

AGREEMENT FOR PROVISION OF SERVICES

by and between:

**SEDGWICK COUNTY, KANSAS
and
SUBSTANCE ABUSE CENTER OF KANSAS**

This Agreement entered into as of this ____ day of _____, 2018, by and between Sedgwick County, Kansas ("County") and the Substance Abuse Center of Kansas ("Contractor" or "SACK").

WITNESSETH:

WHEREAS, County's COMCARE department ("COMCARE") is a licensed community mental health center, and a certified alcohol and drug treatment center, and requires sobering and detoxification services as part of the Community Crisis Center ("CCC"); and

WHEREAS, COMCARE has received state funding for the CCC, including sobering and detox services; and

WHEREAS, County's performance of the forthcoming agreement is contingent upon County's receipt of state funding for the CCC; and

WHEREAS, County desires to engage Contractor to perform said services; and

WHEREAS, County and Contractor desire to state the terms and conditions under which Contractor will provide said services.

NOW, THEREFORE, in consideration of the mutual covenants, conditions, and promises contained herein, the parties hereto agree as follows:

1. Purpose and Scope of Work. It is the purpose of this Agreement that Contractor shall provide a center with a system of integrated services that supports and stabilizes individuals experiencing a substance use disorder crisis and actively engage the individual in treatment and recovery services in the community. Services shall be consistent with the Recovery Oriented Systems of Care ("ROSC"), Strengths-Based Case management principles, Trauma Informed Care practices, and Motivational Interviewing practices. When an individual is transitioned from crisis detoxification services, such individual will return to the community with a recovery support plan, developed by Contractor. For purposes of this Agreement, the priority population includes adults experiencing a substance use disorder crisis and who are uninsured, under insured, or who have no known payer source.

2. Term. The term of this Agreement shall commence on the date first written above and end June 30, 2018, with the option to renew the contract under the same terms and conditions for three (3) successive one (1) year terms by mutual agreement of the parties. Either party may terminate this agreement at any time, without cause, upon thirty (30) days written notice to the other party, said notice of termination shall set forth the termination date.

3. Incorporation of Documents. Appendix A (Sedgwick County Mandatory Contractual Provisions Attachment), Appendix B (HIPAA Business Associate Addendum), and Appendix C (Purpose, Goals and Objective) are attached hereto and are made a part hereof as if fully set forth herein.

General Terms and Conditions

4. Contractual Relationship. It is agreed that the legal relationship between Contractor and County is of a contractual nature. Both parties assert and believe that Contractor is acting as an independent contractor in providing the goods and services and performing the duties required by County hereunder. Contractor is at all times acting as an independent contractor and not as an officer, agent, or employee of County. As an independent contractor, Contractor, or employees of Contractor, will not be within the protection or coverage of County's worker's compensation insurance, nor shall Contractor, or employees of Contractor, be entitled to any current or future benefits provided to employees of County. Further, County shall not be responsible for the withholding of social security, federal, and/or state income tax, or unemployment compensation from payments made by County to Contractor.

5. Authority to Contract. Contractor assures it possesses legal authority to contract these services; that resolution, motion or similar action has been duly adopted or passed as an official act of Contractor's governing body, authorizing the signing of this Agreement, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of Contractor to act in connection with the application and to provide such additional information as may be required.

6. Compensation. County agrees to reimburse Contractor monthly for the actual costs for each resident, for a total amount not to exceed TWO HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS AND NO CENTS (\$225,000.00) during any single term of this Agreement. Payment shall be made upon receipt of billing documenting actual expenditures. These fees include all of Contractor's time, labor and equipment, travel, and all other expenses associated with the provision of goods, equipment, and/or services, and shall be the sole compensation rendered to Contractor hereunder.

7. Invoicing and Billing. Contractor shall submit all invoices to Sedgwick County Finance, Accounts Payable. Invoices may be submitted electronically (AP_Invoices@sedgwick.gov), via fax (316.941.5127), or by mail to the following address: Sedgwick County Finance, Attention: Accounts Payable, 525 N. Main, Ste. 823, Wichita, Kansas 67203.

Invoices must include the following information:

- a. Invoice number
- b. Invoice date
- c. Supplier's name and address
- d. Customer's name and address
- e. Sedgwick County PO number (for PO purchases only)
- f. Sedgwick County contact name and department (for non-purchase order purchases)
- g. Details of the goods and/or services provided
 1. Include location address (if applicable)
- h. Goods quantity
- i. Prices of goods and/or services
- j. Total amount due

k. Additional charges (e.g., freight) (must be listed as a separate invoice item)

Properly submitted invoices and/or billing statements will be paid within thirty (30) calendar days of receipt by County.

8. Warranties and Representation. Goods or equipment delivered and/or services rendered hereunder must be made according to the terms of this Agreement both as to time and quantities, with County reserving the right to cancel, reject or refuse any delivery made and/or service rendered prior to or subsequent to the times specified. In the event no quality is specified on the face hereof, the goods or equipment delivered and/or services rendered hereunder must be of the best quality. If delivery of goods or equipment and/or rendering of services cannot be maintained, Contractor must notify County immediately. Upon Contractor's failure to maintain delivery or otherwise perform hereunder, County reserves the right to procure such goods or equipment and/or services elsewhere, in whole or in part, and assess Contractor with any additional costs incurred, unless Contractor's default arises from causes beyond its control and without fault or negligence. This remedy is in addition to any other remedy which County may have pursuant to this Agreement or otherwise and/or any warranty that may be implied or imposed by operation of law.

