

**INTERLOCAL AGREEMENT BETWEEN  
EL PASO COUNTY  
AND  
EL PASO MHMR D/B/A EMERGENCE HEALTH NETWORK  
FOR JAIL BASED COMPETENCY RESTORATION**

**THIS INTERLOCAL AGREEMENT** is entered into as of July 1, 2024 (“Effective Date”), by and between El Paso County (County) and El Paso MHMR d/b/a Emergence Health Network (“EHN”) for the provision and administration of Jail-Based Competency Restoration (JBCR or Program) which provide competency restoration services to adults who are deemed incompetent to stand trial.

**RECITALS**

**WHEREAS**, El Paso County (“County”) is charged by law with the responsibility for obtaining and providing reasonably necessary medical and mental health care for inmates of the County Downtown Detention Facility and Jail Annex (collectively, the “County Detention System” or “EPCDS”), under the supervision and control of the El Paso County Sheriff’s Office (“EPCSO”); and

**WHEREAS**, under Texas law, a county may develop and implement a jail-based competency restoration program;

**WHEREAS**, EHN, formerly known as the El Paso Mental Health & Mental Retardation (“MHMR”), was established as the Local Mental Health Authority (“LMHA”) pursuant to Chapter 533 of the Texas Health and Safety Code, and provides a comprehensive array of mental health services in El Paso County; and

**WHEREAS**, the purpose of the Interlocal Cooperation Act, Chapter 791, Texas Government Code is to increase the efficiency and effectiveness of local governments by authorizing them to contract, to the greatest possible extent, with one another and with agencies of the state; and

**NOW THEREFORE**, and in consideration of the mutual promises contained in this Agreement, EPCDS and EHN mutually agree as follows:

**ARTICLE 1. PURPOSE, ATTACHMENTS**

**A.** The purpose of this agreement is to provide and administer Jail-Based Competency Restoration (JBCR or Program) programs to provide competency restoration services to adults who are deemed incompetent to stand trial (IST) pursuant to Texas Code of Criminal Procedure (CCP), Chapter 46B to inmates of the El Paso County Detention System in compliance with applicable laws, rules, regulations, and national jail standards. JBCR programs minimize the cost associated with forensic inpatient treatment in state hospitals while maximizing community access to services provided by the local mental health authorities (LMHAs) and local behavioral health authorities (LBHAs).

**B.** The Attachments listed below are incorporated as if fully set forth:

1. Attachment A - HHSC Statement of Work, Version 1
2. Attachment B - JBCR Outcome Measures

## **ARTICLE 2. EHN DUTIES**

**A. General Provisions.** EHN will provide the following county-based jail-based competency restoration services to inmates in the County Detention System (collectively referred to as the “Services”).

1. **Compliance with State and Federal Jail Standards; PREA.** At all times during the contract term, EHN will provide a jail-based competency restoration service array, in accordance with the Health and Human Services Performance Contract, Texas Commission on Jail Standards (“TCJS”), and all other appropriate state and federal authorities, to inmates in the County Detention System, at all times during the contract term. In addition, EHN will meet and maintain TCJS and Office of Federal Detention Trustee (“OFDT”) standards as of the Assumption of competency restoration Effective Date. In coordination with EPCDS, EHN will remain in compliance with standard requirements from the National Commission on Correctional Health Care (“NCCHC”) throughout the duration of the contract term. NCCHC will be collectively referred to as the National Jail Standards. EHN will also comply with the Prison Rape Elimination Act (“PREA”), as it is applicable to the Detention System. EHN, further, will comply with all applicable EPCDS policies and procedures related to Services provided under this Agreement.
2. At all times during the contract term, EHN will provide JBCR services in compliance with 26 Texas Administrative Code (TAC), Chapter 307, Subchapter C, relating to Jail-Based Competency Restoration Program, CCP, Chapter 46B, Article 46B.091 relating to Jail-Based Competency Restoration Program implemented by County. In accordance with CCP, Chapter 46B, Article 46B.091, allow System Agency to inspect the county-based JBCR Program prior to serving individuals in the JBCR Program and as further deemed appropriate by System Agency. Reduce the demand for forensic state hospital bed days in the area served by the Program by reducing the number of maximum security and non-maximum-security defendants in the Clearinghouse (waitlist) determined to be incompetent to stand trial (IST)N due to mental illness and/or Co-Occurring Psychiatric and Substance Use Disorders (COPSD) issues. Provide prompt access to clinically appropriate JBCR services for eligible participants determined IST and not suitable for release on bail to be served in an Outpatient Competency Restoration (OCR) Program. Services shall include treatment of underlying mental illness, and the provision of education and skills training. Education and skills training shall enable Program participants to obtain a factual and rational understanding of legal proceedings and restore their ability to consult with legal counsel. Treatment shall

