duties under this Contract.

### **F. Sliding Fee Scale**

The ME requires the Provider to comply with the provisions of Rule 65E-14.018, Florida Administrative Code. A copy of the Provider's sliding fee scale that reflects the uniform schedule of discounts referenced in Rule 65E-14.018(4), Florida Administrative Code shall be furnished to the ME within thirty (30) days of Contract execution and updated annually based on updated federal poverty guidelines.

### **G. Transportation Disadvantaged**

The Provider agrees to comply with the provisions of chapter 427, Florida Statutes, Part I, Transportation Services, and Chapter 41-2, Florida Administrative Code, Commission for the Transportation Disadvantaged, if public funds provided under this Contract will be used to transport persons served.

### **H. Medicaid Enrollment**

1. Those Providers with SAMH Contracts that meet Medicaid Provider criteria shall enroll as a Medicaid Provider within ninety (90) days of Contract execution.

2. All Providers enrolled as a Medicaid Provider shall participate in ME-sponsored training, conduct required sampling, and conduct quality assurance and administrative activities necessary to recover federal matching funds, as part of the Community Based Medicaid Administrative Claiming (“CBMAC”) program. The CBMAC program allows participating Providers to claim reimbursement for administrative activities performed while providing eligible Federal Medicaid Title XIX services.
3. Participation in the CBMAC program is optional for those Substance Abuse and Mental Health Providers who are enrolled as Medicaid Providers and who do not have the technological capability to participate electronically.

#### **I. Business Associate Agreement**

If applicable, the Provider shall adhere to the terms and conditions of the **Business Associate Agreement**, incorporated herein by reference.

#### **J. Human Resources Attestations**

To ensure compliance with staffing clearance and training requirements, the **Attestation of Compliance with Employee Screening** and the **Attestation of Compliance with Annual Training Requirements**, both herein incorporated by reference must be completed within 30 days of contract execution and then July 30<sup>th</sup> annually thereafter.

While it is acceptable for Human Resources staff to review for these documents, only an agency’s Executive Director or Chief Executive Officer may sign these forms.

If an agency discovers they cannot attest to an item – for example, something was missing or completed late, acknowledge the area which needed improvement on the form with a note of what was identified and then also submit a copy of your policy and procedure which should reflect how your agency identified and rectified this situation. Only those agencies stating there was a late or missing component would need to attach their policy and procedure. Please upload the Policy and Procedure with the Attestation as a single file as the system will recognize multiple uploads of a report type as a revision and not multiple parts of the same submission.

#### **K. Medication Assisted Treatment (MAT)**

1. The goal of MAT is to expand treatment options and eliminate barriers for persons served with Opiate Use Disorder (OUD). It is SEFBHN’s policy all persons served in need of MAT or currently on MAT will be allowed to continue with their medication and have access to all levels of behavioral health treatment services. SEFBHN’s policy will be consistent with the federal and state statutes and guidelines.

2. Medication Assisted Treatment (MAT) is the use of FDA-approved medications in combination with counseling and behavioral therapies for the treatment of substance use disorders. Medications include buprenorphine, methadone and naltrexone.
3. SEFBHN Policy, 730.00 Medication Assisted Treatment, establishes a uniform standard for Medication Assisted Treatment to ensure networkwide compliance with SAMSHA and brain science setting forward the expectation all network providers incorporate treatment protocols based on the latest scientific research and ensuring access and availability of MAT services within our region. SEFBHN's policy will be consistent with the federal and state statutes and guidelines.
4. Eligible persons served will not be denied access to a SEFBHN provider program because of their use of FDA-approved medications for the treatment of substance use disorders. Allowable medications include: methadone, buprenorphine products including buprenorphine/naloxone combination formulations and buprenorphine monopropduct formulations, naltrexone products including extended-release and oral formulations or implantable buprenorphine.
5. Persons served must be allowed to participate in methadone treatment rendered in accordance with current federal and state methadone dispensing regulations from an Opioid Treatment Program and ordered by a physician who has evaluated the person served and determined that methadone is an appropriate medication treatment for the individual's opioid use disorder.
6. Medications available by prescription or office-based implantation must be permitted if it is appropriately authorized through prescription by a licensed prescriber or provider.
7. In all cases, MAT must be permitted to be continued for as long as the prescriber or treatment provider determines that the medication is clinically beneficial.
8. Persons served will not be compelled to no longer use MAT as part of the conditions of any programming if stopping is inconsistent with a licensed prescriber's recommendation or valid prescription.

