

**SPECIFIC CONTRACTUAL AGREEMENT-  
BETWEEN NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF MENTAL HEALTH,  
DEVELOPMENTAL DISABILITIES & SUBSTANCE ABUSE SERVICES AND  
MECKLENBURG COUNTY AREA MENTAL MH/DD/SAS  
AND THE PRESBYTERIAN HOSPITAL**

This contract is hereby entered into by and between the North Carolina Department of Health and Human Services, Division of Mental Health, Developmental Disabilities and Substance Abuse Services (the "Division") and **Mecklenburg County Area MH/DD/SAS** (the "LME Contractor") and **The Presbyterian Hospital**. (the "Community Hospital Contractor") (referred to collectively as the "Parties"). The Community Hospital Contractor's federal tax identification number is **56-0554230**. The primary purpose of this contract is for the establishment and usage of New Local Psychiatric Inpatient Bed Capacity at the local community level to cover the cost of indigent acute care.

**1. Contract Documents:** This Contract consists of the following documents:

- (1) This contract;
- (2) The Scope of Work, description of services (Attachment A);
- (3) Financing Budget / Reimbursement, and Reporting Requirements (Attachment B);
- (4) HIPAA Business Associate Addendum (Attachment C);
- (5) Federal Requirement Certificates (Attachment D 1- 4).

These documents constitute the entire agreement between the Parties and supersede all prior oral or written statements or agreements.

**2. Precedence Amongst Contract Documents:** In the event of a conflict between or among the terms of the Contract Documents, the terms in the Contract Document with the highest relative precedence shall prevail. The order of precedence shall be the order of documents as listed in Paragraph 1, above, with the first-listed document having the highest precedence and the last-listed document having the lowest precedence. If there are multiple Contract Amendments, the most recent amendment shall have the highest precedence and the oldest amendment shall have the lowest precedence.

**3. Effective Period:** This contract shall be effective on **July 1, 2013** and shall terminate on **June 30, 2015** with the option to extend, if mutually agreed upon, through a written amendment as provided for in the Contract Agreement.

**4. LME Duties:** The LME Contractor shall provide the services as described in Attachment A, Scope of Work and in accordance with the approved budget in Attachment B, Financing Budget / Reimbursement, and Reporting Requirements narrative.

**5. Community Hospital Duties:** The Community Hospital Contractor shall provide the services as described in Attachment A, Scope of Work and in accordance with the approved budget in Attachment B, Financing/Reimbursement and Reporting Requirements narrative. The Community Hospital Contractor agrees that **nine (9)** beds are available for the use and purposes of this contract.

**6. Division's Duties:** The Division shall pay the LME Contractor, the LME Contractor will pay the Community Hospital Contractor in the manner and in the amounts specified in the Contract Documents. The total amount paid by the Division under this contract shall not exceed **\$3,695,626 (SFY 13-14 \$1,847,813 and SFY 14-15 \$1,847,813)**.

**7. Matching Requirements:**

a. There are no matching requirements from the Parties of this contract.

b. The Community Hospital Contractor's matching requirement is \$ \_\_\_\_\_, which shall consist of:

- |   |  |
|---|--|
| <input type="checkbox"/> In-kind          | <input type="checkbox"/> Cash                |
| <input type="checkbox"/> Cash and In-kind | <input type="checkbox"/> Cash and/or In-kind |

The contributions from the Contractor shall be sourced from non-federal funds.

The reimbursement rate amount in this contract is \$750.00 as a flat rate per service unit (day).

**8. Availability of Funds:** Division payment for approved inpatient services or approved bed capacity purchases shall be limited to the current fiscal year availability of Division funds in the psychiatric inpatient hospital fund reserve. The division reserves the right to amend contract amounts based on service utilization.

**9. Reporting Requirements:** The Division has determined that this is a contract for financial assistance, and therefore is subject to the reporting requirements described in Attachment B.

**10. Contract Administrators:** All notices permitted or required to be given by one Party to the other and all questions about the contract from one Party to the other shall be addressed and delivered to the other Party's Contract Administrator. The name, post office address, street address, telephone number, fax number, and email address of the Parties' respective initial Contract Administrators are set out below. Either Party may change the name, post office address, street address, telephone number, fax number, or email address of its Contract Administrator by giving timely written notice to the other Party.

**For the Division:**

IF DELIVERED BY US POSTAL SERVICE	IF DELIVERED BY ANY OTHER MEANS
Dave Richard, Director NC Division of MH/DD/SAS, Director's Office 3001 Mail Service Center Raleigh, NC 27699-3001  Telephone: 919-733-7011 Fax: 919-508-0951 Email: <a href="mailto:Dave.Richard@dhhs.nc.gov">Dave.Richard@dhhs.nc.gov</a>	Dave Richard, Director NC Division of MH/DD/SAS, Director's Office 325 N Salisbury Street Raleigh, NC 27603-5906