9. Management of Risk, Compliance and Compliance Reporting Requirements. Contractor expressly understands and agrees to maintain an internal auditing and monitoring program and to immediately report to COMCARE any suspected fraud, abuse or waste as it relates to compliance and billing practices, and to include submission of documentation of the investigation/review and outcome. Additionally, Contractor agrees to respond within one (1) week (or sooner if the issue warrants immediate attention) to any and all issues identified as a result of a compliance investigation by COMCARE. Routine compliance efforts must be documented and communicated to COMCARE quarterly via a report due to the COMCARE Compliance Officer no later than the last day of the month following the end of the calendar quarter.

10. Notification. Notifications required pursuant to this Agreement shall be made in writing and mailed to the addresses shown below. Such notification shall be deemed complete upon mailing.

County: COMCARE of Sedgwick County
Attn: Contract Notification
271 W. 3rd St. N.
Wichita, Kansas 67202

and

Sedgwick County Counselor's Office
Attn: Contract Notification
Sedgwick County Courthouse
525 N. Main, Suite 359
Wichita, Kansas 67203-3790

Contractor: Substance Abuse Center of Kansas
Attn: Harold Casey
731 N. Water, suite 2
Wichita, Kansas 67203
Phone: 316-267-3825; Fax: 316-267-3843

11. Termination.

A. Termination for Cause. In the event of any breach of the terms or conditions of this Agreement by Contractor, or in the event of any proceedings by or against Contractor in bankruptcy or insolvency or for appointment of receiver or trustee or any general assignment for the benefit of creditors, County may, in addition to any other remedy provided it by law or in equity or other right reserved to it elsewhere in this Agreement, without any liability to Contractor on account thereof, by written notice, terminate immediately all or any part of this Agreement, procure the goods, equipment and/or services provided for herein elsewhere, on such terms and under such conditions as are reasonable in the sole discretion of County, and Contractor shall be liable to pay to County any excess cost or other damages caused by Contractor as a result thereof.

B. Termination for Convenience. County shall have the right to terminate this Agreement for convenience in whole, or from time to time, in part, upon thirty (30) days' written notice. Upon receipt of such termination notice, Contractor shall not incur any new obligations and shall cancel as many outstanding obligations as reasonably possible. In such event, County's maximum liability shall be limited to payment for goods or equipment delivered and accepted and/or services rendered.

C. Reduction in Funds. It is understood that funding may cease or be reduced at any time. In the event that adequate funds are not available to meet the obligations hereunder, either party reserves the right to terminate this Agreement upon thirty (30) days' written notice.

12. Hold Harmless. Contractor shall indemnify County, and its elected and appointed officials, officers, managers, members, employees and agents, against any and all loss or damage to the extent such loss and/or damage arises out of Contractor's negligence and/or willful, wanton or reckless conduct in the provision of goods and equipment or performance of services under this Agreement. This indemnification shall not be affected by other portions of the Agreement relating to insurance requirements.

13. Liability Insurance. Contractor agrees to maintain the following minimum limits of insurance coverage throughout the term of this Agreement:

Worker's Compensation Applicable State Statutory Employer's Liability	
Employer's Liability Insurance:	\$100,000.00
Contractor's Liability Insurance: Form of insurance shall be by a Comprehensive General Liability and Comprehensive Automobile Liability	
Bodily Injury: Each occurrence Aggregate	\$500,000.00 \$500,000.00
Property Damage: Each occurrence Aggregate	\$500,000.00 \$500,000.00

Personal Injury:	
Each person aggregate	\$500,000.00
General aggregate	\$500,000.00
Automobile Liability – Owned, Non-Owned, and Hired:	
Bodily injury each person	\$500,000.00
Bodily injury each occurrence	\$500,000.00

Liability insurance coverage indicated above must be considered as primary and not as excess insurance. Contractor shall furnish a certificate evidencing such coverage, with County listed as an additional insured, except for professional liability, workers' compensation and employer's liability. Certificate shall be provided with bid/proposal submittals. Certificate shall remain in force during the duration of the project/services and will not be canceled, reduced, modified, limited, or restricted until thirty (30) days after County receives written notice of such change. All insurance must be with an insurance company with a minimum BEST rating of A- and licensed to do business in the State of Kansas. It is the responsibility of Contractor to require that any and all approved subcontractors meet the minimum insurance requirements. Contractor shall obtain the above referenced certificate(s) of insurance, and in accordance with this Agreement, provide copies of such certificates to County.

County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage or other special circumstances.

As mandated by the KanCare Medicaid program, Contractor shall maintain professional liability insurance in the amount of \$1,000,000 per occurrence and \$3,000,000 aggregate.

14. Entire Agreement. This Agreement and the documents incorporated herein contain all the terms and conditions agreed upon by both parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto. Any agreement not contained herein shall not be binding on either party, nor shall it be of any force or effect.

15. Assignment. Neither this Agreement nor any rights or obligations created by it shall be assigned or otherwise transferred by either party without the prior written consent of the other. Any attempted assignment without such consent shall be null and void.

16. Amendments. Neither this Agreement nor any rights or obligations created by it shall be amended by either party without the prior written consent of the other. Any attempted amendment without such consent shall be null and void. The remainder of this paragraph notwithstanding, any line item changes within the approved budget attached hereto as Appendix C and incorporated as if fully set forth herein require approval of the division director.