#### **L. Collective Bargaining**

SEFBHN remains neutral in all provider collective bargaining activities. Providers are encouraged to establish their own procedures to guide such activities in alignment with SEFBHN's administrative framework.

## **M. PRIDE**

It is expressly understood and agreed that any articles which are the subject of, or required to carry out, this Contract shall be purchased from the corporation identified under chapter 946, F.S., in the same manner and under the same procedures set forth in §§946.515(2) and (4), F.S.; and for purposes of this contract the person, firm, or other business entity carrying out the provisions of this contract shall be deemed to be substituted for this agency insofar as dealings with such corporation are concerned.

## **N. Recycled Products**

The Provider shall procure any recycled products or materials, which are the subject of or are required to carry out this Contract, in accordance with §403.7065, F.S.

## **O. Person-First Language**

The Provider shall promote the use of person-first language and trauma-informed responsive care in all interactions (whether they be among other providers, peer organizations, or family members) through training and sharing best practices. For the purposes of this Contract, the term “person-first language” means language used which emphasizes the individual served as a person rather than that individual’s disability, illness, or condition.

## **A Recovery Oriented System of Care (ROSC)**

Southeast Florida Behavioral Health Network is requiring the inclusion of Recovery Oriented Systems of Care (ROSC) principles in all aspects of service delivery. ROSC relies on a coordinated network of community-based services and supports that is person-centered and builds on the strengths and resilience of individuals, families, and communities to achieve abstinence and improved health, wellness, and quality of life for those with or at risk of alcohol and drug problems.

ROSC supports the premise that there are many pathways to recovery. Recovery-oriented activities include providing an array of services and alternative therapies, including peer recovery coaching, therapeutic and case management services. Recovery support services, including employment assistance, childcare and housing support, may also enhance the engagement of individuals and their families in achieving and sustaining recovery.

### **A. Guiding Principles**

There are twelve guiding principles for the Recovery Oriented Systems of Care:

1. There are many pathways to recovery.
2. Recovery is self-directed and empowering.
3. Recovery involves a personal recognition of the need for change and transformation.
4. Recovery is holistic.
5. Recovery has cultural dimensions.
6. Recovery exists on a continuum of improved health and wellness.
7. Recovery emerges from hope and gratitude.
8. Recovery involves a process of healing and self-redefinition.
9. Recovery involves addressing discrimination and transcending shame and stigma.
10. Recovery is supported by peers and allies.
11. Recovery involves (re)joining and (re)building a life in the community.
12. Recovery is a reality.

## **B. Recovery-Oriented Services**

Recovery-oriented services are first and foremost, based on a person-centered orientation where the focus is on the individual's strengths and abilities rather than their illness or disability.

## **C. Implementation and Quality Improvement Strategies**

Providers shall document their ROSC implementation and quality improvement strategies in their Service Delivery Narrative.

Resources to support providers' implementation and quality improvement efforts are and will continue to be shared through Continuous Quality Improvement meetings and posted to SEFBHN's BoardDocs.

ROSC principles may be operationalized through the Wraparound Process.

## **Financial and Compliance Audit**

The administration of resources awarded by the Southeast Florida Behavioral Health Network, Inc. to the provider are subject to audits as described in this Chapter.

### **A. Monitoring**

In addition to reviews of audits conducted in accordance with 2 Code of Federal Regulations (CFR) and Section 200.500- 200.521 and Section 215.97, F.S., as revised, the Managing Entity may monitor or conduct oversight reviews to evaluate compliance with contract, management and programmatic requirements. Such monitoring or other oversight procedures may include, but not be limited to, on-site visits by Managing Entity staff, agreed-upon procedures engagements as described in 2 CFR § 200.425 or other procedures. By entering into this agreement, the provider agrees to comply and cooperate with any monitoring procedures deemed appropriate by the Managing Entity. In the event the Managing Entity determines that a limited scope audit of the provider is appropriate, the provider agrees to comply with any additional instructions provided by the Managing Entity regarding such audit. The provider further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department's Inspector General, the state's Chief Financial Officer or the Auditor General.