**For the LME Contractor:**

IF DELIVERED BY US POSTAL SERVICE	IF DELIVERED BY ANY OTHER MEANS
Ken O'Neil, CFO Mecklenburg Co. MH/DD/SAS 429 Billingsley Road Charlotte, NC 28211-1098  Telephone :704-336-2023 Fax: 704-336-4383  Email: <a href="mailto:Kenneth.Oneil@MecklenburgCountyNC.org">Kenneth.Oneil@MecklenburgCountyNC.org</a>	

**For the Community Hospital Contractor:**

IF DELIVERED BY US POSTAL SERVICE	IF DELIVERED BY ANY OTHER MEANS
<a href="#">Chief Operation Officer</a> <a href="#">The Presbyterian Hospital</a> <a href="#">PO Box 33549</a> <a href="#">Charolotte, NC 28233-3549</a>  <a href="#">Telephone : 704-384-4000</a> <a href="#">Fax:</a>  <a href="#">Email:</a>	<a href="#">Chief Operation Officer</a> <a href="#">The Presbyterian Hospital</a> <a href="#">200 Hawthorne Lane</a> <a href="#">Charlotte, NC 28204</a>

## 11. Special Terms and Conditions for Health Care Providers:

- (1) **Service Standards:** During the term of this Agreement, the Community Hospital Contractor and its employees, agents, and subcontractors shall provide high quality, professional services consistent with the standards of practice in the geographic area and with all applicable federal, state, and local laws, rules and regulations, all applicable ethical standards, and standards established by applicable accrediting agencies. The Community Hospital Contractor and its employees, agents, and subcontractors shall exercise independent professional judgment in the treatment and care of patients.
- (2) **Records:** During the term of this Agreement, the Community Hospital Contractor and its employees, agents, and subcontractors shall maintain complete and professionally adequate medical records consistent with the standards of practice in the geographic area and their respective health care professions. The Community Hospital Contractor and its employees, agents, and subcontractors shall prepare all reports, notes, forms, claims and correspondence that are necessary and appropriate to their professional services.
- (3) **Licenses:** During the term of this Agreement, the Community Hospital Contractor and its employees, agents, and subcontractors shall hold current facility and occupational licenses and certifications at the levels required to practice their professions and to provide the contracted services in the State of North Carolina.
- (4) **Professional Liability Insurance:** During the term of this Agreement, the Community Hospital Contractor shall ensure that the Community Hospital Contractor and its employees, agents, and subcontractors each maintain, through an insurance company or through a program of self-funded insurance, professional liability insurance with limits of at least \$1,000,000 per occurrence and at least \$3,000,000 in the aggregate.

## 12. Representations and Certifications:

The Community Hospital Contractor, by signature affixed to this contract, certifies it is in compliance with federal assurances for Debt, Debarment, Lobbying, Drug-Free Workplace and Environmental Tobacco Smoke as referenced in the Attachment - D of this Contract.

## 13. Termination:

Any Party to this agreement may initiate termination with no less than a 90 day written notice of that intention to other Parties. Contract may also be terminated for cause due to nonperformance or malfeasance with a 30 day written notice.

**Signature Warranty:**

The undersigned represent and warrant that they are authorized to bind their principals to the terms of this agreement.

**In Witness whereof**, the Contractors and the Division have executed this contract in triplicate originals, with one original being retained by each party.

***The Presbyterian Hospital***

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Printed Name Title

**WITNESS**

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Printed Name Title

***MeckLINK Behavioral Healthcare***

Per G.S. 159-28, this instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Printed Name Title

**WITNESS**

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Printed Name Title

***Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, North Carolina Department of Health and Human Services***

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Printed Name Title

### **The Scope of Work, description of services**

This Contract is being issued by the North Carolina Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for the purchase of new local inpatient psychiatric beds or bed days in collaboration effort with LMEs and Community Hospitals for the allocation of State appropriated funds in an effort to support a statewide crisis response system which includes new local psychiatric inpatient capacity that is distributed across the State according to need, as determined by the Department. The goals of this proposal are to demonstrate an increase in bed capacity across the state and a decreased usage of short stay admissions at State Psychiatric Hospital Facilities.

#### **Description of work for the Division:**

- The Department (the Division) shall enter into contracts with the LMEs and Community Hospitals for the management of these beds or bed days.
- The Department shall determine, according to need, how these beds or bed days shall be distributed across the State.
- The Department shall not allocate these funds to LMEs, but shall be held in a statewide reserve at the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to pay for services authorized by the LMEs and billed by the Community Hospitals through the LMEs.
- If the Department determines (i) that an LME Contractor is not effectively managing the beds or bed days for which it has responsibility, as evidenced by beds or bed days in the Community Hospital not being utilized while demand for services at the State psychiatric hospitals has not reduced, or (ii) the LME Contractor has failed to comply with prompt invoice submission to the Division and / or the payment provision listed below of this subsection, the Department may reduce contract funds, contract with another LME to manage the beds or bed days, or, notwithstanding any other provision of law to the contrary, may pay the Community Hospital Contractor directly.
- The Department shall develop reporting requirements for LMEs regarding the utilization of the beds or bed days.
- The Department will maintain an inventory list of active census reporting by participating parties for the utilization and daily census of availability in effort to divert admissions from the State Hospital Facilities.

