

**NORTH SOUND BEHAVIORAL HEALTH ADMINISTRATIVE
SERVICES ORGANIZATION
FACILITY PARTICIPATING PROVIDER AGREEMENT**

THIS AGREEMENT is between North Sound Behavioral Health Administrative Services Organization ("North Sound BH-ASO") and the undersigned facility provider (hereinafter referred to as the "Facility Participating Provider"). This Agreement will become effective upon the date set forth in North Sound BH-ASO's executed Acceptance Letter (the "Effective Date"). This Agreement sets forth the terms and conditions under which Facility Participating Provider shall participate in one or more networks developed by North Sound BH-ASO as a Facility Participating Provider of Psychiatric Inpatient Services in the North Sound Regional Service Area, which includes Island, San Juan, Skagit, Snohomish and Whatcom Counties.

**ARTICLE 1
Definitions**

Any capitalized term herein shall have the meaning as set forth in this Agreement. Any undefined term herein shall have the meaning as defined in the Supplemental Provider Service Guide (SPSG), the Policies and Procedures, Protocols, or as may be defined by applicable state or federal laws or regulations, as applicable.

Commercial Health Insurance: Is health insurance provided and administered by non-governmental entities. It covers medical expenses.

Covered Services: Involuntary Treatment Services that meet requirements of RCW 71.05, 71.24.300, and 71.34, including such conditions as Medically Necessary and proper authorization, and in accordance with the Supplemental Provider Service Guide, Policies and Procedures, Protocols, and then applicable laws and regulations.

Facility-based Provider: A health care professional, who is employed by or under contract or supervision to render behavioral health services to individuals involuntarily committed to said facility. Facility-based Providers include, but are not limited to, Licensed Mental Health Professionals, Certified Substance Use Disorder Professional, Psychiatrists, Certified Peer Support Counselor, and registered nurses.

Facility Participating Provider: A health care professional, facility, CBHC Supervising Provider, or other organization that has a written Facility Participating Provider Agreement in effect with North Sound BH-ASO, directly or through another entity, to provide Involuntary Inpatient Behavioral Health Services.

Individual: For the purposes of this Agreement, Individual is a person who is not eligible for Medicaid and does not have commercial insurance or Medicare coverage.

Medicaid: A Medical Assistance Program providing health coverage benefits for low income persons pursuant to applicable state and federal laws and regulations.

Medically Necessary Services means a requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate, or prevent worsening of conditions in the Individual that endanger life, cause suffering of pain, result in an illness or infirmity, threaten to cause or aggravate a handicap, or cause physical deformity or malfunction. There is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the individual receiving the service. "Course of treatment" may include mere observation or, where appropriate, no treatment at all.

Medicare: Federally sponsored program providing health coverage benefits to individuals of qualifying age, disability, or disease.

Payment Policies: Guidelines adopted by North Sound BH-ASO, from time to time, for calculating payment of claims under Benefit Plans.

Payor: The entity or person that has the financial responsibility for funding payment of services on behalf of an Individual.

Psychiatric Inpatient Services: means services delivered in an inpatient setting for the sole purpose of a psychiatric condition. Services will be in accordance with Health Care Authority's Mental Health Services Billing Guide and WAC 182-531-1400.

Protocols: The programs, policies, protocols, processes, procedures, and requirements as such may change or be modified from time to time, and that are adopted by North Sound BH-ASO or Payor, and which Facility Participating Provider agrees to follow as a condition of North Sound BH-ASO accepting Facility Participating Provider as a Facility Participating Provider, including, but not limited to, authorization procedures, credentialing and re-credentialing processes and plans, utilization management and care management processes, billing procedures, Payment Policies, providing or arranging for Emergency Services, quality improvement, peer review, on-site review, grievance and appeals processes, and any other policies, procedures, processes, activities or standards, wherever located as may apply to Facility Participating Provider's rights, obligations or responsibilities as a Facility Participating Provider of Psychiatric Inpatient Services, whether in this Agreement, Supplemental Provider Service Guide, or any other document as made accessible or available to Provider from time to time.

Supplemental Provider Service Guide: A document or manual, however known or named, such as the Network Guide, containing the administrative policies, procedures and Protocols applicable to Involuntary Treatment Act Services provided, sponsored or administered by North Sound BH-ASO or a Payor including, but not limited to, policies and procedures for credentialing, claims, quality improvement, and utilization management to which Facility Participating Provider is obligated.

Regional Service Area means a single county or multi-county grouping formed for the purpose of health care purchasing

ARTICLE 2

Duties of Facility Participating Provider

2.1 Provision of Psychiatric Inpatient Services. Facility Participating Provider hereby acknowledges and agrees to cooperate and comply with all of the terms and conditions of the Supplemental Provider Service Guide, Protocols, and this Agreement, and to dutifully perform as a Facility Participating Provider for the provision of Psychiatric Inpatient Services to Individuals within the North Sound BH-ASO network(s) as designated by North Sound BH-ASO or Payor. Facility Participating Provider shall accept without regard to race, religion, gender, color, national origin, age or physical or mental health status, or on any other basis deemed unlawful under federal, state or local law. At all times, Facility Participating Provider shall require any employed or subcontracted health care professionals and facilities to comply with the terms and conditions of this Agreement, all Protocols of North Sound BH-ASO and Payor, the Supplemental Provider Service Guide, as well as the requirements of all applicable laws and regulations.

2.2 Medicaid Eligibility. Facility Participating Provider shall make reasonable effort to verify an Individual's eligibility at time of service by following appropriate procedures, including without limitation, and at a minimum, the terms and conditions of this Agreement, Protocols and the Supplemental Provider Service Guide. Facility Participating Provider however recognizes that the Individual's eligibility information may be inaccurate at the time. Facility Participating Provider obtains verification and that the Individual, or the Services provided to the Individual, may later be determined to be Medicaid eligible and, except as otherwise required by law, not eligible for payment under this Agreement. Under such circumstances, Facility Participating Provider may then, except as otherwise stated herein, directly bill the other responsible party for such services.

2.3 Supplemental Provider Service Guide & Protocols. Facility Participating Provider shall accept, comply with, and cooperate with, the requirements set forth in the Supplemental Provider Service Guide, credentialing plan, and all Protocols, as amended or modified from time to time by North Sound BH-ASO and/or Payor, all of which are hereby incorporated herein by reference as if set forth fully herein, including without limitation quality improvement activities. Provider acknowledges and agrees that the Supplemental Provider Service Guide and/or Protocols may contain service and contract requirements which Facility Participating Provider shall comply. The Supplemental Provider Service Guide, Policies and Protocols may be revised, supplemented or replaced from time to time by the North Sound BH-ASO. North Sound BH-ASO will provide written notice of any material changes.

2.4 Authorization Requirements. Subject to all applicable terms and conditions, including without limitation Section 2.2 above, and in accordance with the Supplemental Provider Service Guide, Protocols, and requirements of the North Sound BH-ASO's delegate regarding authorization, Facility Participating Provider must request authorization for Voluntary Psychiatric Inpatient Services from North Sound BH-ASO either telephonically or by another approved and accepted method recognized by North Sound BH-ASO before providing any Voluntary Psychiatric Inpatient Services to an Individual. Authorizations shall subsequently be confirmed by North

Sound BH-ASO in writing. Except as otherwise permitted herein, only Involuntary Psychiatric Inpatient Services will be eligible for retroactive authorization at the sole discretion of North Sound BH-ASO or as required by applicable law. Any authorization resulting from wrongful, fraudulent or negligent actions of Facility Participating Provider or a breach of this Agreement shall be null and void as of the time given. The terms of this section shall prevail over any inconsistent term or condition in the Supplemental Provider Service Guide or other document related to obtaining prior authorization.

2.5 Provider's Standard of Care. Nothing in this Agreement, the Supplemental Provider Service Guide, the Policies and Procedures, or the Protocols, including without limitation, North Sound BH-ASO's utilization management and quality assurance and improvement standards and procedures, shall dictate the Psychiatric Inpatient Services to be provided by Facility Participating Provider or otherwise diminish Facility Participating Provider's obligation to freely communicate with and/or provide Psychiatric Inpatient Services to Individuals in accordance with the applicable standard of care for such Provider or for maintaining hospital accreditation according to industry standards and requirements.