### **B. Audits**

#### **1. Federal Requirements**

This part is applicable if the provider is a State or local government or a non-profit organization as defined in 2 CFR §§ 200.500-200.521.

In the event the provider expends \$1,000,000 or more in Federal awards during its fiscal year, the provider must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR §§ 200.500-200.521. The provider agrees to provide a copy of the single audit to the Managing Entity's Director of Contract Compliance. In the event the provider expends less than \$1,000,000 in Federal awards during its fiscal year, the provider agrees to provide certification to the Managing Entity's Director of Contract Compliance that a single audit was not required. In determining the Federal awards expended during its fiscal year, the provider shall consider all sources of Federal awards, including Federal resources received from the Managing Entity, Federal government (direct), other state agencies, and other non-state entities. The determination of amounts of Federal awards expended should be in accordance with guidelines established by 2 CFR §§ 200.500-200.521. An audit of the provider conducted by the Auditor General in accordance with the provisions of 2 CFR Part 200 §§ 200.500-200.521 will meet the requirements of this part. In connection with the above audit requirements, the provider shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR § 200.508.

The schedule of expenditures should disclose the expenditures by contract number for each contract with the Managing Entity in effect during the audit period. The financial statements should disclose whether or not the matching requirement was met for each applicable contract. All questioned costs and liabilities due to the Managing Entity shall be fully disclosed in the audit report package with reference to the specific contract number.

## **2. State Requirements**

This part is applicable if the provider is a nonstate entity as defined by Section 215.97(2), Florida Statutes.

In the event the provider expends \$750,000 or more in state financial assistance during its fiscal year, the provider must have a State single or project-specific audit conducted in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. The provider agrees to provide a copy of the single audit to the Managing Entity's Director of Contract Compliance. In the event the provider expends less than \$750,000 in State financial assistance during its fiscal year, the provider agrees to provide certification to the Managing Entity's Director of Contract Compliance that a single audit was not required. In determining the state financial assistance expended during its fiscal year, the provider shall consider all sources of state financial assistance, including state financial assistance received from the Managing Entity, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

In connection with the audit requirements addressed in the preceding paragraph, the provider shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2), Florida Statutes, and Chapters 10.550 or 10.650, Rules of the Auditor General.

The schedule of expenditures should disclose the expenditures by contract number for each contract with the managing entity in effect during the audit period. The financial statements should disclose whether or not the matching requirement was met for each applicable contract. All questioned costs and liabilities due to the managing entity shall be fully disclosed in the audit report package with reference to the specific contract number.

## **3. Report Submission**

Any reports, management letters, or other information required to be submitted to the Managing Entity pursuant to this agreement shall be submitted within 165 days

after the end of the provider's fiscal year or within 30 (federal) or 45 (State) days of the provider's receipt of the audit report, whichever occurs first, directly to each of the following unless otherwise required by Florida Statutes.

- a. Southeast Florida Behavioral Health Network (1 Electronic Copy submitted to the E-Contracting System)
- b. Reporting packages for audits conducted in accordance with 2 CFR Part 200 §§ 200.500-200.521, and required by Section B, 1. Federal Requirements in this Chapter shall be submitted, when required by § 200.512(d) by or on behalf of the recipient directly to the Federal Audit Clearinghouse using the Federal Audit Clearinghouse's Internet Data Entry System at:

<https://harvester.census.gov/facweb>

- c. Copies of reporting packages required by Section B, 2. State Requirements in this Chapter shall be submitted by or on behalf of the recipient directly to the following address:

Auditor General  
Local Government Audits/342  
Claude Pepper Building, Room 401  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Email address: [flaudgen\\_localgovt@aud.state.fl.us](mailto:flaudgen_localgovt@aud.state.fl.us)

Providers, when submitting audit report packages to the Managing Entity for audits done in accordance with 2 CFR §§ 200.500-200.521, or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit or for-profit organizations), Rules of the Auditor General, should include, when available, correspondence from the auditor indicating the date the audit report package was delivered to them. When such correspondence is not available, the date that the audit report package was delivered by the auditor to the provider must be indicated in correspondence submitted to the Department in accordance with Chapter 10.558(3) or Chapter 10.657(2), Rules of the Auditor General.