#### **Description of work for the LME Contractor:**

- The LME Contractor, in conjunction with the Community Hospital Contractor, shall authorize local inpatient psychiatric beds or bed day admissions including the determination of which local Community Hospital or State hospital the individual should be admitted to pursuant to an involuntary commitment order.
- The LME shall authorize care for payment purposes starting with an initial authorization of 4 consecutive days for detox and 7 consecutive days for inpatient psychiatry and requires a reauthorization for payment beyond 4 and 7 days.
- The LME may authorize inpatient bed days retroactively up to 72 hours in the cases where LME authorizing staff were not available at time of admission or an individual who would have met criteria for 3 way contract admission but thought to have alternate funding was later found not to have insurance or funding to pay for their inpatient care.
- The LME Contractor, as part of this contract, shall utilize their full continuum of crisis services, LME Hospital Liaison staff and/or Service Management (Care Management Coordination) staff for patient admissions and discharge planning.
- The LME Contractor shall enroll all patients into the Client Data Warehouse (CDW); consumers from the home LME Contractor's catchment area and including patients from other LMEs home of origin.
- The LME Contractor shall ensure that admission and discharge protocols, procedures and processes are in place. All patients discharged will have proactive discharge plans in place prior to leaving the Community Hospital. If the patient being discharged is being done so with an active prescription for psychotropic medication the LME Contractor must ensure that the patient has a scheduled appointment with a prescriber within fourteen days from the date of discharge. The LME Contractor, with the involvement of the Community Hospital, shall designate either LME Hospital Liaison staff or the Care Management Coordination staff to engage the Clinical Home provider, if one is assigned, or be directly involved for purposes of proactive discharge planning.
- The LME Contractor and Community Hospital, parties to this contract, shall ensure that "NO" patient is discharged without an appropriate discharge plan and an appropriate shelter. As a part of appropriate discharge planning, the LME Contractor and/or Community Hospital Contractor will find alternative transportation services when a patient has no means of either getting home or to an alternative living

arrangement after discharge. It is the responsibility of both parties to work on developing alternative transportation arrangements.

- The LME Contractor, in working with the Community Hospital Contractor, will ensure that all patients get a follow-up appointment, with the patients LME of origin, within a seven day period after discharge. If the Community Hospital Contractor is unable to make these arrangements, the LME Contractor will assist in getting the Clinical Home Provider involved or will make arrangements for follow-up care with either the regional mobile crisis management service and/or the Walk-in Immediate Psychiatric Aftercare clinic, ensuring an appointment is made within a seven day period.
- When other LMEs not subject to this agreement seek to admit clients to the Community Hospital Contractor for diversion purposes as referenced in this contract, they will seek authorization approval from the LME Contractor prior to contacting the Community Hospital Contractor allowing admission.
- The LME Contractor shall remit claims to the Division through the Integrated Payment and Reporting System (IPRS) within 15 working days of receipt of a clean claim from the Community Hospital Contractor, and the Division shall pay the LME upon adjudication of the claim by IPRS. The LME will remit payment to the Community Hospital Contractor for services billed within 10 working days of receipt of payment from the Division of MH/DD/SAS.

**Description of Services / work for the Community Hospital Contractor:**

- Funds shall be used for the purchase of “new or newly expanded capacity” of local inpatient psychiatric beds or bed days.
- The Community Hospital Contractor will ensure that all individuals providing service under this contract are properly privileged, credentialed, and supervised. Supervision provided shall be consistent with any applicable requirements of the professions of individuals providing service.
- The Community Hospital Contractor will accept individuals who meet the Involuntary Commitment criteria (IVC) and individuals who willingly admit themselves to an inpatient unit with the authorization of the LME Contractor to ensure payment of services.
- The Community Hospital Contractor must complete the review process for designation of 24-hour facilities for the custody and treatment of involuntary clients in accordance with GS § 122C-252 to assure protection of the client and the general public. The process by which requests for designation are reviewed is outlined in 10A NCAC 26C .0100.
- The Community Hospital Contractor shall not transfer any patient, under the terms of this contract agreement, to a State Hospital Facility without consultation with the LME Contractor and in conjunction with LME Contractor and the State Regional Psychiatric facility. Upon authorization from the LME Contractor and acceptance from the State Regional Psychiatric facility, the Community Hospital Contractor may transfer the identified patient to the State Psychiatric Facility as a priority protocol admission.
- The Community Hospital Contractor will ensure that all patients who are admitted have proactive discharge protocols and processes in place ensuring that all patients discharged will have appropriate plans in place prior to discharge and that this will be done in coordination with the LME Contractor and a Clinical Home provider, if one is already assigned.
- The Community Hospital Contractor, as regards discharge planning protocols, will ensure that all patients get a follow-up appointment either from the Clinical Home Provider or from the LME Contractor within seven days of discharge. And, unless medically contraindicated, all discharged patients will leave the Community Hospital with at least fourteen day prescription for psychotropic medications of which seven days supply must be filled by the Community Hospital Contractor as part of the discharge planning process. If a clinical home provider is not able to offer an appointment within seven days, the LME Contractor will offer assistance to make arrangements for care with the regional mobile crisis management service and the Walk-in and/or Immediate Psychiatric Aftercare clinic within seven days.
- The Community Hospital Contractor must accept or deny admission within a two hour period of the initial referral / admission request.
- The Community Hospital Contractor must notify LME Contractor of any denials and notify LME Contractor of any 3 way contract admissions that were later found to be eligible for other third party payment (i.e. Medicaid, Medicare, or other insurance).
- The Community Hospital Contractor and/or its agent shall submit standardized claims form based upon patient admissions and authorizations. Claims submissions for a patient to the LME Contractor shall not exceed a point thirty (30) calendar days past the point of discharge. Any claims submitted to the LME Contractor past thirty (30) calendar days will not be paid by the State.
- The Community Hospital Contractor shall submit, bed day census bed availability, one time per day, to the LME Contractor.
- The Community Hospital Contractor shall submit, weekly bed occupancy census data to DMH/DD/SAS and LME Contractor. These reports are to be submitted on Monday of each week, prior week data is reported Sat.-Fri.