encompass the principles of effective psychiatric rehabilitation. Provide a cost-effective alternative to competency restoration in a State Mental Health Facility (SMHF). Minimize or ameliorate the stress of incarceration, to the extent possible, for participants in the Program. The amelioration shall include maintenance of therapeutic environment in the evenings and on weekends, and special training for jail security staff who work in the Program.

3. **HIPAA.** EHN acknowledges that the services provided under the Agreement are subject to federal and state laws, rules, and regulations relating to, among other subjects, the confidentiality and security of patient information, including but not limited to, the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), and regulations hereunder as may be amended from time to time. EHN will only use and disclose Protected Health Information (“PHI”) as required to perform the services outlined in this Agreement, which may include the proper management and administration of inmate medical services and may provide data aggregation services to the health care operations of the EPCDS. EHN will not use or further disclose PHI other than as permitted under this Agreement and EHN will use appropriate safeguards to prevent the use or disclosure of PHI for any reason other than as provided by the Agreement. EHN will promptly notify the EPCDS of any use or disclosure of PHI not provided for in this Agreement. EHN will notify EPCDS of its corrective actions to cure any breaches as soon as possible. EHN understands that EPCDS may terminate this Agreement immediately if EHN’s actions are not successful in remedying the breach and EPCDS may report the problem to the Secretary of Health and Human Services. EHN will require any agents or subcontractors who receive PHI to be bound by the same restrictions and conditions outlined in this Agreement. EHN will follow §164.524 (Access of Individuals to PHI), §164.526 (Amendment of PHI) and §164.528 (Accounting of Disclosures of PHI) of the HIPAA Privacy Regulations. EHN will make its internal practices, books, and records relating to the use and disclosure of PHI received from or created or received by EHN available to the Secretary of Health and Human Services or EPCDS for purposes of determining EHN’s compliance with the HIPAA Privacy Regulations. After EHN has completed working with or using PHI provided by EPCDS, EHN will return or destroy all PHI if feasible and, if not feasible, will continue to protect the PHI from wrongful uses and disclosures. If EHN decides to destroy PHI provided by EPCDS under this Agreement, EHN will keep a record of the proper destruction or provide EPCDS with notice and certification of proper destruction of PHI.
4. **Qualifications: Licensing and Credentialing.** All EHN staff performing services under this contract, in which a professional license is required by the State of Texas, will be so licensed.
  - a. EHN agrees that all its health care providers will have and will maintain the required licenses or permits that are, or become, necessary to perform the Agreement.

- b. EHN staff will maintain valid credentials, clinical certifications, and Texas licensure, and operate only within the limits of their scope of practice. As part of the Texas State licensure process, all clinical staff will undergo primary source verification and physicians will be queried through the National Practitioner Data Bank.
  - c. EHN will ensure that credential files are being maintained in accordance with all appropriate standards. EHN understands and agrees to provide EPCDS with documents related to its validation of credentials, clinical certification, and Texas Licensure of any professionally licensed EHN staff performing services under this Agreement upon request by EPCDS. EHN personnel who are properly credentialed by EHN are eligible and competent to provide service under this Agreement.
  - d. All EHN physicians will be licensed to practice medicine in the State of Texas in accordance with the appropriate laws and regulations.
  - e. Cardiopulmonary Resuscitation (“CPR”) Training. EHN’s licensed personnel will be certified in CPR.
  - f. EHN staff providing services under this Agreement will be designated by position in *Attachment A: Statement of Work, Version 1*. EHN administrative staff is not required to meet the qualifications identified in *Attachment A*. EHN may, in its discretion, provide for staff with higher or lower-level qualifications where a minimum level has been identified under a specific provision of this Agreement (with HHSC waiver approval).
5. **Medical Records; Electronic Health Records (“EHR”) and Telemedicine.** EHN will: (1) use the EHR system in order to maintain complete and accurate mental health and competency restoration records for each inmate and provide necessary reporting items to HHSC. EPCSO will grant HHSC access to EHR system and records for audit purposes. EHN will provide copies of all court documents and other applicable documents to EPCSO for complete and accurate record keeping between agencies; and (2) coordinate telemedicine services with EPCDS or other identified tele-health providers, when applicable. The medical records, to include the competency records, will be kept separate from the inmate’s confinement record. Each competency record will be maintained in accordance with HIPAA, TCJS, National Jail Standards, all other applicable state, and federal laws, and EHN’s policies and procedures.
- a. EHN staff will document treatment and findings in the EHR in an accurate and timely manner, and in compliance with accepted competency restoration procedures.
  - b. All entries will be legible and signed by the author, giving both name, credentials, and title. Mental Health staff will make viable attempts at collaborative documentation and make all reasonable efforts to ensure documentation is entered by the end of their identified shift. In the event EHN