2.6 Continuity of Care; Referral to Other Health Professionals. Facility Participating Provider shall furnish Services in a manner providing continuity of care and ready referral of Individuals to other Participating Providers at times as may be appropriate and consistent with the standards of care in the community if an Individual requires additional services or evaluation, including Emergency Services.

2.7 Employees and Contractors of Provider. Facility Participating Provider will be responsible for and shall ensure that all of its employees and contractors are bound by, and meet the terms and conditions of this Agreement and the Supplemental Provider Service Guide and Protocols, at the time of providing Services to Individuals. Upon the failure of any such employee or contractor to meet such terms and conditions, including without limitation, credentialing requirements, North Sound BH-ASO may restrict them from providing services.

2.8 Credentialing. Facility Participating Provider shall provide North Sound BH-ASO with the criteria utilized by Facility Participating Provider to select and credential employed or subcontracted health care professionals and facilities including, but not limited to, Facility-based Facility Participating Providers. North Sound BH-ASO shall have the right to audit such criteria upon reasonable advance written notice to Facility Participating Provider.

2.9 Payment of Services. All payments obligated by Payor shall be paid to Facility Participating Provider and Facility Participating Provider will be solely responsible for payments to its employees, contractors and Facility-based Facility Participating Providers who may have provided psychiatric inpatient services.

2.10 Arrangements for Post-Discharge Follow-up Care. Prior to discharging an Individual, Facility Participating Provider shall coordinate post-discharge follow-up care with North Sound BH-ASO

and assure that the Individual has a follow-up plan including a scheduled appointment with the appropriate providers as deemed necessary.

ARTICLE 3

Payment Provisions

3.1 Payment for Services. In accordance with the terms and conditions hereof, Payor shall pay Facility Participating Provider for Psychiatric Inpatient Services provided by Facility Participating Provider. Payment shall be in accordance with the Health Care Authority's published rates, found at: <https://www.hca.wa.gov/billers-providers-partners/prior-authorization-claims-and-billing/hospital-reimbursement>

Subject to the terms and conditions herein, the obligation for payment for Psychiatric Inpatient Services provided to a Non-Medicaid Individual, is solely that of Payor. When North Sound BH-ASO is the Payor, North Sound BH-ASO shall make obligated claim payments to Facility Participating Provider within 45 days (and shall use best efforts to encourage a third-party Payor to make payments within 45 days), or as otherwise required by law, of the date Payor receives all information necessary to process and pay a clean claim, except for claims for which there is coordination of benefits, disputes about coverage, systems failure or other such causes.

3.2 Submission of Claims. Facility Participating Provider shall submit claims for Psychiatric Inpatient Services to North Sound BH-ASO in a manner and format prescribed by North Sound BH-ASO, whether in Protocols or otherwise, and which may be in an electronic format. All information necessary to process the claims must be received by North Sound BH-ASO no more than 90 days from the date of discharge and 90 days from the date all Psychiatric Inpatient services are rendered. Facility Participating Provider agrees that claims received after this time period may be rejected for payment, at North Sound BH-ASO's and/or Payor's sole discretion.

Unless otherwise directed by North Sound BH-ASO, Facility Participating Provider shall submit claims using current UB04 forms, with applicable coding including, but not limited to, ICD9, CPT, Revenue and HCPCS coding. Facility Participating Provider shall include in a claim the Individual's certification number, HCA per diem Charges for the Services rendered to an Individual during a single instance of service, Facility Participating Provider's Federal Tax I.D. number and/or other identifiers requested by North Sound BH-ASO.

Payor shall have the right to make, and Facility Participating Provider shall have the right to request, corrective adjustments to a previous payment; provided however, that Payor shall have no obligation to pay additional amounts after 12 months from the date the initial claim was paid.

3.3 Payment in Full. Facility Participating Provider shall accept as payment in full for Psychiatric Inpatient Services rendered to Individuals such amounts as are paid by Payor pursuant to this Agreement and shall not bill Individuals for non-covered charges, which result from Payor's reimbursement methodologies. If Payor denies payment for services rendered by Facility Participating Provider on grounds that the services are not Medically Necessary, Facility Participating Provider shall not collect payment from an Individual for the services unless the

Individual has knowledge of the determination of lack of Medical Necessity and has subsequently agreed in writing to be responsible for such charges for Psychiatric Inpatient Services. Further, if any payment to Facility Participating Provider is denied, in part or full, due to Facility Participating Provider's failure to strictly comply with any term or condition in this Agreement, the Supplemental Provider Service Guide, the Protocols, including without limitation, obtaining prior authorization, untimely filing of a claim, inaccurate or incorrect submission of or claim processing, or the insolvency of Payor pursuant to applicable law, it is agreed that Facility Participating Provider shall not bill an Individual or otherwise, directly or indirectly, seek or collect payment from the Individual for any of the denied amounts. Any violation hereof by Facility Participating Provider shall be deemed a material breach. This provision shall apply regardless of whether any waiver or other document of any kind purporting to allow Facility Participating Provider to collect payment from the Individual exists. These provisions shall survive the termination hereof and shall be construed to be for the benefit of the Individual.

3.4 Overpayment Recovery.

Recovery by Facility Participating Provider.

Except in the case of fraud, or as provided in subsection (2) of this section a provider may not: (a) Request additional payment from North Sound BH-ASO, as applicable, to satisfy a claim unless done in writing to North Sound BH-ASO within 24 months after the date that the claim was denied or payment intended to satisfy the claim was made; or (b) request that the additional payment be made any sooner than 6 months after receipt of the request. Any such request must specify why Facility Participating Provider believes Payor owes the additional payment.

(1) Facility Participating Provider may not, if doing so for reasons related to coordination of benefits with another carrier or entity responsible for payment of a claim: (a) Request additional payment from North Sound BH-ASO to satisfy a claim unless he or she does so in writing to UBH within 30 months after the date the claim was denied or payment intended to satisfy the claim was made; or

(b) request that the additional payment be made any sooner than 6 months after receipt of the request. Any such request must specify why Facility Participating Provider believes the North Sound BH-ASO owes the additional payment, and include the name and mailing address of any entity that has disclaimed responsibility for payment of the claim.

(2) If any provision of this Agreement conflicts with this section, this section shall prevail. However, nothing in this section prohibits North Sound BH-ASO, from choosing at any time to make additional payments to Facility Participating Provider to satisfy a claim.

Recovery by North Sound BH-ASO

(1) Except in the case of fraud, or as provided in subsections (2) and (3) of this section, North Sound BH-ASO, may not: (a) Request a refund from Facility Participating Provider of a payment previously made to satisfy a claim unless it does so in writing to the Facility Participating Provider within 24 months after the date that the payment was made; or (b) request that a contested refund be paid any sooner than 6 months after receipt of the

request. Any such request must specify why North Sound BH-ASO, believes Facility Participating Provider owes the refund. If Facility Participating Provider fails to contest the request in writing to North Sound BH-ASO, within 30 days of its receipt, the request is deemed accepted and the refund must be paid.

(2) North Sound BH-ASO, as applicable, may not, if doing so for reasons related to coordination of benefits with another carrier or entity responsible for payment of a claim: (a) Request a refund from Facility Participating Provider of a payment previously made to satisfy a claim unless it does so in writing to Facility Participating Provider within 30 months after the date that the payment was made; or (b) request that a contested refund be paid any sooner than 6 months after receipt of the request. Any such request must specify why North Sound BH-ASO believes Facility Participating Provider owes the refund, and include the name and mailing address of the entity that has primary responsibility for payment of the claim. If Facility Participating Provider fails to contest the request in writing to the North Sound BH-ASO within 30 days of its receipt, the request is deemed accepted and the refund must be paid.

(3) North Sound BH-ASO, as applicable, may at any time request a refund from Facility Participating Provider of a payment previously made to satisfy a claim if: (a) A third party, including a government entity, is found responsible for satisfaction of the claim as a consequence of liability imposed by law, such as tort liability; and (b) North Sound BH-ASO, is unable to recover directly from the third party because the third party has either already paid or will pay Facility Participating Provider for the services covered by the claim.

(4) If any other provision of this Agreement conflicts with this section, this section shall prevail. However, nothing in this section prohibits Facility Participating Provider from choosing at any time to refund to North Sound BH-ASO, any payment previously made to satisfy a claim.