## Priority Protocol for Admissions

### **PRIORITY PROTOCOL TO A COMMUNITY HOSPITAL FOR ADMISSIONS PURPOSES: (in priority order):**

1. Admissions referred and authorized from LME Contractor as a party to this contract.
2. Any Emergency Department (ED) currently on a wait list within the state psychiatric region of the LME Contractor because of over-capacity at the State Regional Psychiatric Hospital.
3. Other LMEs (not a party to this contract agreement), who are a party to another 3way community hospital contract agreement. If these LMEs have no available community hospital bed space resources and have no additional resources within their crisis continuum, they may seek an authorization from the LME Contractor of this agreement, and may then to proceed to seek an admission approval from the Community Hospital Contractor.
4. Other LMEs not party to any three way agreements. These LMEs must seek authorization approval from the Contractor LME who will in turn seek admission approval from the Contractor LME for the not party to this or any other 3way agreement.

### **PRIORITY PROTOCOL TO A STATE PSYCHIATRIC HOSPITAL FACILITY: (in priority order):**

1. The Community Hospital Contractor in need of a transfer to State Hospital because of the psychiatric complexity of a specific patient who has been admitted.
2. The LME Contractor with a patient under the terms of this contract in need of intermediate or long term inpatient state psychiatric hospitalization due to the chronic complexity of treatment required; or the consumer is in need of extensive clinical assessment and treatment beyond the needs of an acute care admission to the Community Hospital.

Financing budget / Reimbursement and Reporting Requirements

I. Purchase and usage of INPATIENT **SERVICES** from Community Hospital Contractor

- Inpatient Adult Psychiatric Services
- Inpatient Medical Detox Services

The Community Hospital shall admit clients referred and/or designated by LME Contractor subject to availability of space and consistent with the Community Hospital's established admission practices.

Payment from the Division for these services shall be limited to individuals who are authorized by the LME Contractor and in need of "Inpatient Psychiatric" services. Submission of claims for these authorized services shall be carried out consistent with the manner described in Attachment A.

Clients referred by the LME Contractor for admission shall be in need of short-term intensive inpatient care, but the Community Hospital shall be under no obligation to provide long-term chronic psychiatric care. The number of short-term inpatient days shall not exceed seven (7) for any psychiatric admission and four (4) for any medical detoxification admission and based upon authorization by the LME Contractor. In the event inpatient treatment of the client/patient extends beyond seven (7) days of inpatient care or in excess of four (4) days of medical detoxification, the Community Hospital must obtain service/payment authorization for a specific bed-day extension from the LME - Service Management Section.

The LME shall provide Hospital Liaison services and/or Care Management Coordination Services to the Community Hospital via designated LME staff sufficient to facilitate admission, treatment and discharge of clients.

The eligibility for payment for inpatient services is limited to patients who are not eligible for payment by Medicaid, Medicare, Health Choice, TRICARE, CHAMPVA, or other 1<sup>st</sup> or 3<sup>rd</sup> party reimbursement. Any collections of the Community Hospital beyond 100% of actual charge (on patients for which reimbursement has been paid) shall be credited to the Division. The date at the patient's discharge will determine into which contract year a patient's admission falls.

**CLAIMS SUBMISSION:** The Hospital Contractor shall submit the standardized claims DMH form to the LME by the 15<sup>th</sup> of each month for routine billing purposes to ensure an even flow of prompt payment from the State. The LME Contractor will adhere to the standards already established the last bullet of Description of Services / Work for the LME Contractor in Attachment A.

**Summary of Compensation for the Above Services**

<i>Inpatient Adult Psychiatric Services</i>	YP821	\$750 per day*
<i>Inpatient Medical Detox Services</i>	YP821	Same RATE Structure as above.