staff is unable to enter the documentation by the end of their shift, EHN staff will ensure documentation is entered into the EHR (or other available system) no later than twenty-four (24) hours following service provision. All documentation will be provided to EPCSO for complete medical record keeping within 48 hours of competency service or receipt of legal and court records and documents.

- c. EHN will regularly audit and review competency records. Competency record information will be available to appropriate officials within the County, by providing copies of all records within 48 hours of completion of service or receipt of legal/court records and documents, while ensuring compliance with HIPAA requirements.
  - d. At the termination of this Agreement, EHN staff will ensure all documentation is available for EPCSO and their electronic health records are completed in their entirety.
6. **Subpoenas and Litigation; Custodian of Records.** EPCSO is the legal custodian and owner of all mental health records maintained in the EHR under this Agreement. EHN and EPCDS understand and agree that all subpoenas and other requests for mental health records will be handled in compliance with applicable state or federal law.
  7. **Cost Containment Program.** EHN will utilize the EPCDS Cost Containment Program. Areas of concern will be identified and explored by EHN clinical or administrative staff and EPCDS or its designee. The competency restoration program will ensure that all scheduled competency services are appropriate. In every respect, EHN will strive to ensure that services are provided in the most efficient and effective manner possible.
  8. **Policy and Procedures.** On or before the Effective Date, EHN will provide a written manual of its policies and procedures for jail-based competency restoration program services provided under this Agreement. EHN will provide continuous process review, as needed, throughout each contracted year, and provide timely updates to all processes requiring such updates.
  9. **Independent Contractor Status.** The Parties acknowledge that EHN is an independent contractor. Nothing in this Agreement is intended nor will be construed to create an agency relationship, an employer/employee relationship, or a joint venture relationship among the Parties, nor to confer third party beneficiary status upon any person.

**B. Services to be provided by EHN.** As described in *Attachment A*, EHN will provide jail-based competency restoration services to adults who are deemed incompetent to stand trial pursuant to Texas Code of Criminal Procedure Chapter 46B in order to maintain minimum state jail standards. EHN staff will have clinical autonomy regarding recommendations and provision of competency restoration treatment for all inmates; all safety measures and security protocols as part of EPCDS

policies and procedures, will be adhered to and take precedence if treatment recommendations are in conflict of EPCDS P&P.

**Program Implementation and Oversight.** EHN will initiate process of systematic integration of jail-based competency restoration services that meet State and National standards.