(5) For purposes of this section, "refund" means the return, either directly or through an offset to a future claim, of some or all of a payment already received by a health care provider.

3.5 Financial Responsibility. In the event of a default (meaning a systematic failure by Payor to fund undisputed claim payments for Psychiatric Inpatient Services) by a Payor, except when due to the insolvency of Payor, North Sound BH-ASO shall notify Facility Participating Provider in writing of such default following North Sound BH-ASO's determination thereof.

ARTICLE 4
Laws, Regulations, and Licenses, and Liabilities of Parties

4.1 Laws, Regulations and Licenses. Facility Participating Provider shall maintain in good standing all federal, state and local licenses, certifications and permits – each without sanction, revocation, suspension, censure, probation or material restriction -- which are required to provide health care services according to the laws of the jurisdiction in which Psychiatric Inpatient Services are provided, and shall comply with all applicable statutes and regulations. Facility Participating Provider shall also require that all health care professionals employed by, or under contract with, Facility Participating Provider to render Services to Individuals, and to fully comply with this provision.

4.2 Responsibility for Damages. Any and all damages, claims, liabilities or judgments, attorney fees, which may arise as a result of Facility Participating Provider's or its employee's or contractor's negligence or intentional wrongdoing shall be the sole responsibility of Facility Participating Provider.

4.3 Provider Liability Insurance. Facility Participating Provider offering acute care services shall procure and maintain, at its' sole expense, (a) medical malpractice insurance in the amounts of \$5,000,000 per occurrence and in aggregate, and (b) comprehensive general and/or umbrella liability insurance in the amount of \$5,000,000 per occurrence and in aggregate. Whereas Facility Participating Provider offering non-acute care services shall procure and maintain, at its sole expense, (c) medical malpractice insurance in the amounts of \$1,000,000 per occurrence and \$3,000,000 in aggregate, and (d) comprehensive general and/or umbrella liability insurance in the amount of \$1,000,000 per occurrence and \$3,000,000 in aggregate. Facility Participating Provider shall also require that all health care professionals employed by or under contract with Facility Participating Provider to render Psychiatric Inpatient Services to Individuals procure and maintain, unless they are covered under Facility Participating Provider's insurance policies, a comprehensive general and/or umbrella liability insurance in the amount of \$1,000,000 per occurrence and in aggregate and medical malpractice or professional liability insurance and comprehensive coverage in the amount of \$1,000,000 per occurrence and \$3,000,000 in aggregate if a Medical Doctor, and \$1,000,000 per occurrence and in aggregate if not a Medical Doctor.

Facility Participating Provider's and other health care professionals' medical malpractice insurance shall be on either an "occurrence" or "claims made" basis provided that for a "claims made" policy, such policy must be written with an extended period reporting option under such terms and conditions as may be reasonably required by North Sound BH-ASO. Prior to the Effective Date of this Agreement and at each policy renewal thereafter, Facility Participating Provider shall submit to North Sound BH-ASO in writing evidence of insurance coverage.

4.4 Self-Insurance Option. In lieu of compliance with section 4.3 above, Facility Participating Provider may with the prior written approval of North Sound BH-ASO, self-insure for medical malpractice liability, as well as comprehensive general liability. Facility Participating Provider shall maintain a separate reserve for its self-insurance. Upon reasonable request by North Sound BH-ASO, Facility Participating Provider shall provide a statement, verified by an independent auditor or actuary, that the reserve maintained by Facility Participating Provider for its self-insurance is sufficient and adequate. In addition to maintaining its self-insurance, Facility Participating Provider shall assure that all health care professionals employed by or under contract with Facility Participating Provider to render Psychiatric Inpatient Services to Individuals procure and maintain adequate medical malpractice insurance unless they are covered by Facility Participating Provider's self-insurance. Failure to maintain adequate self-insurance shall trigger the requirement to obtain and maintain Insurance under section 4.3.

4.5 Hold Harmless, Indemnification. Facility Participating Provider and NS BH-ASO shall each be responsible for its own acts and omissions, and the acts and omissions of their agents and employees. Each party to this Contract shall defend, indemnify, and hold harmless the other party, or any of the other party's agents, from and against any loss and all claims, settlements, judgments, costs, penalties, and expenses, including attorney fees, arising from any willful misconduct, or dishonest, fraudulent, reckless, unlawful, or negligent act or omission of the first party, or agents of the first party, while performing under the terms of this Contract except to the extent that such losses result from the willful misconduct, or dishonest, fraudulent, reckless, unlawful or negligent act or omission on the part of the second party. The Facility Participating Provider shall indemnify and hold harmless North Sound BH-ASO and its agents and employees from any and all claims, damages, actions, or judgments arising from any claim against the Facility Participating Provider, employee, or contractor of Facility Participating Provider related to the provision of Psychiatric Inpatient Services and for any federal or state taxes or assessments, including but not limited to employment claims. Each party agrees to promptly notify the other party in writing of any claim and provide the other party the opportunity to defend and settle the claim.

ARTICLE 5

Notices

5.1 Notices. Facility Participating Provider shall notify North Sound BH-ASO within ten (10) days of knowledge of any of the following:

- (a) changes in liability insurance carriers, termination of, renewal of or any other material changes in Facility Participating Provider's liability insurance, including reduction of limits, erosion of aggregate, changes in retention or non-payment of premium, or any material adverse change in Facility Participating Provider's financial status which affects its self-insurance;
- (b) action which may result in or the actual suspension, sanction, revocation, condition, limitation, qualification or other material restriction on Facility Participating Provider's or any of facility-based Facility Participating Provider's licenses, certifications or permits by any government or accrediting or regulatory agency under which Facility Participating Provider is accredited or regulated by or authorized to provide health care services;
- (c) a change in Facility Participating Provider's name, address, ownership or Federal Tax I.D.number;
- (d) indictment, arrest or conviction for a felony or for any criminal charge related to the practice of Facility-based Provider's profession;
- (e) claims or legal actions for professional negligence or bankruptcy;
- (f) Facility Participating provider's termination, for cause, from any other provider network offered by any plan, including, without limitation, any health care service plan, health maintenance organization, any health insurer, any preferred provider organization, any employer or any trust fund;
- (g) any occurrence or condition that might materially impair the ability of Facility Participating Provider or Facility-based Provider to perform its duties under this Agreement;
- (h) any condition or circumstance that may pose a direct threat to the safety of Facility Participating Provider, Facility Participating Providers' staff, or Individuals covered under this Agreement; or
- (i) action taken by Facility Participating Provider to suspend, revoke or allow the voluntary relinquishment of the medical staff membership or clinical privileges of any Facility Participating Provider unless the action will last 30 days or less.

Unless otherwise specified in this Agreement, each and every notice and communication to the other party shall be in writing. All written notices or communication shall be deemed to have been given when delivered in person; or, on the date mailed, if delivered by first-class mail, proper postage prepaid and properly addressed to the appropriate party at the address set forth at the signature portion of this Agreement or to another address of which sending party has been notified, including without limitation, to North Sound BH-ASO's Network Manager at the applicable address for notice as identified in the Supplemental Provider Service Guide or

Protocols. The parties shall, by written notice, provide and update each other with the most current address and names of all parties or designees that should receive certain notices or communication.

ARTICLE 6

Records

6.1 Confidentiality of Records. North Sound BH-ASO and Facility Participating Provider shall maintain the confidentiality of all protected health information and records in accordance with all applicable state and federal laws, statutes and regulations, including without limitation, the Health Insurance Portability and Accountability Act and those promulgated by , 42 CFR Part 2 ("SAMSHA").

6.2 Maintenance of and North Sound BH-ASO Access to Records. Facility Participating Provider shall maintain adequate medical, treatment, financial and administrative records related to Psychiatric Inpatient Services provided by Facility Participating Provider under this Agreement for a period and in a manner consistent with the standards of the community and in accordance with the Supplemental Provider Service Guide, Protocols and all applicable state and federal laws, statutes and regulations. Such records shall include medical records, documents, evidences of Medicaid eligibility and other relevant information in Facility Participating Provider's possession upon which North Sound BH-ASO relied to reach a decision concerning an Individual's complaint or grievance. Any such records shall be maintained for six (6) years and shall be readily available to North Sound BH-ASO at all reasonable times during the term of this Agreement or a period of six (6) years whichever is longer.

