

**ATTACHMENT A-I  
PROGRAM SPECIFIC TERMS AND CONDITIONS**

**A. Agency Specific Terms and Conditions**

1. If this Master Contract is a “procurement contract” within the meaning of New York State Finance Law Section 139-k, then the OMH reserves the right to terminate this contract in the event it is found that the certification filed by the CONTRACTOR in accordance with the New York State Finance Law Section 139-k was intentionally false or intentionally incomplete.
2. If Section 5-a of the NYS Tax Law is applicable, the CONTRACTOR must submit the following forms as and when required: to the NYS Tax Department, a Contractor Certification Form ST-220-TD, and to OMH, a Contractor Certification to Covered Agency Form ST-220-CA.
3. The CONTRACTOR warrants to the OMH that it has secured sufficient right, title and interest to ensure that OMH may use any design, device, material, process, or other component comprising all or part of the deliverables.
4. If the deliverables for this Master Contract include goods or services relating to computer software and/or hardware, all such deliverables/deliveries shall be provided, where applicable, in accordance with the parameters contained within the specifications for the goods or services being purchased.
5. In the event that CONTRACTOR is provided access to any electronic data or computer application maintained by OMH, OMH may request, and CONTRACTOR shall execute, such additional forms or agreements as OMH generally requires as a condition of such access (e.g., Data Exchange Agreement, Computer Application Sharing Agreement, Confidentiality and Non-Disclosure Agreement).
6. The OMH has an irrevocable, royalty-free, non-exclusive and world-wide license to publish, reproduce, display, disclose or otherwise use any of the contract deliverables; provided, however, that if and to the extent that the contract deliverables require CONTRACTOR to create, write, develop or produce an original work which is or could be subject to protection under the laws governing intellectual property, including but not limited to the laws of copyright and patents (the “Work”), such Work shall be deemed to be a work made for hire and in the course of the services being rendered under this Agreement and shall belong exclusively to OMH, with OMH having the sole right to obtain, hold and renew in its own name, all copyrights or other appropriate protection. To the extent that any such Work may not be deemed to be a work made for hire, CONTRACTOR hereby irrevocably assigns to OMH all right, title and interest therein. CONTRACTOR shall ensure that all copies of the Work are marked with appropriate copyright notices and shall give OMH all reasonable assistance and execute all documents necessary to assist and/or enable OMH to perfect, preserve, register and/or record its rights in any Work. Upon termination, cancellation or expiration of this Agreement, CONTRACTOR shall turn over all Works to OMH, and upon request, any OMH documents or items furnished to CONTRACTOR during the performance of this Agreement.
7. In the event that CONTRACTOR, in the course of performance hereunder, obtains access to information, data or records deemed confidential in accordance with the provisions of Mental Hygiene Law Section 33.13 and/or “protected health information” as

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such term is defined in 45 C.F.R. Parts 160, 164, then CONTRACTOR shall restrict its use of that information, data or records for the limited purposes of this agreement and in accordance with Appendix F of this agreement, if and as applicable. Any further dissemination or any use beyond that specifically authorized, of any such information, data or records, by CONTRACTOR, its agents, successors or associates shall constitute an unlawful disclosure of confidential information in violation of Mental Hygiene Law Section 33.13, and/or 45 C.F.R. Parts 160, 164, if and as applicable, and CONTRACTOR acknowledges that it has an affirmative obligation to safeguard any such information, data or records from unnecessary distribution amongst its agents and to any third parties. CONTRACTOR specifically agrees to indemnify OMH from damages to third parties flowing from any breach of the confidentiality of records in the possession or control of CONTRACTOR.