- 1) **Provider Coverage.** EHN will ensure that coverage for the Psychiatrist and Prescriber meet HHSC standards for competency evaluation purposes as outlined in Attachment A.
- 2) **Telemedicine Services.** EHN may substitute in-person Prescriber coverage through the use of telemedicine for competency evaluation purposes. EHN may conduct telemedicine appointments for inmates if clinically appropriate and with the consent of inmate, unless such appointment poses a safety or security risk for the facility, personnel, and/or inmate(s). will be responsible for securing services via telemedicine.
- 3) **Client Services**
  - A. The services and assessments outlined in *Attachment A* will be conducted for inmates and detailed within EHN Jail-Based Competency Restoration Program Clinic Policies and Procedures, as identified as clinically appropriate by EHN staff, in accordance with HHSC and all other appropriate state and federal authority, to inmates in the County Detention System.
  - B. **Transition Services and Discharge Planning.** Transition services and discharge planning will occur in accordance with *Attachment A* outlined responsibilities. EPCSO will be responsible for ensuring clients receive ten (10) days' worth of medication upon release or notify EHN JBCR Program Manager if unable to obtain medication or barriers to obtaining medication(s) are identified.
  - C. **Emergency Care and Crisis Intervention Services.** In collaboration with EPCDS, EHN will provide appropriate responses to mental health crises of inmates participating in the competency restoration program, while in the Detention System. EHN will provide Crisis Intervention Services, when necessary, in response to a competency restoration participant crisis in order to reduce symptoms of severe and persistent mental illness or serious emotional disturbance and, if possible, to prevent admission of an individual to a more restrictive environment. Crisis Intervention Services include:
    - i) The coordination of emergency care services in accordance with applicable law;
    - ii) Behavior skills training to assist the individual in reducing stress and managing symptoms;
    - iii) Problem solving;
    - iv) Reality orientation to help the individual identify and manage their symptoms of mental illness; and
    - v) Providing guidance and structure to the individual in adapting to and coping with stressors
  - D. **Suicidal Inmates.** An inmate participating in the competency restoration program identified as acutely suicidal (active) or non-acutely suicidal (potential or inactive), immediate notification will be provided to the mental health team. Upon a suicide attempt

or completion, EHN Manager will be notified by EPCDS within the same business day of event occurrence.

- E. Patient Referrals.** EHN may make referrals to EPCDS if, in its determination, the mental health of the inmate involves a medical issue.
- F. Inpatient Psychiatric Care.** EHN will follow established processes, along with state and federal law, agreed upon by EPCSO and EPCDS, in relation to referral for inpatient psychiatric care.
- G. Monthly Statistical Data.** EHN will compile and provide monthly mental health data reports, specific data points are outlined in *Attachment B*, identified data will be provided electronically to EPCDS and EPCDS designated personnel, no later than the 5<sup>th</sup> business day of the following month. An annualized report will be provided to EPCDS, by January 10<sup>th</sup> of the subsequent year.
- H. Infectious Waste Disposal.** EHN will dispose of infectious waste in accordance with EPCDS policies and procedures. EPCDS will make provisions for storage, collection, and removal of medical waste and sharps containers, in accordance with state and federal regulations.
- I. Office Space, Exam Rooms, Information Technology Equipment and Utilities.** At no cost to EHN, during the term of this Agreement, EPCDS will allocate appropriate space separate and apart from the regular jail population for all JBCR participants for housing and programming purposes. Additionally, exam rooms, information technology equipment, and utilities, except long-distance phone service, for EHN use will be provided within all designated El Paso County Detention facilities where JBCR services are to be provided. This includes individualized and private office space for Program Manager.
- J. PREA.** EHN will comply with PREA standards, as it applies to mental health and competency restoration.
- K. Program Support Services.** EHN will participate in the following:
  - 1. **Inmate Grievance/Complaints.** EHN will provide a written response to any inmate complaints and/or grievances within twenty-five (25) calendar days of receipt of the complaint and/or grievance. EHN will follow all EPCDF established policies and procedures (Chapter 10.20 – Grievance Officer Post Order).
  - 2. **Safety and Sanitation Inspections.** EHN will comply with the Safety and Sanitation Guidelines and Program.
  - 3. **As Needed Administrative Meetings and Reports.** EHN will meet as needed with EPCSO administration to review competency issues and operations.

**L. Employee Training and Orientation.** EPCDS will be responsible for coordinating and conducting training of EHN staff and/or personnel. Staff requiring orientation will include new staff, returning staff, staff who change status, those who transfer to a new area, or contract personnel. This program will include institutional familiarization training hosted by EPCDS. The Psychiatrist or Prescriber is responsible for completing all aspects of mental health training. Competency based assessments will be used for all mental health personnel. Proficiency will be determined by qualified staff in the respective discipline. Topics to be covered during orientation will include:

- a. Tour of facilities and introduction to key staff;
- b. Chain of command/reporting relationships;
- c. Security procedures;
- d. Work schedules, rules for breaks;
- e. Review of logs and forms;
- f. Sharps /needle counts;
- g. Nursing protocols;
- h. Review of manuals;
- i. Introduction to medication dispensary room;
- j. Mental health and Medical records;
- k. Observation protocols;
- l. Laboratory requests;
- m. Telephone use;
- n. Receiving report from outgoing shift;
- o. Clinic operations;
- p. Intake Screening;
- q. Telemedicine (if operational);
- r. Emergency/treatment records;
- s. Infection control;
- t. Administrative segregation unit procedures; and
- u. Additional topics as required by laws and regulations or mutually agreed to by EPCDS and EHN.