In order to perform its utilization management and quality improvement activities, North Sound BH-ASO shall have access to such information and records, including claim records, within 14 days from the date the request is made, except that in the case of an audit by North Sound BH-ASO, such access shall be given at the time of the audit. If requested by North Sound BH-ASO, Facility Participating Provider shall provide copies of such records free of charge. During the term of this Agreement North Sound BH-ASO shall have access to and the right to audit information and records to the extent permitted by the Supplemental Provider Service Guide, or as otherwise required by state or federal laws, statutes or regulations or regulatory authority. Said rights shall continue following the termination hereof for the longer of three years or for such period as may be permitted by applicable state or federal law, regulatory authority, or Protocols.

It is Facility Participating Provider's responsibility to obtain any Individual's consent in order to provide North Sound BH-ASO with requested information and records or copies of records and to allow North Sound BH-ASO to release such information or records as necessary for the administration of this Agreement or compliance with any state or federal laws, statutes and regulations applicable to the Payors.

Facility Participating Provider acknowledges that in receiving, storing, processing or otherwise dealing with information from North Sound BH-ASO about Individuals, it is fully bound by the provisions of the federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Part 2; and Facility Participating Provider agrees that it will resist in judicial proceedings any effort to obtain access to information pertaining to patients otherwise

than as expressly provided for in the federal confidentiality regulations including but not limited to SAMSHA.

This section shall not be construed to grant North Sound BH-ASO access to Facility Participating Provider's records that are created for purposes of assessing financial performance or for peer review activities, except to the extent the federal and/or state government and any of their authorized representatives have access to such records pursuant to Section 6.3.

6.3 Government and Accrediting Agency Access to Records. It is agreed that the federal, state and local government, or accrediting agencies including, but not limited to, the National Committee for Quality Assurance (the "NCQA"), and any of their authorized representatives, shall have access to, and North Sound BH-ASO and Facility Participating Provider are authorized to release, in accordance with applicable statutes and regulations, all information and records or copies of such, within the possession of North Sound BH-ASO or Facility Participating Provider, which are pertinent to and involve transactions related to this Agreement if such access is necessary to comply with accreditation standards, statutes or regulations applicable to North Sound BH-ASO, Payor or Facility Participating Provider. Such access shall be available and provided during the term of this Agreement and for three years following the termination hereof, or such longer period as may be identified in the Supplemental Provider Service Guide or Protocols or as required by applicable state or federal laws, statutes or regulations.

ARTICLE 7

Resolution of Disputes

7.1 Resolution of Disputes. It is agreed that prior to any other remedy available to the parties, North Sound BH-ASO, Payor and/or Facility Participating Provider ("Disputant") shall provide written notice of any disputes or claims arising out of their business relationship (the "Dispute") to the other party within thirty (30) days of the final decision date, action, omission or cause from which the Dispute arose, whichever is later (the "Dispute Date"); provided that if such Disputant determines that immediate resorting to immediate equitable relief is required to present physical or mental injury or property damage, application for such relief may be made to the Superior Court. If the Dispute pertains to a matter which is generally administered by certain North Sound BH-ASO procedures, such as a credentialing or quality improvement plan, the procedures set forth in that plan must be fully exhausted by Facility Participating Provider before invoking their rights as described herein. After receipt of the written notice of the Dispute, the parties agree to work together in good faith to resolve the Dispute. If the parties are unable to resolve the Dispute within thirty (30) days following receipt of the notice of the Dispute, and if either North Sound BH-ASO, Facility Participating Provider or Payor desires to pursue formal resolution of the Dispute, then said party shall issue a notice of arbitration to the other parties. It is agreed that the parties knowingly and voluntarily waive any right to a Dispute if arbitration is not initiated within one year after the Dispute Date.

Any arbitration proceeding under this Agreement shall be submitted to binding arbitration in accordance with the rules of the American Arbitration Association ("AAA"), and shall be conducted in Skagit County in a location agreed to by the parties or as selected by the AAA if the parties cannot agree on a location. The arbitrators may construe or interpret but shall not vary or ignore the terms of this Agreement, shall have no authority to award any punitive or exemplary damages, and shall be bound by controlling law. Venue for any action to compel arbitration or to enforce an arbitration award or seeking equitable relief shall exclusively be Skagit County Superior Court.

ARTICLE 8

Term and Termination

8.1 Term. This Agreement shall begin on the Effective Date and it shall remain in effect for one year, and shall automatically renew for successive 1-year terms until it is terminated in accordance with the provisions herein.

8.2 Termination. This Agreement may be terminated as follows:

- (a) by mutual agreement of North Sound BH-ASO and Facility Participating Provider;
- (b) by Facility Participating Provider at the end of any term, as defined in Section 8.1, upon 120 days prior written notice to North Sound BH-ASO;
- (c) by North Sound BH-ASO upon 120 days prior written notice to Facility Participating Provider;
- (d) by either party, in the event of a material breach of this Agreement by the other party, upon 30 days prior written notice to the other party. The written notice shall specify the precise nature of the breach. In the event the breaching party cures the breach to the reasonable satisfaction of the non-breaching party, within 30 days after the non-breaching party's written notice, this Agreement shall not terminate;
- (e) by North Sound BH-ASO immediately upon written notice to Facility Participating Provider, due to loss, suspension, restriction, probation, voluntary relinquishment, or any other adverse action taken against any of Facility Participating Provider's licenses or certifications, or loss of insurance or failure to maintain financial reserves sufficient to provide the level of self-insurance required under this Agreement;
- (f) by Facility Participating Provider upon 60 days prior written notice to North Sound BH-ASO due to a unilateral amendment made to this Agreement pursuant to section 9.1;
- (g) by North Sound BH-ASO in accordance with its credentialing plan;
- (h) by North Sound BH-ASO immediately if North Sound BH-ASO determines, in its sole discretion, that the health, safety or welfare of Individuals may be jeopardized by the continuation of this Agreement; or
- (i) by North Sound BH-ASO in accordance with the Supplemental Provider Service Guide or Protocols.

During periods of notice of termination, North Sound BH-ASO reserves the right to transfer Individuals to another Facility Participating Provider, and Facility Participating Facility Participating Provider agrees to cooperate and assist with such transfers.

If Facility Participating Provider is terminated through the North Sound BH-ASO credentialing or recredentialing process, this Agreement shall be deemed terminated as of the date Facility Participating Provider has been terminated pursuant to a final action resulting from that process.

8.3 Continuation of Services After Termination. Upon request of North Sound BH-ASO, or pursuant to applicable Washington law, Facility Participating Provider shall continue to provide services authorized or certified by North Sound BH-ASO, who are receiving such services from Facility Participating Provider, as of the date of termination of the Agreement, until arrangements are completed for such Individuals to be transferred to another Facility Participating Provider. Payor shall pay Facility Participating Provider for such services at the Facility Participating Provider's contracted rate.

ARTICLE 9

Miscellaneous

9.1 Amendment. North Sound BH-ASO may amend this Agreement by sending notice of the amendment to Facility Participating Provider at least 30 days prior to its effective date. It is agreed that this Agreement shall be automatically amended to comply with any and all applicable state or federal laws, regulations, statutes or the requirements of applicable regulatory authorities as of the effective date thereof, and which shall be deemed to be incorporated herein by reference as of its effective date. Likewise, if a Payor that is a governmental entity requires that certain provisions of this Agreement be removed, replaced, amended or that additional provisions be incorporated, such provisions shall be deemed to be removed, replaced, amended or additional provisions incorporated into this Agreement as of the effective date of such Payor requirement for all Services provided which are subject to such Payor requirements without the signature of Facility Participating Provider being required.

9.2 Assignment. North Sound BH-ASO may assign all or any of its rights and responsibilities under this Agreement to any of its Affiliates. Facility Participating Provider may assign any of his or her rights and responsibilities under this Agreement to any person or entity only upon the prior written consent of North Sound BH-ASO, which consent shall not be unreasonably withheld.

9.3 Administrative Responsibilities. North Sound BH-ASO may delegate certain administrative responsibilities under this Agreement to another entity, including, but not limited to, its Affiliate or to Payor or its designee. In addition, certain Payor responsibilities may actually be performed by its designee.