*\*These services are reimbursed at a per diem rate based on occupancy on the inpatient unit during midnight bed count Rates include all reimbursement for hospital per diem rate, professional fees and medications.*

***Annual contract funding limitations are referenced in section 6 of this contract.***

The Hospital Contractor may directly bill the Division contractor for 3 way contract services to the division if all of the following conditions are met:

- Client meets eligibility requirements under this contract
- Hospital contractor has received an authorization for this service from the LME/MCO Contractor
- Claims submitted were not eligible to be paid by either 1<sup>st</sup> party or 3<sup>rd</sup> party payer
- Hospital contractor has previously submitted a clean claim to LME/MCO contractor for units and these billings were consistent with billing requirement outlined in contract and Attachment A.
- Hospital has not received payment or valid claim denial within 60 days of submission of clean claim to LME/MCO contractor

If all of these conditions are met, the hospital contractor must submit a valid alternate claim invoice to Division that must contain the following information:

- Dates of service requested (only invoice for days where midnight bed count requirement is met)
- Amount requested (should equal service days \* per diem rate)



- Date clean claim was submitted to LME/MCO contractor
- Please do not submit alternate claims containing protected health information (PHI)

Upon submitting alternate claim invoice to Division, Hospital contractor accepts the understanding that funds paid as an alternate claim must be accepted as valid claims by IPRS or NCTracks claims adjudication systems, or these funds must be paid back to the Division Contractor.

## II. Reporting Requirements

### **Reporting Requirements for the Community Hospital Contractor:**

1. The Community Hospital Contract shall submit each Monday the hospital bed management census information to the LME Contractor and to the Division electronically for the prior week. The Division will share bed management census information with other LMEs and Community Hospitals who are contractors under this type of agreement to support the priority protocol admissions to the community hospital contractors and in diverting admissions to the State Regional Psychiatric Facility.
2. The Community Hospital Contractor shall report on a monthly, by the 15<sup>th</sup> of each month, COB, to the LME, the number of hospital IPU admissions and denials related to this contract for the past month.
3. The Community Hospital Contractor shall report on a monthly, by the 15<sup>th</sup> of each month, COB, to the LME, the number of hospital IPU admissions that exceed a twelve days admission.
4. The Community Hospital Contractor shall report on a monthly, by the 15<sup>th</sup> of each month, COB, to the LME, the number of transfers, of patients admitted under terms of this agreement, then transferred to a State Regional Psychiatric facility as a priority protocol admission.

### **Reporting Requirements for the LME Contractor:**

1. The LME Contractor shall report utilization pattern of newly created beds for benefit of State Hospital Diversion also reporting a decrease in State Hospitalizations for acute care admissions.
2. The LME Contractor shall report to the division, the community hospital contractor's reporting requirements, items # two (2), three (3), and four (4) by the 20<sup>th</sup> of each month for the initial six months period of the contract, after six months the LME Contracted can begin reporting the identified information on a quarterly basis or unless directed otherwise by the Division Contractor.
3. The LME Contractor shall report to the Division Contract the number of approved and denied authorizations prior to a hospital admission. And of the number approved authorizations issued by the LME Contractor how many of those approvals were denied admissions to the Community Hospital Contractor IPU facility related to this contract.
4. The LME Contractor will review trend patterns for authorization, admissions, timeliness to admissions approvals, invoice submissions data, denials, bed day utilization, priority protocol transfers, and appropriate care coordination upon discharge from the Community Hospital Contractor on a monthly basis to generate various report as needed either internally to the LME Contractor or to the Division as requested.

### **Reporting Requirements for the Division Contractor:**

1. The Division Contractor will make available daily hospital bed management information to the parties under this agreement.
2. The Division Contractor shall review trend patterns as identified in item # 2 and #3 of the LME Contractor, and other information as needed such as LME authorization, admissions, timeliness to admission approvals, invoice submissions data, denials, bed day utilization, priority protocol transfers, and appropriate care coordination upon discharge provided from the LMEs or internal DMH data on a quarterly basis pertaining to this contract in effort to generate various reports as needed for stakeholder partners.
3. The Division shall report quarterly/monthly - two year comparison analysis of State Psychiatric Hospital utilization patterns to determine the effectiveness of the existing contract.
4. The Division shall report to the Legislature not later than March 1 of each fiscal year on a uniform system of beds or bed days purchased under this agreement.
5. Pursuant to the powers granted under Attachment A (bullet #4 item (ii)), the Division Contractor shall review hospital direct payment invoices from hospital contract and determine if:
  - If these claims in aggregate have been paid prior or have not been reported as qualified beds under the hospital bed day census reports
  - The claims submitted by invoice as an alternate claim are in excess of 60 days past the original date of submission to the LME/MCO contractor

If claims have been deemed to pass these criteria, the Division Contract will pay invoices directly to hospitals. If all claims submitted by hospitals via the alternate claim process are not later fully adjudicated as valid claims in IPRS or NCTracks claims adjudication systems by fiscal year closeout, the division will reconcile and settle directly with hospital contractors.

Any alternate claims paid by the division directly to hospital contractors will be reported monthly to all parties to the contract. Year-end settlements that involve hospital contacts will also be reported to all parties to the contract.