**M. Staffing and Schedules.** EHN staffing profile and schedule will remain in compliance with *Attachment A* and any waivers granted, as per HHSC standards and requirements.

**N. Non-Discrimination; Affirmative Action.** EHN is an Equal Opportunity/Affirmative Action employer. In the administration of its employment policies and practices, EHN does not discriminate against employees or applicants for employment because of race, color, national origin, sex, sexual orientation, religion, age, veteran status, or disability.

**O. Background Checks; Security.** EHN agrees that EHN employees and/or contractors operating under this Agreement will be subject to a security clearance background check, consistent with EHN's policies and procedures. Any additional security clearance background checks required by EPCDS will be the financial responsibility of EPCDS.

- a. EHN agrees that access to the County Detention System will be denied to any persons who fail the background checks.
- b. EHN will adhere to all security procedures as set by EPCDS.

**P. Compliance with County and Sheriff Policies.** All EHN employees and contractors will comply with EPCSO policies, including clothing/dress policies and mandatory participation in quarterly emergency drills. Such EPCSO policies will be provided to EHN.

**Q. Workers Compensation; Liability; Governmental Function and Immunity**

1. **Workers Compensation.** EHN will provide worker's compensation coverage to its employees to the extent required by and pursuant to those Texas laws dealing with employees injured during employment.
2. **Insurance.** EHN will have general and professional liability insurance coverage with limits of \$1,000,000 per occurrence and \$3,000,000 in the aggregate under such coverage. This insurance will specifically cover the services provided under these contracts. Evidence of such insurance will be provided to EPCDS prior to the effective date of agreement. Failure to maintain such insurance will be grounds for immediate terminations of these contracts. EHN carries medical professional liability insurance in the minimum amounts of \$1,000,000 per occurrence and \$3,000,000 in aggregate, annually. As part of this proposal, EHN will hire, train and maintain staff that meets the professional requirements as stipulated by the contract.
3. **Indemnification.** To the extent authorized by the Constitution and laws of the State of Texas, EHN will hold harmless and indemnify EPCDS and their personnel, employees and agents, from and against, any and all claims, liabilities, losses, judgments, expenses and/or damages, including reasonable attorney's fees and court costs, resulting from or attributable to any act or omission of EHN, its officers, employees, and/or agents, including any acts constituting negligence or gross negligence or in a suit pursuant to Chapter 81 of the Texas Civil Practice and Remedies Code. To the extent authorized by the Constitution and laws of the State of Texas, EPCDS will hold harmless and indemnify EHN and their officer, employees and agents from and against, any and all claims, liabilities, losses, judgments, expenses and/or damages, including reasonable attorney's fees and court costs, resulting from or attributable to any act or omission of EPCDS, its officer, employees, and/or agents, including any acts constituting negligence or gross negligence or in a suit pursuant to Chapter 81 of the Texas Civil Practice and Remedies Code.
4. **Governmental Function.** EPCDS and EHN expressly agree that, in all things relating to this Agreement, the parties enter into this Agreement for the purpose of performing governmental functions as defined by the Texas Tort Claims Act. The

parties further expressly agree that every act or omission of each party, which in any way pertains to or arises out of this Agreement, falls within the definition of governmental function. No provision of this Agreement that imposes an obligation or restriction on either party not permitted by applicable law will be enforceable.

5. **Sovereign Immunity.** EPCDS and EHN reserve, and do not waive, their respective rights of sovereign immunity and similar rights and do not waive their rights under the Texas Tort Claims Act. Neither party waives, nor will be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of its powers or functions or pursuant to the Texas Tort Claims Act or other applicable statutes, laws, rules, or regulations.