9.4 Relationship Between North Sound BH-ASO and Facility Participating Provider. The relationship between North Sound BH-ASO and Facility Participating Provider is solely that of independent contractors and nothing in this Agreement or otherwise shall be construed or deemed to create any other relationship, including one of employment, agency, joint venture or partnership.

9.5 Name, Symbol and Service Mark. During the term of this Agreement, Facility Participating Provider, North Sound BH-ASO and Payor shall have the right to use each other's name solely to make public reference to Facility Participating Provider as a Facility Participating Provider. Facility Participating Provider, North Sound BH-ASO and Payor shall not otherwise use each other's name, symbol or service mark or that of their Affiliates without the prior written approval from the appropriate party.

9.6 Confidentiality. Subject to the requirements of the Washington Public Records Act (Chapter 42.56 RCW), now or as hereafter amended and/or construed, neither party shall disclose to third parties any confidential or proprietary business information which it receives from the other party, including, but not limited to, financial statements, business plans, Protocols and programs; except that (a) Facility Participating Provider may disclose information to an Individual

relating to the Individual's treatment plan and the payment methodology, but not specific rates; (b) North Sound BH-ASO may disclose certain terms to Payors or designees that need the information to process claims or administer a Benefit Plan, and may file the form of this Agreement with any federal or state regulatory entity as may be required by applicable law; and (c) North Sound BH-ASO shall be permitted to disclose, in its sole discretion, any other data or information that may be requested by applicable state and federal law, state regulations or governing agencies that pertain to this Agreement or that may relate to the enforcement of any right granted or term or condition of this Agreement.

9.7 Communication. North Sound BH-ASO encourages Facility Participating Provider to discuss with Individuals treatment options and their associated risks and benefits, regardless of whether the treatment is covered under the Individual's Benefit Plan. Nothing in this Agreement is intended to interfere with Facility Participating Provider's relationship with Individuals as patients of Facility Participating Provider, or with North Sound BH-ASO's ability to administer its quality improvement, utilization management and credentialing programs.

9.8 Effects of New Statutes and Regulations and Changes of Conditions. The parties agree to re-negotiate this Agreement if either party would be materially adversely affected by continued performance as a result of a change in laws or regulations, a requirement that one party comply with an existing law or regulation contrary to the other party's prior reasonable understanding, or a change in North Sound BH-ASO's arrangements with Payors. The party affected must promptly notify the other party of the change or required compliance and its desire to re-negotiate this Agreement. If a new agreement is not executed within 30 days of receipt of the re-negotiation notice, the party adversely affected shall have the right to terminate this Agreement upon 45 days prior written notice to the other party. Any such notice of termination must be given within 10 days following the expiration of the 30-day re-negotiation period.

9.9 Appendices. Additional and/or alternative provisions, if any, related to inpatient psychiatric Services rendered by Facility Participating Provider to Individuals eligible for North Sound BH-ASO behavioral health services, rates, and fees are set for in the Appendices, Attachments and Addendum

9.10 Entire Agreement. On the Effective Date, this Agreement supersedes and replaces any existing Facility Participating Provider Agreements between the parties related to the provision of inpatient psychiatric Services, including any agreements between Facility Participating Provider and Affiliates of North Sound BH-ASO for Inpatient psychiatric Services. This Agreement, together with any and all documents referenced herein, attachments, addenda, appendices, as may be amended or modified from time to time, whether contemporaneous or subsequently made pursuant to Section 9.1, are hereby incorporated herein by reference, and constitutes the entire agreement between the parties in regard to its subject matter (herein collectively referred to as this "Agreement").

9.11 Strict Compliance. The waiver of strict compliance or performance of any of the terms or conditions of this Agreement, the Supplemental Provider Service Guide or the Protocols or of any breach thereof shall not be held or deemed to be a waiver of any subsequent failure to comply strictly with or perform the same or any other term or condition thereof or any breach thereof.

9.12 Severability. Should any provision of this Agreement violate the law or be held invalid or unenforceable as written by a court of competent jurisdiction, then said provision along with the remainder of this Agreement shall nonetheless be enforceable to the extent allowable under applicable law by first modifying said provision to the extent permitted so as to comply with applicable law; otherwise said provision shall be deemed void to the extent of such prohibition without invalidating the remainder of this Agreement.

9.13 Rules of Construction. In the event of any conflict between the terms of this Agreement and the terms of any other agreement or any other controlling document or any applicable state or federal laws, statutes and regulations relating to the subject matter hereof, the terms, except as otherwise expressly stated herein, shall first be read together to the extent possible; otherwise the terms that afford the greater protections to first North Sound BH-ASO and second to the Health Care Authority shall prevail over the conflicting term, to the extent permitted by and in accordance with and subject to applicable law, statutes or regulations. The remainder of the Agreement shall otherwise remain without invalidating or deleting the remainder of the conflicting provision or the Agreement.

9.14 Governing Law. This Agreement shall be governed by and construed in accordance with applicable Washington state and federal laws, statutes and regulations, including without limitation, ERISA.

9.15 Survival. Upon any termination or expiration of this Agreement, the provisions herein which contemplates performance or observance subsequent to termination or expiration, including without limitation, sections 2.9, 2.10, 3.1, 3.2, 3.3, 3.4, 3.5, 4.2, 4.5, 9.6 and Articles 6 and 7, shall survive and remain of full force and effect between the parties.

THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION THAT MAY BE ENFORCED BY THE PARTIES.

Upon the acceptance and execution hereof by both parties hereto, the Effective Date of this Agreement is: _____

(to be completed by North Sound BH-ASO only)

**NORTH SOUND BEHAVIORAL HEALTH
ADMINISTRATIVE SERVICES ORGANIZATION**

301 Valley Mall Way, Ste.110
Mount Vernon, WA. 98273
Attn: Contract Administration

Signature _____

Joe Valentine

Executive Director

Date _____

NAME OF FACILITY PARTICIPATING PROVIDER

Fairfax Behavioral Health
10200 NE 132nd Street
Kirkland, WA 98034
Attn: Ron Escarda

Signature

Print Name: Ron Escarda

Title: CEO

Date

Federal Tax ID Number:

Medicare Number:

Medicaid Number:

**BUSINESS ASSOCIATE AGREEMENT
with Subcontractor Business Associate**

This Business Associate Agreement (this "**Agreement**") is effective as of the ____ day of ____, 20__ ("**Effective Date**") by and between NORTH SOUND BEHAVIORAL HEALTH-ADMINISTRATIVE SERVICES ORGANIZATION (**North Sound BH-ASO**) and BHC Fairfax Hospital, Inc. (dba Fairfax Behavioral Health) (**Contractor**) (individually, a "**Party**" and, collectively, the "**Parties**").

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

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

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

II. PERMITTED USES AND DISCLOSURES BY CONTRACTOR.

- 2.1 **Performance of Service Contract.** Contractor may use and disclose PHI and PII to perform functions, activities, or services for, or on behalf of, North Sound BH-ASO as specified in the Service Contract as long as the use or disclosure would not violate HIPAA, Part 2, and state and federal laws (collectively, "**Law**"), if done by North Sound BH-ASO or an Upstream Covered Entity.
- 2.2 **Management; Administration; Legal Responsibilities.** Contractor may use PHI and PII for its proper management and administration and to fulfill its legal responsibilities, as long as the uses are permitted under Law for an Upstream Covered Entity, North Sound BH-ASO, and Contractor.
- 2.3 **Required by Law.** Except as otherwise limited in this Agreement, Contractor may disclose PHI and PII as Required by Law. Contractor shall: (i) to the extent permitted by Law, immediately notify North Sound BH-ASO prior to the disclosure; (ii) cooperate with North Sound BH-ASO in

making any disclosures Required by Law, including efforts to challenge or limit the disclosure; and (iii) provide a copy of all information disclosed relating to this Agreement or the Service Contract.

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

III. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR.

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

known to Contractor or, through the exercise of reasonable diligence, would have been known to Contractor.