#### **4. Record Retention**

The provider shall retain sufficient records demonstrating its compliance with the terms of this agreement for a period of six years from the date the audit report is issued and shall allow the Managing Entity or its designee, Chief Financial Officer or Auditor General access to such records upon request. The provider shall ensure that audit working papers are made available to the Managing Entity or its designee, Chief Financial Officer or Auditor General upon request for a period of three years from the date the audit report is issued, unless extended in writing by

the Director of Contract Compliance for this contract unless otherwise required by Florida Statutes.

### C. Annual Department of Children and Families' Required Audit Schedules

#### 1. List of Annual Department of Children and Families' Required Audit Schedules

As a condition of accepting funding from this contract, the agency must complete the four named annual audit schedules shown below and listed in 65E-14.003, Audits of SAMH-Funded Entities:

- a. The **Schedule of State Earnings (CF-MH 1034)**, with instructions, can be located at:  
<https://www.flrules.org/Gateway/reference.asp?No=Ref-04187>, which is herein incorporated by reference. This schedule identifies eligible local match to determine if requirements are met and computes amounts due to the department.
- b. The **Schedule of Related Party Transaction Adjustments (CF-MH 1035)** can be located at:  
<https://www.flrules.org/Gateway/reference.asp?No=Ref-04203>, which is herein incorporated by reference. This schedule indicates, by Covered Service, required related party transaction adjustments.
- c. The **Actual Expenses and Revenues Schedule (CF-MH 1037)**, with instructions, can be located at:  
<https://www.flrules.org/Gateway/reference.asp?No=Ref-04189>, which is herein incorporated by reference. This schedule displays expenditures by line-item category and revenues by source for each program and Covered Service funded with state substance abuse and mental health program appropriations. The schedule also identifies expenditures by line-item category and revenues by source for all other Covered Services as a group, for all other programs as a group, and for administrative and support functions, and displays totals for the agency as a whole.
- d. The **Schedule of Bed-Day Availability Payments (CF-MH 1036)**, with instructions, can be located at:  
<https://www.flrules.org/Gateway/reference.asp?No=Ref-04188>, which is herein incorporated by reference. This schedule ensures that bed-days paid for by the department on the basis of availability were not also paid for by a third-party contract or funds from a local government or another state agency for services that include bed-day availability or utilization. Programs that do not utilize availability based payment methodology are not required to submit this form.

## **2. Conditions of the Annual Department of Children and Families' Required Audit Schedules**

### **a. Time Period**

The time period for the schedules named above should be the Department of Children and Families' Fiscal Year, which runs July 1<sup>st</sup> to June 30<sup>th</sup>.

### **b. Recording Methodology**

The schedules named above shall be based on revenues and expenditures recorded during the state's fiscal year and shall be prepared in accordance with Generally Accepted Accounting Principles.

### **c. Responsible Party**

These schedules are to be completed by an independent auditor; if an audit is not required to be completed by an independent auditor, the Provider's Chief Financial Officer shall prepare the schedules required in Section C of this Chapter. If no Chief Financial Officer exists, the Provider's Executive Director/Chief Executive Officer shall prepare the required schedules.

### **d. Due Date**

In the event a Financial and Compliance Audit is required to be completed and submitted, any applicable schedules of the four named above are to be included as supplemental schedules within the audit.

In the event a Financial and Compliance Audit is not required, any applicable schedules of the four named above are due to the Managing Entity within 165 days after the end of the state's fiscal year (June 30<sup>th</sup>).

An Actual Expenses and Revenues Schedule (CF-MH 1037) Reconciliation may also be collected as requested by the Department of Children and Families.

### **e. Certification of Compliance with Financial Compliance Audit Requirements**

As a condition of accepting funding from this contract, the agency must complete the **Certification of Compliance with Financial Compliance Audit Requirements**, herein incorporated by reference, and submit it along with the four annual audit schedules listed in **Section C.** of this Chapter if an audit is not required.

## **Health Insurance Portability and Accountability Act (HIPAA) and Business Associate Agreement**

This Chapter contains the terms and conditions governing the Provider's access to and use of Protected Health Information and provides the permissible uses and disclosures of protected health information by the Provider, also called "Business Associate."