17. Subcontracting. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of County. In the event subcontracting is approved by County, Contractor shall remain totally responsible for all actions and work performed by its subcontractors. All approved subcontracts must conform to applicable requirements set forth in this Agreement and in its appendices, exhibits and amendments, if any.

18. Severability Clause. In the event that any provision of this Agreement is held to be unenforceable, the remaining provisions shall continue in full force and effect.

19. Waiver. Waiver of any breach of any provision in this Agreement shall not be a waiver of any prior or subsequent breach. Any waiver shall be in writing and any forbearance or indulgence in any other form or manner by County shall not constitute a waiver.

20. Force Majeure. Contractor shall not be held liable if the failure to perform under this Agreement arises out of causes beyond the control of Contractor. Causes may include, but are not limited to, acts of nature, fires, tornadoes, quarantine, strikes other than by Contractor's employees, and freight embargoes.

21. Order of Preference. Any conflict to the provisions of this Agreement and the documents incorporated by reference shall be determined by the following priority order:

- a. Sedgwick County Contractual Provisions Attachment
- b. Written modifications and addenda to the executed Agreement
- c. This Agreement document

22. Environmental Protection. Contractor shall abide by all federal, state and local laws, rules and regulations regarding the protection of the environment. Contractor shall report any violations to the applicable governmental agency. A violation of applicable laws, rules or regulations may result in termination of this Agreement for cause.

23. Nondiscrimination and Workplace Safety. Contractor agrees to abide by all federal, state and local laws, rules and regulations prohibiting discrimination in employment and controlling workplace safety. Any violation of applicable laws, rules or regulations may result in termination of this Agreement for cause.

24. Retention of Records. Unless otherwise specified in this Agreement, Contractor agrees to preserve and make available to County at reasonable times all of its books, documents, papers, records and other evidence involving transactions related to this Agreement for a period of five (5) years from the date of expiration or termination of this Agreement.

Matters involving litigation shall be kept for one (1) year following termination of litigation, including all appeals, if the litigation exceeds five (5) years.

25. Ownership of Data. All data, forms, procedures, software, manuals, system descriptions and work flows developed or accumulated by Contractor in relation to this Agreement shall be owned by County and shall be handed over and/or returned to County upon the expiration or termination of this Agreement. Contractor shall not release any such materials without written approval of the County.

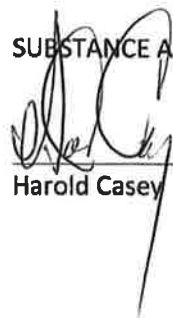
26. Intellectual Property Rights. As applicable, all original software, software code, and/or intellectual property developed or created by County in relation to this Agreement shall remain the sole property of the County. Contractor shall surrender all original written materials, including, but not limited to any reports, studies, designs, drawings, specifications, notes, documents, software and documentation, computer-based training modules, electronically or magnetically recorded material, and any and all intellectual property to County upon the expiration or termination of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

SEDGWICK COUNTY, KANSAS

SUBSTANCE ABUSE CENTER OF KANSAS

David T. Dennis, Chairman
Commisssioner, Third District



Harold Casey

APPROVED AS TO FORM ONLY:



Michael L. Fessinger
Assistant County Counselor

ATTESTED TO:

Kelly B. Arnold
County Clerk

APPENDIX A
SEDGWICK COUNTY MANDATORY CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in the Sedgwick County Mandatory Contractual Provisions Attachment, which is attached hereto, are hereby incorporated in this Agreement and made a part thereof. In the event of conflict between the provisions of this Agreement and the Sedgwick County Mandatory Contractual Provisions Attachment, the terms of the Sedgwick County Mandatory Contractual Provisions Attachment will control."

The parties agree that the following provisions are hereby incorporated into the Agreement to which it is attached and made a part thereof, said contract being the ____ day of _____, 20____.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the Agreement in which this attachment is incorporated.
2. **Choice of Law:** This Agreement shall be interpreted under and governed by the laws of the State of Kansas. The parties agree that any dispute or cause of action that arises in connection with this Agreement will be brought before a court of competent jurisdiction in Sedgwick County, Kansas.
3. **Termination Due To Lack of Funding Appropriation:** If, in the judgment of the Chief Financial Officer, sufficient funds are not appropriated to continue the function performed in this Agreement and for the payment of the charges hereunder, County may terminate this Agreement at the end of its current fiscal year. County agrees to give written notice of termination to Contractor at least thirty (30) days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided for in the Agreement, except that such notice shall not be required prior to ninety (90) days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided to County under the Agreement. County will pay to Contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any related equipment. Upon termination of the Agreement by County, title to any such equipment shall revert to Contractor at the end of County's current fiscal year. The termination of the Agreement pursuant to this paragraph shall not cause any penalty to be charged to the County or the Contractor.
4. **Disclaimer of Liability:** County shall not hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*).
5. **Acceptance of Agreement:** This Agreement shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
6. **Arbitration, Damages, Jury Trial and Warranties:** Notwithstanding any language to the contrary, no interpretation shall be allowed to find the County has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Notwithstanding any language to the contrary, no interpretation shall be allowed to find the County has consented to a jury trial to resolve any disputes that may arise hereunder. Contractor waives its right to a jury trial to resolve any disputes that may arise hereunder. No provision of any Agreement and/or this Contractual Provisions Attachment will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.
7. **Representative's Authority to Contract:** By signing this Agreement, the representative of the Contractor thereby represents that such person is duly authorized by the Contractor to execute this Agreement on behalf of the Contractor and that the Contractor agrees to be bound by the provisions thereof.
8. **Federal, State and Local Taxes:** Unless otherwise specified, the proposal price shall include all applicable federal, state and local taxes. Contractor shall pay all taxes lawfully imposed on it with respect to any product or service delivered in accordance with this Agreement. County is exempt from state sales or use taxes and federal excise taxes for direct purchases. These taxes shall not be included in the Agreement. Upon request, County shall provide to the Contractor a certificate of tax exemption.