### **Article 3. EPCDS DUTIES**

#### **A. EPCDS Will Ensure the following:**

1. **EPCDS Designee/Liaison.** EPCDS is the primary contact for all services under this Agreement; however, it will designate appropriate persons in writing to handle the particular responsibilities.
2. **Training.** EPCDS will be responsible for coordinating and establishing training with EPCDS for EHN employees and subcontractors who have passed a background check. The orientation and training will cover EPCSO policy and EPCDS policy, to include Administration, Facility Management, Professional Conduct, Ancillary Services, Medical Policy and Safety and Security, as well as any applicable policies of EPCDS, including but not limited to training on EPCDS's EHR and pharmacy policies and procedures.
3. **Security.** EPCDS will ensure the EPCSO provides for all aspects of security and transportation of inmates needing medical treatment in the County Detention System. EHN will have no responsibility for security at the County Detention System or for the custody or supervision of any inmate at any time; such responsibility being solely that of EPCDS. EHN will have primary, but not exclusive, responsibility for the identification, care and treatment of inmates requiring mental health care and who are 'security risks' or who present a danger to themselves and others. On matters of mutual concern, EPCSO and EPCDS and their respective staff will support, assist and cooperate with EHN, and EHN will support, assist and cooperate with EPCDS and EPCSO. EPCDS's decision on any non-medical or non-mental health matter will be final. All decisions involving access to services and service availability for medical or mental health will remain the responsibility of EPCDS.

4. **Access.** EPCDS and EPCDS will provide inmates with access to EHN JBCR providers. In the event such health care is to be provided off-site, EPCDS will arrange appropriate transportation for that purpose.
5. **Sheriff Approval of Policies and Procedures.** In areas which impact the security and general administration of the jails, EHN policies and procedures are subject to review and approval by EPCDS without limiting the responsibility of EHN to make its own medical, mental health judgments or the discretion of EPCDS to perform responsibilities under law. These areas are as follows:
  - a. Drug and syringe security;
  - b. Alcohol and drug medical detoxification;
  - c. Identification, care and treatment for inmates with special medical needs, including but not limited to individuals with hepatitis, epilepsy or physical disabilities, those infected with the Human Immunodeficiency Virus (HIV), and those with any other diseases that can be sexually transmitted;
  - d. Suicide prevention;
  - e. The use of physical restraints; and
  - f. Identification, care and treatment of individuals suffering from any mental illness, disease or injury, including but not limited to those inmates presenting a danger to themselves or others.
6. **Satisfaction with Health Care Personnel.** If EPCDS becomes dissatisfied with any health care personnel provided by EHN hereunder, or by any independent contractor, subcontractors, or assignee, EHN in recognition of the sensitive nature of correctional services, will, following receipt of written notice from EPCDS of the grounds for such dissatisfaction and in consideration of the reasons therefor, will exercise its best efforts to resolve the problem. If the problem is not resolved satisfactorily to EPCDS, EHN as appropriate will remove or will cause any independent contractor, subcontractor, or assignee to remove the individual about whom EPCDS has expressed dissatisfaction. If any EHN employee is determined to be acting with deliberate indifference in the performance of their duties, said employee will be removed from the facilities and prohibited from providing services under this Agreement or accessing any information obtained by EHN by reason of services provided under this Agreement. Should removal of an individual become necessary, EHN will be allowed reasonable time, to find an acceptable replacement, without penalty or any prejudice to the interests of EHN.

#### **ARTICLE 4: MISCELLANEOUS**

##### **A. Term and Termination; Dispute Resolution**

1. **Term.** This Agreement will commence as of the Effective Date. The initial pro-rated term of this Agreement is from July 1, 2024 through September 30, 2024 and may be extended, from October 1 to September 30, for two (2), one (1) year

renewal terms, if mutually agreeable to both Parties. Renewal is conditioned on continued funding by HHSC under EHN and HHSC performance contract.

2. **Termination.** This Agreement may be terminated as otherwise provided in this Agreement or as follows:

a. **Termination Without Cause.** This Agreement may be terminated by either EPCDS or EHN without cause by written notice received via certified mail at least one hundred and eighty (180) days in advance of the effective date of termination.

b. **Termination by Mutual Agreement.** In the event that EPCDS and EHN agree in signed writing approved by their respective governing bodies, this Agreement may be terminated on the terms and date stipulated therein.

c. **Annual Appropriations and Funding.** This Agreement may be subject to the annual appropriation of funds to EHN by HHSC. No funds are passing through EPCDS or EPSO by the County Commissioners to EHN under this agreement. Notwithstanding any provision herein to the contrary, if funds are not appropriated for this Agreement, then all parties will be entitled to immediately terminate this Agreement, without penalty or liability.