3.3.6 Content of Notification. Contractor shall provide: (i) information as required by the Breach Notification Rule and to fully inform North Sound BH-ASO of each Event; and (ii) any additional information requested by North Sound BH-ASO. At a minimum, the report of an Event shall include, to the extent possible:

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

3.4 Subcontractors. Contractor shall ensure any Subcontractor whom Contractor permits to create, receive, maintain, or transmit PHI or PII on behalf of Contractor or North Sound BH-ASO, agrees in writing: (i) to the same restrictions and conditions that apply through this Agreement to Contractor; and (ii) to comply with the requirements of the Security Rule that apply to Business Associates. Contractor shall not permit a Subcontractor to create, receive, maintain, or transmit PHI or PII unless Contractor has performed adequate due diligence on the Subcontractor and found Subcontractor's safeguards appropriate.

3.5 Restrictions. Contractor agrees to comply with any requests for restrictions on certain uses and disclosures of PHI or PII of which North Sound BH-ASO informs Contractor.

3.6 Access. At the request of North Sound BH-ASO, within ten (10) business days, unless a shorter time period is requested, in the manner, form, and format requested by North Sound BH-ASO, Contractor shall make available PHI and PII so that North Sound BH-ASO or an Upstream Covered Entity may respond to an Individual's request for access to PHI and PII in accordance with the Standards for Privacy of Individually Identifiable Health Information (the "**Privacy Rule**") and other Law. In the event an Individual requests from Contractor access to PHI or PII, Contractor, to the extent permitted by Law, shall forward the request to North Sound BH-ASO within two (2) business days.

3.7 Amendment. At the request of North Sound BH-ASO, in a reasonable time and manner and in the form and format requested by North Sound BH-ASO, Contractor shall make amendments to PHI and PII so that North Sound BH-ASO or an Upstream Covered Entity may respond to an Individual's request for an amendment by North Sound BH-ASO in accordance with the Privacy Rule and other Law. In the event an Individual requests from Contractor any amendments, to the extent permitted by Law, Contractor shall forward the request to North Sound BH-ASO within two (2) business days.

- 3.8 **Accounting of Disclosures.** Contractor shall document any disclosures that are required to be in an accounting of disclosures under the Privacy Rule and, upon request, shall provide information required to be included in an accounting of disclosures to North Sound BH-ASO to permit North Sound BH-ASO or an Upstream Covered Entity to comply with the Privacy Rule and other Law. In the event an Individual requests from Contractor, an accounting of disclosures, to the extent permitted by law, Contractor shall forward the request to North Sound BH-ASO within two (2) business days.
- 3.9 **Disclosures to the Secretary.** Contractor agrees that it will make its internal practices, books, and records available to the Secretary of the United States Department of Health and Human Services (the "**Secretary**"), for the purpose of determining an Upstream Covered Entity's, North Sound BH-ASO's or Contractor's compliance with HIPAA, and to North Sound BH-ASO for the purpose of determining Contractor's compliance with this Agreement, HIPAA, and other Law, in a time and manner designated by the Secretary or North Sound BH-ASO. Contractor: (i) immediately shall notify North Sound BH-ASO of any requests from the Secretary pertaining to an investigation of an Upstream Covered Entity's, North Sound BH-ASO's, or Contractor's compliance with HIPAA; (ii) cooperate with North Sound BH-ASO in responding to the Secretary's request; and (iii) provide to North Sound BH-ASO a copy of all documents provided to the Secretary.
- 3.10 **Part 2 Information.**
- 3.10.1 **Part 2 Obligations of Contractor.** To the extent that, in performing services for or on behalf of North Sound BH-ASO under the Service Contract, Contractor uses, discloses, maintains, or transmits Part 2 Information, Contractor acknowledges and agrees that it: (i) is fully bound by Part 2; (ii) with respect to Part 2 Information received by North Sound BH-ASO pursuant to an authorization or consent, will limit its use and disclosure of Part 2 Information to Payment and Health Care Operations purposes; and (iii) if necessary, will resist in judicial proceedings any efforts to obtain access to Part 2 Information except as permitted by Part 2.
- 3.10.2 **Notice.** 42 CFR Part 2 prohibits unauthorized disclosure of these records.
- 3.10.3 **Redisclosure.** Contractor shall not redisclose Part 2 Information to a third party unless the third party is a contract agent of Contractor helping Contractor provide services under the Service Contract and only as long as the agent further discloses Part 2 Information only back to Contractor or North Sound BH-ASO.
- 3.10.4 **Compliance.** Contractor acknowledges that any unauthorized disclosure of Part 2 Information may be a federal criminal offense.
- 3.11 **Sexually Transmitted Disease Information Notice.** With respect to sexually transmitted disease information: This information has been disclosed to you (Contractor) from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of it without the specific written authorization for the release of medical or other information is NOT sufficient for this purpose.
- 3.12 **Covered Entity Obligations.** To the extent that Contractor is to carry out one or more of Covered Entity obligations under the Privacy Rule, Contractor shall comply with the requirements of the Privacy Rule that apply to a Covered Entity in the performance of the obligations.
- 3.13 **On-Site Services.** Contractor agrees that, while present at any North Sound BH-ASO facility and/or when accessing North Sound BH-ASO's computer networks, it and all of its Workforce, agents, and Subcontractors at all times will comply with any network access and other security

practices, policies, and procedures established by North Sound BH-ASO including, without limitation, those established pursuant to HIPAA.

- 3.14 **No Sale of PHI.** Contractor agrees that it will not directly or indirectly receive remuneration in exchange for any PHI or PII without: (a) the written authorization of each applicable Individual, except when expressly permitted by the Privacy Rule; and (b) the advance written permissions of North Sound BH-ASO.
- 3.15 **No Impermissible Marketing or Fundraising Communication.** Contractor agrees that it will not engage in Marketing or fundraising communications that would not be permitted by North Sound BH-ASO or an Upstream Covered Entity under HIPAA.
- 3.16 **Mitigation.** Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PHI or PII by Contractor in breach of this Agreement, failure to comply with applicable Law, and any Event, as defined in Section 3.3.
- 3.17 **Compliance with Applicable Law.** Contractor shall comply with applicable Law. Contractor shall not act or fail to act in a manner that causes North Sound BH-ASO to not be in compliance with applicable Law.

IV. **OBLIGATIONS OF NORTH SOUND BH-ASO.** North Sound BH-ASO shall not request Contractor to act in a manner that is not permissible under HIPAA.

V. **TERM AND TERMINATION.**

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

VI. MISCELLANEOUS.

- 6.1 **Indemnification Obligation.** Notwithstanding anything to the contrary in the Service Contract, Contractor will indemnify, defend at North Sound BH-ASO's request, and hold harmless North Sound BH-ASO, its Workforce, County Authorities Executive Committee, Advisory Board, partners, agents, and Subcontractors (collectively "**North Sound BH-ASO Indemnified Parties**") from and against any and all claims, actions, investigations, proceedings, losses, liability, damages, costs, and expenses (including attorneys' fees, costs of defense, and costs of investigation, mitigation, remediation, and notification) incurred or suffered by an North Sound BH-ASO Indemnified Party (collectively, "**Damages**") that arise out of, result from, allege, or relate to any of the following: (i) Contractor's breach of this Agreement, including any breach of any representation or warranty; (ii) any Event reported by Contractor under this Agreement; (iii) any violation of Law by or caused by Contractor or its Workforce, agents, or Subcontractors; or (iv) any negligent act or omission, willful misconduct, strict liability, or fraud by or of Contractor or its Workforce, agents, or Subcontractors.
- 6.2 **Coverage of Costs.** In addition, and without limitation of Supplier's obligations under Section 6.1, Supplier will pay the reasonable costs incurred by North Sound BH-ASO and any affected Upstream Covered Entities in connection with the following items with respect to any Event: (a) any investigation to determine the cause of an Event, including forensic consultations; (b) legal advice regarding an Event; (c) provision of notification of an Event to affected Individuals, applicable government, relevant industry self-regulatory agencies, and the media; (d) provision of credit monitoring and/or identity theft services to affected Individuals; (e) operation of a call center to respond to questions from Individuals; and (f) other reasonable mitigation efforts as deemed necessary or appropriate by North Sound BH-ASO and any affected Upstream Covered Entity.
- 6.3 **Process for Indemnification.** North Sound BH-ASO will notify Contractor of any Damages for which it seeks indemnification. Upon a North Sound BH-ASO request for defense, Contractor will use counsel reasonably satisfactory to the North Sound BH-ASO Indemnified Parties to defend each claim related to the Damages and will keep the North Sound BH-ASO Indemnified Parties informed of the status of the defense of each of the Damages. North Sound BH-ASO will give Contractor reasonable assistance, at Contractor's expense, as Contractor may reasonably request. North Sound BH-ASO will provide Contractor the opportunity to assume sole control over defense and settlement, as long as Contractor will not consent to the entry of any judgment or enter into any settlement without the North Sound BH-ASO Indemnified Parties' prior written consent, which will not be unreasonably withheld. Any North Sound BH-ASO Indemnified Party may participate in the defense at its own expense. Contractor's duty to defend is independent of its duty to indemnify, to mitigate, or to cover costs.
- 6.4 **Not Limited by Insurance Coverage.** Contractor's indemnification, mitigation, coverage of costs, and defense obligations will not be limited in any manner whatsoever by any required or other insurance coverage maintained by Contractor.
- 6.5 **No Limitations on Liability.** Notwithstanding any other provision of this Agreement or the Service Contract, in no event will any exclusions, disclaimers, waivers, or limitations of any nature whatsoever apply to any damages, liability, rights, or remedies arising from or in connection with: (i) Contractor's indemnification and defense obligations under this Agreement; (ii) Contractor's breach of this Agreement, including any breach of any representation or warranty; (iii) any Event reported by Contractor; (iv) any violation of Law by or caused by Contractor or its Workforce, agents, or Subcontractors; or (v) any negligent act or