County makes no representation as to the exemption from liability of any tax imposed by any governmental entity on the Contractor.
9. **Insurance:** County shall not be required to purchase any insurance against loss or damage to any personal property to which this Agreement relates, nor shall this Agreement require the County to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*), Contractor shall bear the risk of any loss or damage to any personal property to which Contractor holds title.
10. **Conflict of Interest:** Contractor shall not knowingly employ, during the period of this Agreement or any extensions to it, any professional personnel who are also in the employ of the County and providing services involving this Agreement or services similar in nature to the scope of this Agreement to the County. Furthermore, Contractor shall not knowingly employ, during the period of this Agreement or any extensions to it, any County employee who has participated in the making of this Agreement until at least two years after his/her termination of employment with the County.

11. **Confidentiality.** Contractor may have access to private or confidential data maintained by County to the extent necessary to carry out its responsibilities under this Agreement. Contractor must comply with all the requirements of the Kansas Open Records Act (K.S.A. 42-215 *et seq.*) in providing services and/or goods under this Agreement. Contractor shall accept full responsibility for providing adequate supervision and training to its agents and employees to ensure compliance with the Act. No private or confidential data collected, maintained or used in the course of performance of this Agreement shall be disseminated by either party except as authorized by statute, either during the period of the Agreement or thereafter. Contractor must agree to return any or all data furnished by the County promptly at the request of County in whatever form it is maintained by Contractor. Upon the termination or expiration of this Agreement, Contractor shall not use any of such data or any material derived from the data for any purpose and, where so instructed by County, shall destroy or render such data or material unreadable.
12. **Cash Basis and Budget Laws.** The right of the County to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and all other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the County shall at all times stay in conformity with such laws, and as a condition of this Agreement the County reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws.
13. **Anti-Discrimination Clause.** Contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 *et seq.*) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 *et seq.*) and the applicable provisions of the Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs and activities; (b) to include in all solicitations or advertisements for employees the phrase "equal opportunity employer;" (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the Contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the Agreement may be cancelled, terminated or suspended, in whole or in part by County, without penalty thereto; and (f) if it is determined that the Contractor has violated applicable provisions of the ADA, such violation shall constitute a breach of the Agreement and the Agreement may be cancelled, terminated or suspended, in whole or in part by County, without penalty thereto.

Parties to this Agreement understand that the provisions of this paragraph 13 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of this Agreement or whose contracts with the County cumulatively total \$5,000 or less during the County's fiscal year.
14. **Suspension/Debarment.** Contractor acknowledges that as part of the Code of Federal Regulations (2 C.F.R. Part 180) a person or entity that is debarred or suspended in the System for Award Management (SAM) shall be excluded from federal financial and nonfinancial assistance and benefits under federal programs and activities. All non-federal entities, including Sedgwick County, must determine whether the Contractor has been excluded from the system and any federal funding received or to be received by the County in relation to this Agreement prohibits the County from contracting with any Contractor that has been so listed. In the event the Contractor is debarred or suspended under the SAM, the Contractor shall notify the County in writing of such determination within five (5) business days as set forth in the Notice provision of this Agreement. County shall have the right, in its sole discretion, to declare the Agreement terminated for breach upon receipt of the written notice. Contractor shall be responsible for determining whether any sub-contractor performing any work for Contractor pursuant to this Agreement has been debarred or suspended under the SAM and to notify County within the same five (5) business days, with the County reserving the same right to terminate for breach as set forth herein.
15. **HIPAA Compliance.** Contractor agrees to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 (codified at 45 C.F.R. Parts 160 and 164), as amended ("HIPAA"); privacy and security regulations promulgated by the United States Department of Health and Human Services ("DHHS"); title XIII, Subtitle D of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, as amended ("HITECH Act"); the Genetic Information Nondiscrimination Act of 2008 ("GINA"); provisions regarding Confidentiality of Alcohol and Drug Abuse Patient Records (codified at 42 C.F.R. Part 2), as amended (collectively referred to as "HIPAA"), to the extent that the Contractor uses, discloses or has access to protected health information as defined by HIPAA. Under the final Omnibus Rule effective March 2013, Contractor may be required to enter into a Business Associate Agreement pursuant to HIPAA.
16. **Compliance with Law.** Contractor shall comply with all applicable local, state and federal laws and regulations in carrying out this Agreement, regardless of whether said local, state and federal laws are specifically referenced in the Agreement to which this attached is incorporated.
17. **Tax Set-Off.** If, at any time prior to or during the term of any executed agreement, Contractor is delinquent in the payment of real and/or personal property taxes to Sedgwick County, and the delinquency exists at the time payment is due under the agreement, County will offset said delinquent taxes by the amount of the payment due under the agreement and will continue to do so until the delinquency is satisfied, pursuant to K.S.A. 79-2012.