### **A. Definitions**

#### **1. Catch-All Definitions**

The following terms used in this Chapter shall have the same meaning as those terms in the HIPM Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

#### **2. Specific Definitions**

- a. "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and for purposes of this Chapter shall specifically refer to the Provider.
- b. "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and for purposes of this Chapter shall refer to the Managing Entity.
- c. "HIPM Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
- d. "Subcontractor" shall generally have the same meaning as the term "subcontractor" at 45 CFR § 160.103 and is defined as an individual to whom a business associate delegates a function, activity, service, other than in the capacity of a member of the workforce of such business associate.

### **B. Obligations and Activities of Business Associate**

Business Associate Agrees to:

1. Not use or disclose protected health information other than as permitted or required by this Chapter or as required by law;
2. Use appropriate administrative safeguards as set forth at 45 CFR § 164.308, physical safeguards as set forth at 45 CFR § 164.310, and technical safeguards as set forth at 45 CFR § 164.312; including, policies and procedures regarding the protection of PHI and/or ePHI set forth at 45 CFR §164.316 and the

provisions of training on such policies and procedures to applicable employees, independent contractors, and volunteers, that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI and/or ePHI that the Provider creates, receives, maintains or transmits on behalf of the Managing Entity;

3. Acknowledge that (a) the foregoing safeguards, policies and procedures requirements shall apply to the Business Associate in the same manner that such requirements apply to the Managing Entity, and (b) the Business Associates and their Subcontractors are directly liable under the civil and criminal enforcement provisions set forth at Section 13404 of the HITECH Act and section 45 CFR § 164.500 and 164.502(E) of the Privacy Rule (42 U.S.C. 1320d-5 and 1320d-6), as amended, for failure to comply with the safeguards, policies and procedures requirements and any guidance issued by the Secretary of Health and Human Services with respect to such requirements;
4. Report to covered entity any use or disclosure of protected health information not provided for by this Chapter of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware;
5. Notify the Managing Entity's Security Officer, Privacy Officer, Quality Assurance Manager and the Chief Integration Officer as soon as possible, but no later than five (5) business days following the determination of any breach or potential breach of personal and confidential Managing Entity data;
6. Notify the Privacy Officer, Quality Assurance Manager and Chief Integration Officer within (24) hours of notification by the US Department of Health and Human Services of any investigations, compliance reviews or inquiries by the US Department of Health and Human Services concerning violations of HIPAA (Privacy, Security Breach).
7. Provide any additional information requested by the Managing Entity for purposes of investigating and responding to a breach;
8. Provide, at Business Associate's own cost, notice to affected parties no later than 45 days following the determination of any potential breach of personal or confidential Managing Entity data as provided in section 817.5685, F.S.;
9. Implement at Business Associate's own cost measures deemed appropriate by the Managing Entity to avoid or mitigate potential injury to any person due to a breach or potential breach of personal and confidential Managing Entity data;
10. Take immediate steps to limit or avoid the recurrence of any security breach and take any other action pertaining to such unauthorized access or disclosure

required by applicable federal and state laws and regulations regardless of any actions taken by the Managing Entity;

11. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the business associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information. Business Associate's must attain satisfactory assurance in the form of a written contract or other written agreement with their business associate's or subcontractor's that meets the applicable requirements of 164.504(e)(2) that the Business Associate or Subcontractor will appropriately safeguard the information. For prior contracts or other arrangements, the provider shall provide written certification that its implementation complies with the terms of 45 CFR 164.532(d);
12. Make available protected health information in a designated record set to covered entity as necessary to satisfy covered entity's obligations under 45 CFR 164.524;
13. Make any amendment(s) to protected health information in a designated record set as directed or agreed to by the covered entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy covered entity's obligations under 45 CFR 164.526;
14. Maintain and make available the information required to provide an accounting of disclosures to the covered entity as necessary to satisfy covered entity's obligations under 45 CFR 164.528;
15. To the extent the business associate is to carry out one or more of covered entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the covered entity in the performance of such obligation(s); and
16. Make its internal practices, books, and records available to the Secretary of the U.S. Department of Health and Human Services for purposes of determining compliance with the HIPAA Rules.

### **C. Permitted Uses and Disclosures by Business Associate**

The Business associate may only use or disclose protected health information covered under this Chapter as listed below:

1. The Business Associate may use and disclose the Managing Entity's PHI and/or ePHI received or created by Business Associate (or its agents and subcontractors) in performing its obligations pursuant to this Chapter.