**NORTH CAROLINA  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
HIPAA BUSINESS ASSOCIATE ADDENDUM**

This Agreement is made effective 7/01/2013 by and between the MeckLINK Behavioral Healthcare ("Covered Entity") and The Presbyterian Hospital ("Business Associate") ("collective parties").

**1. BACKGROUND**

- a. Covered Entity and Business Associate are parties to a contract entitled SPECIFIC CONTRACTUAL AGREEMENT BETWEEN NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF MENTAL HEALTH, DEVELOPMENTAL DISABILITIES & SUBSTANCE ABUSE SERVICES AND MECKLINK BEHAVIORAL HEALTHCARE AND THE PRESBYTERIAN HOSPITAL (the "Contract"), whereby Business Associate agrees to perform certain services for or on behalf of Covered Entity.
- b. Covered Entity is an organizational unit of the North Carolina Department of Health and Human Services (the "Department") that has been designated in whole or in part by the Department as a health care component for purposes of the HIPAA Privacy and Security Rules.
- c. The relationship between Covered Entity and Business Associate is such that the Parties believe Business Associate is or may be a "business associate" within the meaning of the HIPAA Privacy and Security Rules.
- d. The Parties enter into this Business Associate Addendum to the Contract with the intention of complying with the HIPAA Privacy and Security Rules provision that a covered entity may disclose electronic protected health information or other protected health information to a business associate, and may allow a business associate to create or receive electronic protected health information or other protected health information on its behalf, if the covered entity obtains satisfactory assurances that the business associate will appropriately safeguard the information.

**2. DEFINITIONS**

Unless some other meaning is clearly indicated by the context, the following terms shall have the following meaning in this Agreement:

- a. "Electronic Protected Health Information" shall have the same meaning as the term "electronic protected health information" in 45 CFR 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- b. "HIPAA" means the Administrative Simplification Provisions, Sections 261 through 264, of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.
- c. "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).
- d. "Privacy and Security Rules" shall mean the Standards for Privacy of Individually Identifiable Health Information and the Security Standards for the Protection of Electronic Protected Health Information set out in 45 CFR part 160 and part 164, subparts A and E.
- e. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- f. "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR 164.103.
- g. "Secretary" shall mean the Secretary of the United States Department of Health and Human Services or his designee.
- h. "Security Incident" shall have the same meaning as the term "security incident" in 45 CFR 164.304.
- i. Unless otherwise defined in this Agreement, terms used herein shall have the same meaning as those terms have in the Privacy and Security Rules.

**3. OBLIGATIONS OF BUSINESS ASSOCIATE**

- a. Business Associate agrees to not use or disclose electronic protected health information or other protected health information other than as permitted or required by this Agreement or as required by law.
- b. Business Associate agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information and

other protected health information that it creates, receives, maintains, or transmits on behalf of Covered Entity, as required by the Privacy and Security Rules.

- c. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of electronic protected health information or other protected health information by Business Associate in violation of the requirements of this Agreement.
- d. Business Associate agrees to report to Covered Entity (i) any use or disclosure of electronic protected health information or other protected health information not provided for by this Agreement of which it becomes aware and (ii) any security incident of which it becomes aware.
- e. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides electronic protected health information and/or other protected health information received from, or created or received by Business Associate on behalf of Covered Entity (i) agrees to be bound by the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information, and (ii) agrees to implement reasonable and appropriate safeguards to protect such information.
- f. Business Associate agrees to provide access, at the request of Covered Entity, to electronic protected health information and other protected health information in a Designated Record Set to Covered Entity or, as directed by Covered Entity, to an individual in order to meet the requirements under 45 CFR 164.524.
- g. Business Associate agrees, at the request of Covered Entity, to make any amendment(s) to electronic protected health information and other protected health information in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 CFR 164.526.
- h. Unless otherwise prohibited by law, Business Associate agrees to make internal practices, books, and records, including policies and procedures concerning electronic protected health information and other protected health information, relating to the use and disclosure of electronic protected health information and other protected health information received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, or to the Secretary, in a time and manner designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy and Security Rules.
- i. Business Associate agrees to document such disclosures of electronic protected health information and other protected health information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of electronic protected health information and other protected health information in accordance with 45 CFR 164.528, and to provide this information to Covered Entity or an individual to permit such a response.

#### **4. PERMITTED USES AND DISCLOSURES**

- a. Except as otherwise limited in this Agreement or by other applicable law or agreement, if the Contract permits, Business Associate may use or disclose electronic protected health information and other protected health information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Contract, provided that such use or disclosure:
  - 1) Would not violate the Privacy and Security Rules if done by Covered Entity; or
  - 2) Would not violate the minimum necessary policies and procedures of the Covered Entity.
- b. Except as otherwise limited in this Agreement or by other applicable law or agreements, if the Contract permits, Business Associate may use electronic protected health information and other protected health information as necessary for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- c. Except as otherwise limited in this Agreement or by other applicable law or agreements, if the Contract permits, Business Associate may disclose electronic protected health information and other protected health information for the proper management and administration of the Business Associate, provided that:
  - 1) Disclosures are required by law; or
  - 2) Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- d. Except as otherwise limited in this Agreement or by other applicable law or agreements, if the Contract permits, Business Associate may use electronic protected health information and other protected health information to provide data aggregation services to Covered Entity as permitted by 45 CFR 164.504(e)(2)(i)(B).