APPENDIX B
HIPAA BUSINESS ASSOCIATE ADDENDUM

SECTION 1: DEFINITIONS

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

Specific definitions:

- a. **Business Associate.** "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean SACK.
- b. **Covered Entity.** "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean Sedgwick County.
- c. **HIPAA Rules.** "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

SECTION 2: OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

Business Associate agrees to:

- 2.1 not Use or Disclose Protected Health Information other than as permitted or required by the Agreement or as Required by Law;
- 2.2 Use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information, to prevent Use or Disclosure of Protected Health Information other than as provided for by this Agreement;
- 2.3 report to covered entity any Use or Disclosure of Protected Health Information not provided for by the Agreement of which it becomes aware, including Breaches of Unsecured Protected Health Information as required at 45 CFR 164.410, and any Security Incident of which it becomes aware, as further provided for in Par. 12.1, *et seq.*;
- 2.4 mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement;
- 2.5 in accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any Subcontractors that create, receive, maintain, or transmit Protected Health Information on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information;
- 2.6 make available Protected Health Information in a Designated Record Set to the Covered Entity as necessary to satisfy Covered Entity's obligations under 45 CFR 164.524;

- 2.7 make any amendment(s) to Protected Health Information in a Designated Record Set as directed or agreed to by the Covered Entity pursuant to 45 CFR 164.526 or take other measures as necessary to satisfy Covered Entity's obligations under 45 CFR 164.526;
- 2.8 make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules; and
- 2.9 maintain and make available the information required to provide an accounting of Disclosures to the Covered Entity as necessary to satisfy covered entity's obligations under 45 CFR 164.528.

SECTION 3: PERMITTED USES AND DISCLOSURES BY ASSOCIATE

Except as otherwise limited in this Agreement, Business Associate may only Use or Disclose Protected Health Information on behalf of, or to provide services to, Covered Entity for the purposes of the contractual relationship, if such Use or Disclosure of Protected Health Information would not violate the Privacy Rule if done by Covered Entity or the Minimum Necessary policies and procedures of the Covered Entity.

SECTION 4: SPECIFIC USE AND DISCLOSURE PROVISIONS

- 4.1 Except as otherwise limited in this Agreement, Business Associate may Use Protected Health Information for the proper management and administration of the Business Associate or to carry out the contractual or legal responsibilities of the Business Associate.
- 4.2 Business Associate may Use or Disclose Protected Health Information as Required By Law.
- 4.3 Business Associate agrees to make Uses and Disclosures and requests for Protected Health Information consistent with Covered Entity's Minimum Necessary policies and procedures.
- 4.4 Business Associate may Disclose Protected Health Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of the Business Associate, provided the Disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and Used or further Disclosed only as Required By Law or for the purposes for which it was Disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been Breached.
- 4.5 Business Associate may provide Data Aggregation services relating to the Health Care Operations of the covered entity.
- 4.6 Business Associate may Use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with § 164.502(j)(1).

SECTION 5: OBLIGATIONS OF COVERED ENTITY

- 5.1 Covered Entity shall notify Business Associate of any limitation(s) in its Notice of Privacy Practices of Covered Entity in accordance with 45 CFR § 164.520, to the extent that such limitation may affect Business Associate's Use or Disclosure of Protected Health Information.

- 5.2 Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to Use or Disclose Protected Health Information, to the extent that such changes may affect Business Associate's Use or Disclosure of Protected Health Information.
- 5.3 Covered Entity shall notify Business Associate of any restriction to the Use or Disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's Use or Disclosure of Protected Health Information.

SECTION 6: PERMISSIBLE REQUESTS BY COVERED ENTITY

Covered Entity shall not request Business Associate to Use or Disclose Protected Health Information in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by Covered Entity. If necessary in order to meet the Business Associate's obligations under the Agreement, the Business Associate may Use or Disclose Protected Health Information for Data Aggregation, management and administrative activities, or contractual or legal responsibilities of Business Associate.

SECTION 7: TERM

The Agreement shall be effective as of date of execution of the Agreement by the parties, and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, has been returned to Covered Entity or, at Covered Entity's option, is destroyed, or, if it is infeasible to destroy Protected Health Information, the protections are extended to such information, in accordance with the termination provisions in this Agreement.

SECTION 8: MISCELLANEOUS

- 8.1 A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
- 8.2 The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the HIPAA Rules.
- 8.3 Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the HIPAA Rules.
- 8.4 In addition to any implied indemnity or express indemnity provision in the Agreement, Business Associate agrees to indemnify, defend and hold harmless the Covered Entity, including any employees, agents, or Subcontractors against any actual and direct losses suffered by the Indemnified Party(ies) and all liability to third parties arising out of or in connection with any breach of this Agreement or from any negligent or wrongful acts or omissions, including failure to perform its obligations under the HIPAA Rules, by the Business Associate or its employees, directors, officers, Subcontractors, agents, or other members of its workforce. Accordingly, upon demand, the Business Associate shall reimburse the Indemnified Party(ies) for any and all actual expenses (including reasonable attorney's fees) which may be imposed upon any Indemnified Party(ies) by reason of any suit, claim, action, proceeding or demand by any third party resulting from the Business Associate's failure to perform, Breach or other action under this Agreement.

SECTION 9: SECURITY RULE REQUIREMENTS

Business Associate agrees, to the extent any Protected Health Information created, received, maintained or transmitted by or in electronic media, also referred to as electronic protected health care information, as defined by 45 CFR § 160.103, that it will only create, maintain or transmit such information with appropriate safeguards in place.