2. The Business Associate may use the Managing Entity's PHI and/or ePHI received or created by Business Associate (or its agents and subcontractors) for archival purposes.
3. The Business Associate may use PHI and/or ePHI created or received in its capacity as a Business Associate of the Managing Entity for the proper management and administration of the Business Associate, if such use is necessary (a) for the proper management and administration of Business Associate or (b) to carry out the legal responsibilities of Business Associate.
4. The Business Associate may disclose PHI and/or ePHI created or received in its capacity as a Business Associate of the Managing Entity for the proper management and administration of the Business Associate if (a) the disclosure is required by law or (b) the Business Associate (1) obtains reasonable assurances from the person to whom the PHI and/or ePHI is disclosed that it will be held confidentially and used or further disclosed only as required by Law or for the purpose for which it was disclosed to the person and (2) the person agrees to notify the Business Associate of any instances of which it becomes aware in which the confidentiality and security of the PHI and/or ePHI has been breached.
5. The Business Associate may aggregate the PHI and/or ePHI created or received pursuant this Chapter with the PHI and/or ePHI of other covered entities that Business Associate has in its possession through its capacity as a Business Associate of such covered entities for the purpose of providing the Department of Children and Families and the Managing Entity with data analyses relating to the health care operations of the Department (as defined in 45 C.F.R. §164.501).
6. The Business Associate may de-identify any and all PHI and/or ePHI received or created pursuant to this Chapter, provided that the de-identification process conforms to the requirements of 45 CFR § 164.514(b).
7. Follow guidance in the HIPAA Rule regarding marketing, fundraising and research located at Sections 45 CFR § 164.501, 45 CFR § 164.508 and 45 CFR § 164.514.

**D. Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions**

1. Covered entity shall notify business associate of any limitation(s) in the notice of privacy practices of covered entity under 45 CFR 164.520, to the extent that such limitation may affect business associate's use or disclosure of protected health information.
2. Covered entity shall notify business associate of any changes in, or revocation of, the permission by an individual to use or disclose his or her protected health

information, to the extent that such changes may affect business associate's use or disclosure of protected health information.

3. Covered entity shall notify business associate of any restriction on the use or disclosure of protected health information that covered entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect business associate's use or disclosure of protected health information.

## **E. Termination**

### **1. Termination for Cause**

Upon the Managing Entity's knowledge of a material breach by the Business Associate, the Managing Entity shall either:

- a. Provide an opportunity for the Business Associate to cure the breach or end the violation and terminate the Agreement or discontinue access to PHI if the Business Associate does not cure the breach or end the violation within the time specified by the Managing Entity;
- b. Immediately terminate this Agreement or discontinue access to PHI if the Business Associate has breached a material term of this Chapter and does not end the violation; or
- c. If neither termination nor cure is feasible, the Managing Entity shall report the violation to the Secretary of the Department of Health and Human Services.

### **2. Obligations of Business Associate Upon Termination**

Upon termination of this Chapter for any reason, business associate, with respect to protected health information received from covered entity, or created, maintained, or received by business associate on behalf of covered entity, shall:

- a. Retain only that protected health information which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
- b. Return to covered entity, or other entity as specified by the Managing Entity or, if permission is granted by the Managing Entity, destroy the remaining protected health information that the Business Associate still maintains in any form;
- c. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in

this Section, for as long as Business Associate retains the protected health information;

- d. Not use or disclose the protected health information retained by Business Associate other than for the purposes for which such protected health information was retained and subject to the same conditions set out at paragraphs C.3 and C.4 above under "Permitted Uses and Disclosures By Business Associate" which applied prior to termination; and
- e. Return to covered entity, or other entity as specified by the Managing Entity or, if permission is granted by the Managing Entity, destroy the protected health information retained by business associate when it is no longer needed by business associate for its proper management and administration or to carry out its legal responsibilities.
- f. The obligations of business associate under this Section shall survive the termination of this Chapter.

#### **F. Miscellaneous**

- a. A regulatory reference in this Chapter to a section in the HIPM Rules means the section as in effect or as amended.
- b. The Parties agree to take such action as is necessary to amend this Chapter from time to time as is necessary for compliance with the requirements of the HIPM Rules and any other applicable law.
- c. Any ambiguity in this Chapter shall be interpreted to permit compliance with the HIPM Rules.