- e. Notwithstanding the foregoing provisions, Business Associate may not use or disclose electronic protected health information or other protected health information if the use or disclosure would violate any term of the Contract or other applicable law or agreements.

**5. TERM AND TERMINATION**

- a. Term. This Agreement shall be effective as of the effective date stated above and shall terminate when the Contract terminates.
- b. Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity may, at its option:
  - 1) Provide an opportunity for Business Associate to cure the breach or end the violation, and terminate this Agreement and services provided by Business Associate, to the extent permissible by law, if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
  - 2) Immediately terminate this Agreement and services provided by Business Associate, to the extent permissible by law; or
  - 3) If neither termination nor cure is feasible, report the violation to the Secretary as provided in the Privacy and Security Rules.
- c. Effect of Termination.
  - 1) Except as provided in paragraph (2) of this section or in the Contract or by other applicable law or agreements, upon termination of this Agreement and services provided by Business Associate, for any reason, Business Associate shall return or destroy all electronic protected health information and other protected health information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to electronic protected health information and other protected health information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the electronic protected health information or other protected health information.
  - 2) In the event that Business Associate determines that returning or destroying the electronic protected health information or other protected health information is not feasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction not feasible. Business Associate shall extend the protections of this Agreement to such electronic protected health information and other protected health information and limit further uses and disclosures of such electronic protected health information and other protected health information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such electronic protected health information and other protected health information.

**6. GENERAL TERMS AND CONDITIONS**

- a. This Agreement amends and is part of the Contract.
- b. Except as provided in this Agreement, all terms and conditions of the Contract shall remain in force and shall apply to this Agreement as if set forth fully herein.
- c. In the event of a conflict in terms between this Agreement and the Contract, the interpretation that is in accordance with the Privacy and Security Rules shall prevail. In the event that a conflict then remains, the Contract terms shall prevail so long as they are in accordance with the Privacy and Security Rules.
- d. A breach of this Agreement by Business Associate shall be considered sufficient basis for Covered Entity to terminate the Contract for cause.

**SIGNATURES:**

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**Covered Entity**

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**Business Associate**

Attachment – D 1  
Federal Requirement Certificate

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY  
AND VOLUNTARY EXCLUSION-LOWER TIER COVERED TRANSACTIONS  
(Note: The phrase “prospective lower tier participant” means providers under contract with the  
Department of Health and Human Services,  
Division of Mental Health, Developmental Disabilities and Substance Abuse Services)

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of the fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant will provide immediate written notice to the person to whom the proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549, 45 CFR Part 76. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter any lower tier covered transaction with a person who is debarred, suspended, determined ineligible or voluntarily excluded from participation in this covered transaction unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency of which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non procurement List.
8. Nothing contained in the foregoing shall be construed to required establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized in paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension, and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions**

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

(Attachment D 2)  
Federal Requirement Certificate

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

Department of Health and Human Services  
Division of Mental Health, Developmental Disabilities and Substance Abuse Services

By execution of this Agreement the Contractor certifies that it will provide a drug-free workplace by:

- A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- B. Establishing a drug-free awareness program to inform employees about:
  - (1) The dangers of drug abuse in the workplace;
  - (2) The Contractor's policy of maintaining a drug-free workplace;
  - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- C. Making it a requirement that each employee be engaged in the performance of the agreement be given a copy of the statement required by paragraph A;
- D. Notifying the employee in the statement required by paragraph A that, as a condition of employment under the agreement, the employee will:
  - (1) Abide by the terms of the statement; and
  - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
- E. Notifying the Department within ten days after receiving notice under subparagraph D(2) from an employee or otherwise receiving actual notice of such conviction;
- F. Taking one of the following actions, within 30 days of receiving notice under subparagraph D(2), with respect to any employee who is so convicted:
  - (1) Taking appropriate personnel action against such an employee, up to and including termination; or
  - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and
  - (3) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs A, B, C, D, E, and F.

False certification or violation of the certification shall be grounds for suspension of payment, suspension or termination of grants, or government-wide Federal suspension or debarment, 45 C.F.R. 82.510.