Business Associate shall therefore: implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the electronic protected health care information; ensure that any agent, including Subcontractors, to whom it provides such information shall agree to also implement reasonable and appropriate safeguards to protect the information; and report to the Covered Entity any Security Incident, as that term is defined by 45 CFR § 164.304, of which it becomes aware.

SECTION 10: TERMINATION

Business Associate authorizes termination of this Agreement by Covered Entity, if Covered Entity determines Business Associate has violated a material term of the Agreement and Business Associate has not cured the breach or ended the violation within the time specified by Covered Entity.

SECTION 11: EFFECT OF TERMINATION

Upon termination of this Agreement for any reason, Business Associate shall return to Covered Entity or, if agreed to by Covered Entity, destroy all Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, that the Business Associate still maintains in any form. Business Associate shall retain no copies of the Protected Health Information.

Provided however, Business Associate may retain Protected Health Information if necessary for management and administration purposes or to carry out its legal responsibilities after termination of the Agreement.

Upon termination of this Agreement for any reason, Business Associate, with respect to Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, shall:

- retain only that Protected Health Information which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;

- return to Covered Entity or, if agreed to by Covered Entity, destroy the remaining Protected Health Information that the Business Associate still maintains in any form;

- continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information to prevent Use or Disclosure of the Protected Health Information, other than as provided for in this Section, for as long as Business Associate retains the Protected Health Information;

- not Use or Disclose the Protected Health Information retained by Business Associate other than for the purposes for which such Protected Health Information was retained and subject to the same conditions set out at in this Agreement which applied prior to termination;

return to Covered Entity or, if agreed to by Covered Entity, destroy the Protected Health Information retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities; and

provided, however, that nothing in this section 11.1 shall apply in the case of PHI remaining in its possession which Business Associate determines it is not feasible to return or destroy. Business Associate shall extend the protection of this Agreement to such PHI and limit further uses and disclosure of such PHI.

The obligations of Business Associate under this Agreement shall survive the termination of this Agreement.

SECTION 12: NOTIFICATION OF BREACH

- 12.1 To the extent Business Associate accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, Uses, or Discloses Unsecured Protected Health Information, it shall, following the discovery of a Breach of such information, notify the Covered Entity of such Breach. Such notice shall include the identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by the Business Associate to have been, Used, accessed, acquired, or Disclosed during such Breach. The Business Associate shall provide the Covered Entity with any other available information that the Covered Entity is required to include in notification to the Individual under 45 C.F.R. § 164.404(c) at the time of the required notification to the Covered Entity, or as promptly thereafter as the information is available.
- 12.2 For purposes of this section, a Breach shall be treated as discovered by the Business Associate as of the first day on which such Breach is known to such Business Associate (including any person, other than the Individual committing the breach, that is an employee, officer, or other agent of such associate) or should reasonably have been known to such Business Associate (or person) to have occurred by the exercise of reasonable diligence.
- 12.3 Subject to section 12.4, all notifications required under this section shall be made without unreasonable delay and in no case later than 60 calendar days after the discovery of a Breach by the Business Associate involved in the case of a notification required under section 12.2. The Business Associate involved in the case of a notification required under section 12.2, shall have the burden of demonstrating that all notifications were made as required under this part, including evidence demonstrating the necessity of any delay.
- 12.4 If a law enforcement official determines that a notification or notice required under this section would impede a criminal investigation or cause damage to national security, such notification or notice shall be delayed in the same manner as provided under section 164.528(a)(2) of title 45, Code of Federal Regulations, in the case of a Disclosure covered under such section.
If a law enforcement official states to the Business Associate that any notification or notice would impede a criminal investigation or cause damage to national security, the Business Associate shall:
- (a) If the statement is in writing and specifies the time for which a delay is required, delay such notification or notice for the time period specified by the official; or
 - (b) If the statement is made orally, document the statement, including the identity of the official making the statement, and delay the notification or notice temporarily and no longer than 30 days

from the date of the oral statement, unless a written statement as described in (a) is submitted during that time.

SECTION 13: PROHIBITION ON SALE OF ELECTRONIC HEALTH RECORDS OR PROTECTED HEALTH INFORMATION.

- 13.1 Except as provided in section 13.2, the Business Associate shall not directly or indirectly receive remuneration in exchange for any Protected Health Information of an Individual unless the Covered Entity has obtained from the Individual, in accordance with section 164.508 of title 45, Code of Federal Regulations, a valid authorization that includes, in accordance with such section, a specification of whether the Protected Health Information can be further exchanged for remuneration by the entity receiving Protected Health Information of that Individual.
- 13.2. Section 13.1 shall not apply in the following cases:
- a. The purpose of the exchange is for public health activities (as described in section 164.512(b) of title 45, Code of Federal Regulations).
 - b. The purpose of the exchange is for research (as described in sections 164.501 and 164.512(i) of title 45, Code of Federal Regulations) and the price charged reflects the costs of preparation and transmittal of the data for such purpose.
 - c. The purpose of the exchange is for the treatment of the Individual, subject to any regulation that the Secretary may promulgate to prevent Protected Health Information from inappropriate access, Use, or Disclosure.
 - d. The purpose of the exchange is the health care operation specifically described in subparagraph (iv) of paragraph (6) of the definition of healthcare operations in section 164.501 of title 45, Code of Federal Regulations.
 - e. The purpose of the exchange is for remuneration that is provided by the Covered Entity to the Business Associate for activities involving the exchange of Protected Health Information that the Business Associate undertakes on behalf of and at the specific request of the Covered Entity pursuant to the Agreement.
 - f. The purpose of the exchange is to provide an Individual with a copy of the Individual's Protected Health Information pursuant to section 164.524 of title 45, Code of Federal Regulations.