omission, willful misconduct, strict liability, or fraud by or of Contractor or its Workforce, agents, or Subcontractors.

- 6.6 **Ownership of Information.** The Parties agree that Contractor shall not have an ownership interest in PHI or PII or any derivations of the PHI or PII.
- 6.7 **Insurance.** Contractor shall maintain appropriate and adequate insurance coverage, including cyber insurance, to cover Contractor's obligations pursuant to this Agreement. Contractor's cyber insurance shall be no less than one million dollars (\$1,000,000) per occurrence. Upon request, Contractor shall provide evidence of insurance coverage.
- 6.8 **Equitable and Injunctive Relief.** The Parties acknowledge that the use or disclosure of PHI or PII in a manner inconsistent with this Agreement may cause North Sound BH-ASO and its Upstream Covered Entities irreparable damage and that North Sound BH-ASO and its Upstream Covered Entities shall have the right to equitable and injunctive relief, without having to post bond, to prevent the unauthorized use or disclosure of PHI or PII and to damages as are occasioned by an Event in addition to other remedies available at law or in equity. North Sound BH-ASO's and Upstream Covered Entities' remedies under this Agreement and the Service Contract shall be cumulative, and the exercise of any remedy shall not preclude the exercise of any other.
- 6.9 **Third Party Beneficiaries.** Notwithstanding anything to the contrary in the Service Contract or this Agreement, Individuals who are the subject of PHI shall be third party beneficiaries to this Agreement. Subject to the foregoing, nothing in this Agreement shall confer upon any person other than the Parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- 6.10 **Interpretation.** This Agreement shall be interpreted in a manner consistent with the Parties' intent to comply with HIPAA, Part 2, and other Law. Any ambiguity of this Agreement shall be resolved in favor of a meaning that permits the Parties to comply with HIPAA, Part 2, and other Law. In the event of an inconsistency between the provisions of this Agreement and mandatory provisions of HIPAA, HIPAA shall control. In the event of any inconsistency between this Agreement and the Service Contract or any other agreement between the Parties, the terms of this Agreement shall control. Nothing in this Agreement shall be construed as a waiver of any legal privilege or protection, including for trade secrets or confidential commercial information.
- 6.11 **Survival.** The obligations of Contractor under Sections 3.2, 3.3, 3.6, 3.8, 3.10, 3.11, 3.14, 3.16, 5.3, 6.1, 6.2, 6.3, 6.4, 6.6, 6.8, and 6.9 of this Agreement shall survive the expiration, termination, or cancellation of this Agreement, the Service Contract, and/or the business relationship of the Parties, and shall continue to bind Contractor, its Workforce, agents, employees, subcontractors, successors, and assigns as set forth in this Agreement.
- 6.12 **Amendment.** This Agreement may be amended or modified only in a writing signed by the Parties. The Parties agree that they will negotiate amendments to this Agreement to conform to any changes in HIPAA and Part 2.
- 6.13 **Assignment.** Neither Party may assign its respective rights and obligations under this Agreement without the prior written consent of the other Party.
- 6.14 **Independent Contractor.** None of the provisions of this Agreement are intended to create, nor will they be deemed to create, any relationship between the Parties other than that of independent parties contracting with each other solely for the purposes of effecting the provisions of this Agreement and any other agreements between the Parties evidencing their business relationship. No agency relationship is deemed created by this Agreement.

- 6.15 **Governing Law.** To the extent this Agreement is not governed exclusively by HIPAA, Part 2, or other Law, it will be governed by and construed in accordance with the laws of the State of Washington.
- 6.16 **No Waiver.** No change, waiver, or discharge of any liability or obligation under this Agreement on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.
- 6.17 **Severability.** In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this Agreement will remain in full force and effect.
- 6.18 **Notice.** Any notification required in this Agreement shall be made in writing to the representative of the Party who signed this Agreement or the person currently serving in that representative's position with the other Party.
- 6.19 **Entire Agreement.** This Agreement constitutes the entire understanding of the Parties with respect to its subject matter and supersedes all prior agreements, oral or written.

IN WITNESS WHEREOF, the Parties have executed, through representatives with the authority to bind each Party, this Agreement effective as of the Effective Date.

NORTH SOUND BH-ASO

By: _____

Title: Executive Director

Date: _____

CONTRACTOR

By: _____

Title: CEO

Date: _____

EXHIBIT A

INPATIENT ITA PSYCHIATRIC SERVICES

I. WORK STATEMENT

The Facility Participating Provider shall provide certified involuntary inpatient for Non-Medicaid eligible individuals in a licensed facility that is qualified to provide mental health inpatient services as outlined in WAC 246-341-1118 or any successors.

Funding Source

The Facility Participating Provider will be reimbursed on a per diem basis at the HCA published rate for Non-Medicaid Individuals. The maximum reimbursement is determined by the total number of bed days provided monthly during the contract period. Per Diem will be paid at the Health Care Authority's published psychiatric inpatient hospital rates. <https://www.hca.wa.gov/billers-providers-partners/prior-authorization-claims-and-billing/hospital-reimbursement>

Funding is contingent on an individual's lack of coverage through Medicaid, Medicare or any other behavioral health benefit and is at or below 220% of the federal poverty level.

II. Certification and/or Authorization

Services to eligible individuals must be certified by North Sound BH-ASO for involuntary services.

1. Involuntary Treatment Act Inpatient services requires Notification of Admission within 24 hours to the North Sound BH-ASO.
2. ITA notification of admission forms and certification processes can be found at <https://nsbhaso.org/for-providers>
3. Admission
 - a. Provide efficient intake screenings and make admission determinations on involuntary within (1) hour from the point of referral.

PROGRAM DESCRIPTION

B. Goal

1. To provide acute psychiatric hospital services for Non-Medicaid individuals who require involuntary treatment in accordance with the Involuntary Treatment Act and 71.05 and 71.34 RCW.

C. Objectives

1. To provide eligible Non-Medicaid individuals with timely involuntary inpatient psychiatric intervention, resolution, referral, and follow-up services.
2. To stabilize individuals' symptoms as quickly as possible and assist them in returning to a level of functioning that no longer requires inpatient psychiatric services.