8. In the event that CONTRACTOR, in the course of performance hereunder, obtains access to information, data or records deemed confidential by OMH (other than information, data or records which is already covered by paragraph 7 above) (“Confidential Information”), CONTRACTOR shall hold all such Confidential Information in confidence and not disclose or make it available to third parties without OMH’s written permission. CONTRACTOR further agrees to use such Confidential Information solely for the purpose of fulfilling its obligations under this Agreement. This obligation will not apply to information which:
  - a. Was known to CONTRACTOR prior to receipt from OMH as evidenced through written documentation;
  - b. Was or becomes a matter of public information or publicly available through no fault on the part of CONTRACTOR;
  - c. Is acquired from a third party entitled to disclose the information to CONTRACTOR;
  - d. Is developed independently by CONTRACTOR with the use of OMH’s Confidential Information;
  - e. Is required to be disclosed pursuant to law, regulation or court order; provided, however, that in the event of a demand for such disclosure, CONTRACTOR shall not make such disclosure without prior written notice to OMH and an adequate opportunity for OMH to oppose such disclosure, including seeking an injunction as appropriate under the circumstances.
9. In that purchases by the State of New York are not subject to sales tax, transportation tax and Federal excise tax, payment for such amounts may not be claimed, declared or allowed under this agreement. Exemption certificates will be provided upon request.
10. Federal law requires that OMH provide their contractors with information about the Federal False Claims Act, the New York State False Claims Act and other federal and state laws that play a role in preventing and detecting fraud, waste and abuse in federal health care programs. This information must include the whistleblower protections that are in these laws. OMH must also provide its contractors with information about OMH’s own policies and procedures for detecting and preventing waste, fraud and abuse.

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Detailed descriptions of these laws, their whistleblower protections and OMH's policies are on the [OMH website](#). Information can also be found at the New York State Medicaid Inspector General [website](#) to obtain information about these laws. Contractors having difficulty finding this information or who wish to request a paper copy, may contact OMH Counsel's Office at (518) 474-1331 or [OMH Counsel's Office](#).

All contractors of OMH are required to participate in the reviews and audits described in the OMH policies, and to abide by these policies with respect to funding for OMH services.

Contractors are required to make the information at the website address listed above available to all their employees and to sub-contractors involved in performing work under the contract with OMH.

11. Notices

For the purpose of notice as set forth in the Standard Terms and Conditions, Sections I(J)2 and I(J)3, notices shall be addressed as follows or to such different addresses as the parties may from time-to-time designate:

***State of New York Office of Mental Health***

***a. Community Mental Health Services Grants***

**Name:** Nancy Splonskowski  
**Title:** Director, Contracts & Claims, Community Budget & Financial Management  
**Address:** 44 Holland Avenue, Albany N.Y. 12229  
**Telephone Number:** (518) 473-7885  
**Facsimile Number:** (518) 402-2529  
**E-Mail Address:** [ContractNotices@omh.ny.gov](mailto:ContractNotices@omh.ny.gov)

***b. Local Capital Construction Grants***

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**Contractor Name:**

**Name:**  
**Title:**  
**Address:**  
**Telephone Number:**  
**Facsimile Number:**  
**E-Mail Address:**

12. Mental Health Regulations

- a. Each provider who receives OMH State aid must comply with all applicable provisions of the *Official Compilation of Codes, Rules, and Regulations of the State of New York*, including, but not limited to Title 14 (Mental Hygiene).
- b. Limits on Administrative Expenses and Executive Compensation (14 NYCRR Part 513, incorporated herein by reference) –
  - i. If CONTRACTOR is a “covered provider” within the meaning of 14 NYCRR § 513.3(d) at any time during the life of this Agreement, then during the period when CONTRACTOR is such a “covered provider”:
    - a) CONTRACTOR shall comply with the requirements set forth in 14 NYCRR Part 513, as amended; and
    - b) CONTRACTOR’s failure to comply with any applicable requirement of 14 NYCRR Part 513, as amended, including but not limited to the restrictions on allowable administrative expenses, the limits on executive compensation, and the reporting requirements, may be deemed a material breach of this Agreement and constitute a sufficient basis for, in the discretion of the Office, termination for cause, suspension for cause, or the reduction of funding provided pursuant to this Agreement.
  - ii. CONTRACTOR shall include the following provision in any agreement with a subcontractor or agent to provide program or administrative services under this CONTRACT:
    -

[Name of subcontractor/agent] acknowledges that it is receiving “State funds” or “State-authorized payments” originating with, passed through or approved by the New York State Office of Mental Health in order to provide program or administrative services on behalf of [Name of CONTRACTOR]. If at any time during the life of this Agreement [Name of subcontractor/agency] is a “covered provider” within the meaning of Section 513.3(d) of OMH regulations, [Name of subcontractor/agent] shall comply with the terms of 14 NYCRR Part 513, as amended. A failure to

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comply with 14 NYCRR Part 513, where applicable, may be deemed a material breach of this Agreement constituting a sufficient basis for suspension or termination for cause. The terms of 14 NYCRR Part 513, as amended, are incorporated herein by reference.