(Attachment D 3)  
Federal Requirement Certificate

Certification Regarding Lobbying  
Department of Health and Human Services  
**Division of Mental Health, Developmental Disabilities and Substance Abuse Services**

Certification for Contracts, Grants, Loans and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal, state or local government agency, a Member of Congress, a Member of the General Assembly, an officer or employee of Congress, an officer or employee of the General Assembly, an employee of a Member of Congress, or an employee of a Member of the General Assembly in connection with the awarding of any Federal or state contract, the making of any Federal or state grant, the making of any Federal or state loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal or state contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal, state or local government agency, a Member of Congress, a Member of the General Assembly, an officer or employee of Congress, an officer or employee of the General Assembly, an employee of a Member of Congress, or an employee of a Member of the General Assembly in connection with the awarding of any Federal or state contract, the making of any Federal or state grant, the making of any Federal or state loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal or state contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.
- (4) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Notwithstanding other provisions of federal OMB Circulars A-122 and A-87, costs associated with the following activities are unallowable:

**Paragraph A.**

- (1) Attempts to influence the outcomes of any Federal, State, or local election, referendum, initiative, or similar procedure, through in kind or cash contributions, endorsements, publicity, or similar activity;
- (2) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections;
- (3) Any attempt to influence: (i) The introduction of Federal or State legislation; or (ii) the enactment or modification of any pending Federal or State legislation through communication with any member or employee of the Congress or State legislature (including efforts to influence State or local officials to engage in similar lobbying activity), or with any Government official or employee in connection with a decision to sign or veto enrolled legislation;
- (4) Any attempt to influence: (i) The introduction of Federal or State legislation; or (ii) the enactment or modification of any pending Federal or State legislation by preparing, distributing or using publicity or propaganda, or by urging members of the general public or any segment thereof to contribute to or participate in any mass demonstration, march, rally, fundraising drive, lobbying campaign or letter writing or telephone campaign; or
- (5) Legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in unallowable lobbying.

The following activities as enumerated in Paragraph B are excepted from the coverage of Paragraph A:

**Paragraph B.**

- (1) Providing a technical and factual presentation of information on a topic directly related to the performance of a grant, contract or other agreement through hearing testimony, statements or letters to the Congress or a State legislature, or



subdivision, member, or cognizant staff member thereof, in response to a documented request (including a Congressional Record notice requesting testimony or statements for the record at a regularly scheduled hearing) made by the recipient member, legislative body or subdivision, or a cognizant staff member thereof; provided such information is readily obtainable and can be readily put in deliverable form; and further provided that costs under this section for travel, lodging or meals are unallowable unless incurred to offer testimony at a regularly scheduled Congressional hearing pursuant to a written request for such presentation made by the Chairman or Ranking Minority Member of the Committee or Subcommittee conducting such hearing.

- (2) Any lobbying made unallowable by subparagraph A (3) to influence State legislation in order to directly reduce the cost, or to avoid material impairment of the organization's authority to perform the grant, contract, or other agreement.
- (3) Any activity specifically authorized by statute to be undertaken with funds from the grant, contract, or other agreement.

**Paragraph C.**

- (1) When an organization seeks reimbursement for indirect costs, total lobbying costs shall be separately identified in the indirect cost rate proposal, and thereafter treated as other unallowable activity costs in accordance with the procedures of subparagraph B(3).
- (2) Organizations shall submit, as part of the annual indirect cost rate proposal, a certification that the requirements and standards of this paragraph have been complied with.
- (3) Organizations shall maintain adequate records to demonstrate that the determination of costs as being allowable or unallowable pursuant to this section complies with the requirements of this Circular.
- (4) Time logs, calendars, or similar records shall not be required to be created for purposes of complying with this paragraph during any particular calendar month when: (i) the employee engages in lobbying (as defined in subparagraphs A & B) 25 percent or less of the employee's compensated hours of employment during that calendar month, and (ii) within the preceding five-year period, the organization has not materially misstated allowable or unallowable costs of any nature, including legislative lobbying costs. When conditions (i) and (ii) are met, organizations are not required to establish records to support the allow ability of claimed costs in addition to records already required or maintained. Also, when conditions (i) and (ii) are met, the absence of time logs, calendars, or similar records will not serve as a basis for disallowing costs by contesting estimates of lobbying time spent by employees during a calendar month.
- (5) Agencies shall establish procedures for resolving in advance, in consultation with OMB, any significant questions or disagreements concerning the interpretation or application of this section. Any such advance resolution shall be binding in any subsequent settlements, audits or investigations with respect to that grant or contract for purposes of interpretation of this Circular; provided, however, that this shall not be construed to prevent a contractor or grantee from contesting the lawfulness of such a determination.

**Paragraph D.**

Executive lobbying costs. Costs incurred in attempting to improperly influence either directly or indirectly, an employee or officer of the Executive Branch of the Federal Government to give consideration or to act regarding a sponsored agreement or a regulatory matter are unallowable. Improper influence means any influence that induces or tends to induce a Federal employee or officer to give consideration or to act regarding a federally sponsored agreement or regulatory matter on any basis other than the merits of the matter.

(Attachment D 4)  
Federal Requirement Certificate

CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

Department of Health and Human Services  
Division of Mental Health, Developmental Disabilities and Substance Abuse Services

Certification for Contracts, Grants, Loans and Cooperative Agreements

Public Law 103-227, Part C-Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application, the Contractor certifies that it will comply with the requirements of the Act. The Contractor further agrees that it will require the language of this certification be included in any subawards which contain provisions for children's services and that all subgrantees shall certify accordingly.