D. Eligibility

An individual in the North Sound BH-ASO regional service area:

1. Is detained and referred by a Designated Crisis Responder (DCR) for involuntary treatment and extended stay certification as needed.
2. The DCR has requested and received approval from the HCA for the use of a single Bed certification as described in RCW 71.05.745

E. General Program Requirements

1. The Facility Participating Provider shall be licensed and certified to provide inpatient psychiatric services under this Exhibit as described WAC's, 246-341, and/or 246-322 or any successors.
2. The facility has requested and received approval from the HCA for the use of a Single Bed certification as described in RCW 71.05.745
3. Additional requirements, as applicable, are described in:
 - a. The Washington State Health Care Authority Provider Mental Health Billing Guides and Fee Schedules for Inpatient Hospital, as applicable.
 - b. North Sound BH-ASO Policies for Utilization Management at <http://www.nsbhaso.org>

F. Involuntary Treatment Considerations

The Facility Participating Provider shall provide court evaluation and testimony services including, but not limited to:

1. Preparation and timely filing of legal documents pertaining to the involuntary detention of patients at the facility as required by 71.05, 71.34 RCW, applicable WACs and the County Superior Court system;
2. Provision of appropriate facilities around video court, where applicable;
3. Provision of expert witness testimony at court hearings pertaining to the involuntary detention of patients at the facility; and
4. If individuals are court-ordered to appear in person, accompanying the individuals throughout the time they are in court and taking steps to provide a safe return to the facility after the proceedings.

5. The Facility Participating Provider shall notify North Sound BH-ASO of any ITA discharge on a Less Restrictive Alternative (LRA) order under RCW 71.05.320 for compliance with LRA requirements.
6. The Facility Participating Provider shall notify and receive agreement from a certified accepting agency per RCW 71.05.585 that Less Restrictive treatment will be administered upon discharge from the inpatient facility.

G. Program-Specific Requirements

Facility Participating Provider shall provide involuntary psychiatric inpatient services to referred:

- a. Youth (ages 13-17)
- b. Adults (ages 18 to 54) and
- c. Older adults (ages 55+).

Treatment Services

The Facility Participating Provider shall provide involuntary inpatient psychiatric services according to the psychiatric standards of care that meet state of Washington and Federal requirements, according to North Sound BH-ASO Supplemental Provider Service Guide, relevant Utilization Management Policies and Clinical Practice Guidelines.

The Facility Participating Provider shall provide individualized treatment services in accordance with relevant WACs. Treatment Services should include, but are not limited to the following:

- a. Diagnostic and evidenced-based therapeutic services and physical healthcare services for identified co-morbid conditions;
- b. Inclusion of family, significant others, and natural supports, with the consent of the individual served and as clinically appropriate;
- c. Medication evaluation, provision of medications, medication management, and medication monitoring by qualified staff members
 - i. Medication monitoring is completed by a psychiatrist, psychiatric nurse practitioner or physician's assistant under the supervision of a psychiatrist at least 6 out of every seven days
- d. Psychiatric services including social work services coordinate and supervised by social worker with experiences with psychiatric patients;
- e. A child Psychiatrist for regular consultation when hospital policy permits admission of children or adolescents;
- f. A mental health professional or substance use disorder professional, as appropriate, must have daily contact with each individual and provide supporting documentation for the purpose of determining the need for continued involuntary treatment; and for the purpose of providing evidence-based psycho-therapeutic intervention appropriate to the presentation and ongoing treatment needs;

- a. Upon the individual's admission, the Facility Participating Provider shall communicate directly with ongoing outpatient behavioral health treatment providers for coordination of care prior to discharge.
- b. If an individual does not have an ongoing outpatient behavioral health treatment provider in place prior to admission to the hospital, the Facility Participating Provider shall facilitate linkage to these services prior to discharge.
- c. The Facility Participating Provider must demonstrate ongoing assistance to individuals who are not enrolled until time of discharge, but eligible for Medicaid to apply for coverage.
- d. Coordinate a community-based discharge plan for each Individual served under this Contract. Discharge planning shall initiate upon admission and shall apply to all Individuals.
- e. Coordinate services to financially eligible Individuals who need medical services

2. Discharge Planning

The Facility Participating Provider shall develop and implement an appropriate, timely, and individualized discharge plan for individuals in accordance with WAC 246-322-170. Discharge planning services should include, but are not limited to the following:

- a. Integration within the Comprehensive Treatment Plan
- b. Linkage to outpatient behavioral health treatment services for individuals without a service connection in place. Coordination with appropriate ongoing outpatient behavioral health treatment providers for individuals with service connection in place;
- c. Inclusion of family, significant others, and natural supports, with the consent of the individual served and as clinically appropriate;
- d. Supply of medications prescribed during the inpatient hospital stay sufficient to allow continuous treatment until the patient can be seen by an outpatient prescriber, and a specific plan for filling ongoing prescriptions;
- e. Coordination with community resources, including discharge to stable and safe housing with a specific transportation plan at the time of discharge, whenever possible; and
- f. For residents outside of the North Sound Regional Service Area who are detained in the North Sound Regional Service Area by a North Sound BH-ASO contracted DCR provider the Facility Participating Provider must contact the county of residence for purposes of discharge planning.

3. Change in Circumstances

The Facility Participating Provider shall notify North Sound BH-ASO within 24 hours or the next business day (whichever is sooner) of the following changes in an individual's status after admission:

- a. Change in Principle Diagnosis: from a covered diagnosis to one that is not covered and from a diagnosis that is not covered to one that is covered; or
- b. Change in Legal Status: changes from involuntary to voluntary status or from voluntary to involuntary status per 71.05 and 71.34 RCW.
- c. Change in Hospital of Service (transfer): If the client is to be transferred from one hospital to another hospital during the course of inpatient psychiatric care, the hospital from which the client is being transferred must contact the ASO to request a new authorization for services to be provided in a new hospital 24 hours prior to the change in facility. Hospitals must ensure for involuntarily detained individuals are transferred, copies of any ITA court papers accompany the individual.
- d. Eligibility Change: Changes in Medicaid enrollment.

4. Continuing Stay

- a. For Involuntary Stays
 - i. The number of initial days certified for an involuntary psychiatric admission is limited to twenty days from date of detention
 - ii. The Facility Participating Provider must submit an extension request 24 hours prior to the end of the ITA certification period.
 - iii. North Sound BH ASO cannot deny extension request for adults who are detained under RCW 71.05 or 71.34 unless another less restrictive alternative is available. Concurrent reviews will occur to determine ongoing funding eligibility, progress toward recovery and readiness for discharge while the individual is hospitalized.

5. Retrospective Authorization/Certifications

For involuntary inpatient services for individuals detained under RCW 71.05 or 71.34, the Facility Participating Provider must contact North Sound BH ASO within 72 hours prior to the end of the current certification expiration and will render ITA certification decisions when the hospital notification did not occur within timelines stipulated.

6. Referral to Children's Long-Term Inpatient Program (CLIP)

The Facility Participating Provider shall follow CLIP referral procedures outlined in HCA's Mental Health Billing Guide, CLIP Administration and North Sound BH ASO policies and procedures.

7. Critical Incidents

The Facility Participating Provider shall track and report any critical incidents per the North Sound BH-ASO's policies and procedures and in the requirements in North Sound BH-ASO Supplemental Provider Service Guide

8. Grievances

The Facility Participating Provider shall ensure individuals are aware of their right to file a grievance and shall respond to grievances as outlined in North Sound BH-ASO *policies and procedures*, Supplemental Provider Service Guide and WAC 182-538C-110.

III. COMPENSATION AND METHOD OF PAYMENT

A. Billing

North Sound BH-ASO is always the payer of last resort. North Sound BH-ASO will not initially pay claims as primary if there is another payer such as Medicaid, Medicare or commercial insurance. The facility must have received certification for involuntary inpatient treatment or authorization for voluntary inpatient treatment from North Sound BH ASO according to the timelines stipulated in this contract and relevant North sound BH ASO Utilization Management policies.

The Facility Participating Provider shall submit 837i transaction with P1 number (for involuntary stays) and associated certification/authorization number and dates of services in accordance with WAC 245-455-020.

The 837i shall be submitted through the Secure File Server according to the Secure File Transfer protocols instructions provided by North Sound BH-ASO.

- B. A "bed day" is defined as beginning at 12:00 am (aka 00.00) and ending twenty-three hours and fifty-nine minutes later at 11:59 pm (aka 23:59)

C. Method of Payment

The contractor shall be reimbursed for occupancy as follows:

1. Maximum daily psychiatric inpatient bed rates for the term of this Exhibit shall not exceed the published rates for bed days: <https://www.hca.wa.gov/billers-providers-partners/prior-authorization-claims-and-billing/hospital-reimbursement>
2. Reimbursement will be made monthly according to the following formula:
Number of psychiatric inpatient bed days: actual occupancy minus the day of discharge x daily bed rate.