13. General Provisions

*CONTRACTOR* agrees that in the event that this *MASTER CONTRACT* or any document associated with this *MASTER CONTRACT* requires conformance as to any matters of form only *CONTRACTOR* will cooperate fully with and promptly respond to any and all requests by OMH for execution of applicable documents.

**B. Program Specific Terms and Conditions for Community Mental Health Services Grants**

1. General

- a. OMH requires *CONTRACTOR* to comply with specific instructions applicable to the conduct of the program or programs funded under this Master Contract, including requirements and limitations applicable by virtue of the funding source for this Master Contract. Such instructions, which are known as the *Aid-to-Localities Spending Plan Guidelines*, are referred to herein collectively as "Guidelines" and shall be deemed incorporated by reference and a binding part of this Master Contract. *CONTRACTOR* shall adhere to all provisions contained in the Guidelines, which can be found on the OMH website at [www.omh.ny.gov/omhweb/spguidelines/](http://www.omh.ny.gov/omhweb/spguidelines/). In the event that a conflict exists between the Guidelines and this Master Contract, the provisions of the Master Contract shall govern.
- b. *CONTRACTOR* is required to comply with all OMH fiscal and program reporting requirements, including, but not limited to completion and submission of the following: Consolidated Fiscal Report (CFR), including Consolidated Budget Report (CBR) and Consolidated Claim Report (CCR); Patient Characteristics Survey (PCS); New York State Department of Labor/Office of Mental Health Employment Support System (replaces NYISER system); Mental Health Provider Data Exchange (MHPD); and Children and Adult Information Reporting System (CAIRS). In addition to any other Deliverables provided for this Master Contract, all such fiscal and program reports shall be deemed "Deliverables". Accordingly, OMH may, in its sole discretion, withhold any State Aid and/or Medicaid payment due under this Master Contract until such time as the *CONTRACTOR* has submitted to OMH all Deliverables, including reports, which are due prior to any scheduled payments.

2. Budget

- a. For a contract with simplified renewals, OMH shall provide *CONTRACTOR* with instructions for the completion and submission of all documents required to renew the contract, including the requirement for a detailed budget. Upon receipt of the

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notice, the CONTRACTOR shall complete all required documents and provide a detailed budget in accordance with guidance provided by OMH.

- b. For a multi-year agreement, OMH shall provide CONTRACTOR with the authorized allocation of funding for the next contract year at least 90 days prior to the end of the current contract year. The actual authorized allocation for each contract year may be less than the funding amount listed on the Master Contract for Grants Face Page for that contract period because the Face Page reflects a projected amount for the out years of the contract which is based on certain funding assumptions that may or may not occur, such as a statutorily authorized Cost of Living Adjustment (COLA). Upon receipt of the authorized allocation of funding, CONTRACTOR shall submit an annual budget, which must be approved by OMH prior to any payments being made for that contract year.

3. Payments

- a. Payments: OMH will make payments as set forth in Attachment D hereof (“Payment and Reporting Schedule”). Such Payments may be used only for Eligible Expenditures as defined herein.