3. **Dispute Resolution.** The parties agree to use the dispute resolution process provided for in the Governmental Dispute Resolution Act, Chapter 2009 of the Texas Government Code to attempt to resolve all disputes arising under this Agreement. EPCDS must give written notice to EHN of a claim for breach of this Agreement not later than the 180<sup>th</sup> day after the date of the event giving rise to the claim. By its execution of this Agreement, EPCDS acknowledges and knowingly and voluntarily agrees that neither the execution of this Agreement, nor the conduct, act or inaction by any person in the execution, administration or performance of this Agreement constitutes or is intended to constitute a waiver of EHN's or EPCDS's immunity from suit. The parties agree that this Agreement will be construed in accordance with the laws of the State of Texas and any action will be brought in a court of competent jurisdiction in El Paso County, Texas.

**B. Assignment and Subcontracting.** EHN cannot assign this Agreement, or any part of it, without the express written consent of the County. EHN may, without further consent of EPCDS, subcontract with any Prescriber, who provided services in the Detention System through another contractor immediately prior to the Effective Date. Any assignment or subcontract will not relieve EHN of its independent obligation to provide the services and be bound by the requirements of Agreement. County agrees and acknowledges that EHN may subcontract with duly qualified Licensed Professionals and Prescribers as well as telemedicine providers in satisfying obligations under this Agreement. Any subcontractor will abide by the requirements under this Agreement and be duly licensed to practice in the State of Texas.

C. **Notice.** Unless otherwise provided herein, all notices or other communications required or permitted to be given under this Agreement will be in writing and will be deemed to have been duly given if delivered personally in hand or sent by certified mail, return receipt requested, postage prepaid, and addressed to the appropriate party at the following address or to any other person at any other address as may be designated in writing by the Parties. Notices are effective upon receipt. Parties may change their Notice information in the same manner.

**El Paso County:** El Paso County Sheriff  
3850 Justice Dr.  
El Paso, Texas 79938

cc: El Paso County Administration Office  
500 E. San Antonio, Room 302A  
El Paso, Texas 79901

**EHN:** Chief Executive Officer  
Emergence Health Network  
201 East Main, Suite 600  
El Paso, Texas 79901

cc: Chief Clinical Officer  
Emergence Health Network  
201 East Main, Suite 600  
El Paso, TX 79902  
(915) 887-3410

D. **Governing Law.** This Agreement and the rights and obligations of the Parties hereto will be governed by, and construed according to, the laws of the State of Texas, except as specifically noted. Venue will lie in El Paso County, Texas. This paragraph will not be construed to limit any rights a Party may have to intervene in any action arising from this Agreement, wherever pending, in which the other is a Party.

E. **Entire Agreement; Amendment.** This Agreement constitutes the entire agreement of the Parties and is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions and agreements that have been made in connection with the subject matter. No modifications or amendments to this Agreement will be binding upon the Parties unless the same is in writing and signed by the respective Parties hereto. All prior negotiations, agreements and understandings with respect to the subject matter of this Agreement are superseded hereby. Specifically, the Parties agree that any prior Agreements between the Parties regarding this matter are terminated as of the Effective Date of this Agreement.

F. **Waiver of Breach.** The waiver by either party of a breach or violation of any provision of this Agreement will not operate as, or be construed to be, a waiver of any subsequent breach of the same or other provision hereof

- G. Severability.** In the event any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof will not affect the remainder of the Agreement, which will remain in full force and effect and enforceable in accordance with its terms.
- H. Force Majeure.** Neither party will be held responsible for any delay or failure in performance (other than payment obligations) to the extent that such delay or failure is caused by fire, flood, explosion, war, strike, embargo, government regulation, civil or military authority, acts of God, acts or omissions of carriers or other similar causes beyond their control.

*Signatures on Following Page*

**IN WITNESS WHEREOF**, the Parties have executed this Agreement in their official capacities with legal authority to do so.

**EL PASO COUNTY**

\_\_\_\_\_  
Ricardo Samaniego  
County Judge

\_\_\_\_\_  
Date

**AGREED:**

\_\_\_\_\_  
Richard D. Wiles  
El Paso County Sheriff

\_\_\_\_\_  
Date

**EL PASO MHMR d/b/a  
EMERGENCE HEALTH NETWORK**

\_\_\_\_\_  
Kristen Daugherty  
Chief Executive Officer

\_\_\_\_\_  
Date