The purpose of the exchange is otherwise determined by the Secretary in regulations to be similarly necessary and appropriate as the exceptions provided in subparagraphs (a) through (f).

APPENDIX C
PURPOSE, GOALS, AND OBJECTIVES

SECTION 1: PURPOSE.

It is mutually agreed by and between County and Contractor that it is the purpose of this contract that Contractor provide a center and system of integrated services that supports and stabilizes individuals experiencing a substance use disorder crisis, actively engaging them in treatment and recovery services in the community. Services shall be consistent with Recovery Oriented Systems of Care (ROSC), Strengths Based Case Management principles, Trauma Informed Care practices, and Motivational Interviewing practices. When individuals are transitioned from the crisis detox services, they will return to the community with a recovery support plan. The priority population will include adults experiencing a substance use disorder crisis who are uninsured, under insured or who have no know payer source.

SECTION 2: GENERAL PROVISIONS

- 2.1** Crisis detoxification services to be provided include:
- a) Assessment services to determine level of care
 - b) Peer recovery services
 - c) Sobering services
 - d) Clinically-managed residential withdrawal management (American Society of Addiction Medicine Level 3.2d)
 - e) Medically-monitored residential withdrawal management (American Society of Addiction Medicine Level 3.7d)
 - f) Discharge planning and referrals to ongoing treatment services
- 2.2** Contractor will utilize current assessment tools required by Kansas Department on Aging and Disability Services.
- 2.3** Contractor shall develop a system for medical records complying with all applicable state and federal regulations.
- 2.4** Contractor shall administer client satisfaction surveys using forms developed by the County.
- 2.5** Contractor shall collect data and report on each area of service delivery, submitting reports to the County within the requested timeframes in format requested by the County.
- 2.6** Contractor shall report revenue and expenses related to the contract services to the County on a monthly basis. It is understood that revenue collected by contractor shall be deducted from monthly payment by County.
- 2.7** Contractor shall maintain a vehicle and provide or arrange for transportation from one care delivery point to the next appropriate level of care.
- 2.8** Contractor shall develop policies, procedures and protocols for client services and operation of the facilities. These will reflect adoption of best practices and to be in compliance with all KDADS regulations and policies.

- 2.9** Contractor shall obtain and maintain appropriate SUD treatment licenses and comply with all state, federal and local policies, licensing, regulations and requirements related to Substance Use Disorder Treatment Facilities.
- 2.10** It is understood that Contractor's records used in the preparation of all reports are subject to review by County to insure the accuracy and validity of the information reported.
- 2.11** Contractor shall provide written notice to the Director of COMCARE if it is unable to provide the required quantity or quality of service. This written notice shall include a plan to address the issues affecting quantity and/or quality of services being provided.
- 2.12** Contractor is required to notify COMCARE of any critical incidents within 24 hours of the time Contractor becomes aware of the occurrence. COMCARE's Director of Quality Management must be notified by Contractor as soon as possible, but no later than 24 hours after Contractor is aware of the incident. The following is a non-exclusive listing of critical incidents the Contractor is required to notify COMCARE about:
- a) Death of a consumer receiving services from Contractor
 - b) Suicide attempt
 - c) Medication error
 - d) Any event requiring the services of the fire department or law enforcement agency beyond the scope of contractor's routine delivery of services
 - e) Abuse or alleged abuse involving a consumer
 - f) An injury or illness (non-psychiatric) of a consumer that requires medical treatment more intensive than first aid
 - g) A consumer who is out of contact with staff for more than 24 hours without prior arrangement, or a consumer who is in immediate danger because he/she is missing for any period of time
 - h) Any fire, disaster, flood, earthquake, tornado, explosion, or unusual occurrence that necessitates the temporary shelter or relocation of residents
 - i) Seclusion or restraint
 - j) Other incidents identified by Contractor as critical, adverse or unusual
- 2.13** Contractor agrees to maintain a vehicle operation and usage policy governing Contractor's employees and any applicants for employment whose responsibilities would include transporting clients served under this contract. The policy must be equally as restrictive as County's vehicle operation and usage policy, although it may be more restrictive if Contractor deems appropriate. A copy of County's policy is available upon request.
- 2.14** Contractor will meet with representatives from COMCARE-CCC on a yearly basis to discuss successes, concerns, improvements and changes to be implemented.

- 2.15** Consistent with good patient care and State of Kansas mental health licensing requirements, County and Contractor agree it is their mutual intent to comply with the provisions of state and federal regulations in regard to confidentiality of eligible participant records.
- 2.16** To ensure compliance with all state and federal regulations, Contractor agrees to notify COMCARE within one business day of discovery of any improper coding violations.
- 2.17** Contractor is responsible for obtaining all necessary training including MCO and KDADS required trainings for the delivery of contracted services. Supervision of Contractor staff will be delivered by the Contractor and will comply with all necessary requirements related to the specific service activity, including the nature and frequency of the contacts. Documentation of all staff members' qualifications, training, and supervision will be made available to COMCARE upon request.