**For Payments requiring submission of an invoice, such invoices shall be remitted to:**

**NYS Office of Mental Health  
Contracts & Claims Unit  
44 Holland Avenue, 7FL  
Albany, NY 12229**

- b. Sums Subject to Recapture: OMH shall be entitled to recoup from any Payment made to CONTRACTOR any amount, under this or any contemporaneous or predecessor agreement, by which Payment exceeds Eligible Expenditures less Income for the relevant period
- c. Recoupment of Scheduled Payments shall occur upon submission and reconciliation of a final claim for the contract period. Final claim shall be due in accordance with Attachment D (“Payment and Reporting Schedule”) and Section III(C) of the Master Contract, and such claims shall be reduced until the advance is fully recovered within the Contract Term. Any unexpended advance balance at the end of the Contract Term shall be refunded by the CONTRACTOR to the State. If for any reason the amount of any claim is not sufficient to cover the proportionate advance amount to be recovered, then subsequent claims may be reduced until the advance is fully recovered.
- d. Income shall mean those funds available to CONTRACTOR from any source whatsoever, as payment for or reimbursement of costs associated with the provision of Contract Services; but shall not include: funds paid by OMH to the CONTRACTOR pursuant to this Master Contract or for purposes other than the provision of Contract Services; or, Gifts or Donations (contributions or endowments from non-governmental sources, intended to further the general work and purposes of the CONTRACTOR and not for specific payment of an Eligible Expenditure), and may be limited as set forth in the Guidelines. As is consistent with good and prudent judgment, CONTRACTOR shall maximize all sources of income available to itself or

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its clients, and, encourage and assist all clients to or, on behalf of clients unable to do so, apply for income to which they are entitled.

- e. Eligible Expenditures are those actual, reasonable and necessary expenses incurred by the CONTRACTOR in the provision of contract services in accordance with and as limited by the amount set forth for these expenditures in the contract budget as contained in Attachment B, the Guidelines and the rules and regulations of the State Comptroller governing reimbursement of State employees (M/C Bargaining Unit), for expenses incurred while performing State business.
  - i. An expenditure shall not be an Eligible Expenditure if and to the extent that it exceeds the cost that a prudent person would pay in the open market under the circumstances prevailing at that time.
  - ii. Expenditures which are not Eligible Expenditures shall be disallowed and excluded from the calculation of Eligible Expenditures for purposes of determining Sums Subject to Recapture as provided above.
  - iii. The cost of items whose use is shared with non-contract purposes shall be prorated and only the portion utilized for the performance of contract services may be claimed as Eligible Expenditures. Except where payment is being prorated, no items claimed under any other agreement with the State of New York may be claimed hereunder.
  
- f. Contract Budget Modifications
  - i. Any proposed modification to a contract that will result in a transfer of funds among program activities or budget cost categories, but does not affect the amount, consideration, scope or other terms of such contracts must be submitted to OMH for submission to the Office of State Comptroller for approval when:
    - a) The amount of the modification is equal to or greater than ten percent of the total value of the contract for contracts of less than five million dollars; or
    - b) The amount of the modification is equal to or greater than five percent of the total value of the contract for contracts of more than five million dollars.
  - ii. If the modified expenditure occurs prior to approval by the State Comptroller, the Contractor is accepting the risk that the modified expenditure may not be approved and may be deemed an ineligible expenditure, subject to recapture as provided in paragraph 2(b) above.
  - iii. Exempt Transactions: The following budget modifications may be made by the CONTRACTOR without OSC approval. OMH approval may still be required as set forth in the Guidelines:
    - a) Property Escalations: Providers may reallocate funding from the “other than personal services” category (OTPS) to the real property category

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where necessary to accommodate unanticipated costs increases related to rent, utilities or maintenance; and

- b) Fringe Benefits: Providers may reallocate funding from the personal services category to the fringe benefits category where necessary to accommodate unanticipated costs increases related to health insurance premiums for their employees.
  
- iv. Exempt Programs/Contracts: Reallocations of budgeted amounts in the following contracts/programs do not require OSC approval, regardless of amount:
  - a) Performance-based contracts, meaning CONTRACTOR has agreed to provide, and the STATE has agreed to accept, a certain set of deliverables for a fixed price, without reference to CONTRACTOR’s costs (a “Performance-based Contract”); or
  - b) “Model driven” programs or ones for which payment is based on a fixed amount per unit (an “Exempt Program”). Exempt Programs include the following:

<b>OMH Programs Exempt from OSC Approval of Budget Reallocations</b>	
<b>Residential Programs, including, but not limited to:</b>	<b>Program Code</b>
Community Residence, Children & Youth	7050
Community Residence, Adult	8050
Supported Single Room Occupancy	5070
Supported Housing	6050, 6060
Congregate Treatment	6070
Congregate Treatment Support	6080
Apartment Treatment	7070
Apartment Treatment Support	7080
Program Development Grant	0190
Transient Housing	2070
Residential Care Centers for Adults (RCCA)	6070, 6080
Shelter Plus Care Housing	3070
Teaching Family Home	4040
Family Based Treatment	2040
Family Care	0040
<b>Case Management Programs, including, but not limited to:</b>	<b>Program Code</b>
Adult Homes	6820, 6920
Blended Case Management (BCM)	0820, 0920
Intensive Case Management (ICM)	1810, 1910
Supportive Case Management (SCM)	6810, 6910
Residential Treatment Facilities (RTF)	2880, 2980
Transition Coordinator	
Assertive Community Treatment (ACT)	0800-0806, 8810

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<b>OMH Programs Exempt from OSC Approval of Budget Reallocations</b>	
HCBS (Home & Community-Based Services) Waiver	2300, 2980
<b>Vocational/Rehab Programs, including, but not limited to:</b>	<b>Program Code</b>
Ongoing Integrated Supported Employment (OISE)	4340
Personalized Recovery Oriented Services (PROS)	6340, 7340, 8340

Reallocation of amounts between budget categories for a Performance-based Contract or an Exempt Program shall not affect the Payment due to CONTRACTOR from the State for provision of the Performance-based Contract or Exempt Program services.

- v. In determining whether CONTRACTOR’s expenditures for any given budgeted contract category exceeds the allowable threshold interchange, the amount included in that category for Performance-based Contract or Exempt Programs shall first be deducted.

4. Fifth Quarter Payment Provisions

The Fifth Quarter, i.e., “Optional” Payment to be made under the provisions of Attachment D shall be a sum Subject to Recapture for a succeeding Contract Period or under a Successor Agreement.

5. Acquisition of Property

Unless otherwise agreed, this Master Contract shall be considered a cost-reimbursement contract for purposes of determining ownership of any property acquired by CONTRACTOR with funds provided under the Master Contract. The CONTRACTOR shall dedicate and utilize any such property for purposes benefiting this and subsequent agreements with the Office of Mental Health, or its assigns, for the duration of that property's useful life. The CONTRACTOR hereby grants and assigns a purchase money security interest having first priority in all such property, even though hereafter acquired. The CONTRACTOR shall execute any documents which OMH may reasonably require to effectuate the provisions of this section.

6. Community Mental Health Facility Real Estate Provisions

- a. OMH has the right to review and approve in writing any new contract for the purchase of or lease for rental of real estate operated as a necessary adjunct to the provision of the community mental health services as specified in this contract, if applicable, and any modifications, amendments or extensions of an existing lease prior to its execution. If, in its discretion, OMH disapproves of any lease, then OMH shall not be obligated to make any Facility Real Estate payments for such property.

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- b. No member, officer, director or employee of CONTRACTOR shall retain or acquire any interest, direct or indirect, in any Facility Real Estate, nor retain any interest, direct or indirect, in such, without full and complete prior disclosure of such interest and the date of acquisition thereof, in writing to the CONTRACTOR and the OMH.

7. Required Provider Training

OMH periodically offers or supports training programs for providers of mental health services. Local Governmental Units (LGUs) and agencies that are licensed and/or receive direct or indirect funding from OMH shall send appropriate representatives to such training, if directed to do so by OMH.

8. Required Criminal History Background Checks

Chapter 575 of the Laws of 2004 (Mental Hygiene Law § 31.35 and Executive Law §845-b) requires every provider of mental health services who is licensed by, contracts with or is otherwise approved by the Office of Mental Health, to request criminal history record checks for prospective employees and volunteers who will have regular and substantial unsupervised or unrestricted physical contact with clients. Chapter 673 of the Laws of 2006 further amends Executive Law § 845-b to expand the reach of the criminal history record check to also include a check of multi-state records maintained by the Federal Bureau of Investigation (FBI).

9. Consumer Specific Records

In addition to any other requirements regarding record keeping, the records of accounts shall identify, in a manner designated by the OMH, all monies received and disbursed for or on behalf of each individual consumer. The OMH may review these and other consumer records, including records evidencing consumer identity.

**C. Program Specific Terms and Conditions for Local Capital Construction Grants**

**[INTENTIONALLY DELETED]**