SECTION 3: PROGRAM GOALS

The following are the goals of this Agreement:

- a) Decrease admission to the state mental health hospital
- b) Provide community-based alternatives to hospital-based withdrawal management

SECTION 4: SERVICE OUTCOMES/GOALS

- 4.1 Performance Measures and Reporting Requirements.** Performance measures for project services will include:
- a) Individuals are triaged in less than 30 minutes 75 percent of the time.
 - b) Assessments and the initial stabilization treatment plan are completed within defined timeframes (not to exceed 24 hours) for 90 percent or higher of all individuals admitted.
 - c) At least 90 percent of the individuals who are discharged for crisis observation will have a documented plan for follow up services that includes utilization of community services (to include intensive case management, substance use disorder treatment, medical follow-up, mental health, peer support and other services and needed).
 - d) Through the satisfaction survey process, at least 80 percent of the individuals report that they are satisfied with the treatment provided and that the treatment was relevant to their presenting concerns.
 - e) Less than 20 percent of clients discharged from any level of service are readmitted to this or any other institution within seven days of discharged based on information accessible by the CMHC.
- 4.2** Data collected for the following measures within the first year will be considered the baseline data.
- 4.3** Increase in percentage of clients whose living arrangements improved, as measured by:
- a) Number who obtained or maintained permanent housing;
 - b) Number who obtained or maintained transitional housing.
- 4.4** Increase in percentage of clients who connect to needed mental health or substance use disorder services as measured by:

- a) Number of clients who actively participate in ROSC services;
- b) Number of clients who actively participate in mental health services;
- c) Number of clients who actively participate in substance use disorder treatment.

4.5 Increase in percentage of clients who access needed benefits as measured by:

- a) Number of clients who received assistance applying for federal disability of benefits and the total number of clients who attained federal disability benefits.
- b) Number of clients who received assistance applying for state or third party benefits and total number who attained state or third party benefits.
- c) Increase in total number of clients who are assisted to secure primary medical care and the number of people who attained primary medical care

4.6 Increase in total number of people who had an interest in seeking earned income and the number of people who attain earned income.

SECTION 5: MONTHLY REPORTING

5.1 Monthly reports are due by the 20th of the month and shall include the following:

- a) Number of people served.
- b) Average time to complete initial assessments.
- c) Average lengths of wait time for triage.
- d) Average length of stay in sobering beds.
- e) Average length of stay in crisis observation beds.
- f) Number of people who received and alcohol and drug evaluation.
- g) Number of individuals referred to social detox.
- h) Number of individuals referred to SUD intensive outpatient treatment and attend first session.
- i) Number of individuals referred to SUD outpatient treatment and attend first appointment.
- j) Number of individuals who are referred to Medication Assisted Treatment.
- k) Number of individuals referred to intermediate SUD treatment and admitted.
- l) Number of individuals referred to community based mental health services.
- m) Number of individuals referred to short-term stabilization.
- n) Number of people who complete an intake at the programs to which they were referred.
- o) Number of people discharged with community services.
- p) Percentage of individuals who report being satisfied with services provided at CCC.
- q) Number of people readmitted to services within seven days of discharge.
- r) Number of individuals screened and admitted to a state mental health hospital (SMHH).
- s) Number of individuals screened and not admitted to SMHH.
- t) Total number of beds days needed for stabilization
- u) Total number of clients who obtained or maintained permanent housing.
- v) Total number of clients who obtained or maintained transitional housing.
- w) Total number of clients who were engaged in ROSC services.
- x) Total number of clients who were engaged in mental health services.
- y) Total number of clients who were engaged in substance use treatment.
- z) Total number of clients who received assistance applying for federal disability benefits.
- aa) Total number of clients who attained federal disability benefits.
- bb) Total number of clients who received assistance applying for state or third party benefits and total number who attained state or third party benefits.

- cc) Total number of clients who were assisted to secure primary medical care and the number of people who attained primary medical care.
- dd) Total number of people that had an interest in seeking earned income and the number of people who attained earned income.

5.2 Performance Measures Project Services

- a) Goals include:
 - i. Decrease admissions to SMHH for Sedgwick, Butler and Sumner Counties by 30 percent by October 2015
 - ii. Reduce 30-day readmission rates to SMHH by 20 percent from 2013 data
 - iii. Engage peer specialist/recovery coaches with treatment/recovery plans 70 percent of the time.
 - iv. Have a follow up plan for at least 90 percent of individuals that includes utilization of community services (to include intensive case management, substance use disorder treatment, medical follow-up, mental health and /or other services, as needed)
 - v. Have a least 80 percent of individuals report through the satisfaction survey process that they are satisfied with the treatment provided and the treatment was relevant to their presenting concerns
- b) Monthly reports will include:
 - i. Number of people served
 - ii. Average length of stay
 - iii. Number of people discharged with community services
 - iv. Number of people discharged to SMHH
 - v. Percentage of individuals who complete satisfaction surveys
 - vi. Number of people readmitted to services within seven (7) days or discharge
 - vii. Number of people engaged with peer support/recovery coach

5.3 Performance Measures Consumer Service Dollars/Flexible Funding

- a) Goals include:
 - i. Access of all services identified and individual treatment/recovery plans by individuals within seven days 80 percent of the time.
 - ii. Report of satisfaction with treatment provided and the treatment was relevant to their presenting concerns.
- b) Monthly reports will include:
 - i. Number of individuals referred to residential SUD treatment.
 - ii. Number of individuals who receive medication assistance
 - iii. Number of individuals who receive assistance with housing
 - iv. Number of individuals who complete satisfaction surveys
 - v. Detailed budget on Flexible Funds Expenditures.