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**REFERENCED CONTRACT PROVISIONS**

**Term:** January 26, 2010 through January 25, 2015

**Notices to COUNTY and CONTRACTOR:**

**COUNTY:** County of Orange  
 HCA/Medical & Institutional Health Services Operations  
 405 West 5th Street, Bldg. 38X  
 Santa Ana, CA 92701  
 Attn: Melissa Tober, Manager

**CONTRACTOR:** Financial Marketing Concepts, Inc.  
 Attn: Edward Rahn  
 100 Executive Way Suite 214  
 Ponte Vedra Beach, Florida 32082

**CONTRACTOR'S Insurance Coverages:**

<u>Coverage</u>	<u>Minimum Limits</u>
Workers' Compensation	Statutory
Employer's Liability	\$2,000,000 per occurrence
Comprehensive General Liability Insurance	\$2,000,000 per occurrence
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1 **I. ALTERATION OF TERMS**

2 This Agreement, together with Exhibit A attached hereto and incorporated herein by reference, fully  
3 expresses all understanding of COUNTY and CONTRACTOR with respect to the subject matter of this  
4 Agreement, and shall constitute the total Agreement between the parties for these purposes. No addition  
5 to, or alteration of, the terms of this Agreement, whether written or verbal, shall be valid unless made in  
6 writing and formally approved and executed by both parties.  
7

8 **II. COMPLIANCE**

9 A. COUNTY'S Health Care Agency (HCA) has established a Compliance Program for the purpose  
10 of ensuring adherence to all rules and regulations related to federal and state health care programs.

11 1. CONTRACTOR may adopt HCA's Compliance Program or establish its own. If  
12 CONTRACTOR has established its own Compliance Program, CONTRACTOR shall acknowledge  
13 existence of HCA's Compliance Program and shall provide certification to ADMINISTRATOR that  
14 CONTRACTOR shall operate its own Compliance Program and shall ensure that its employees,  
15 subcontractors, interns, volunteers, and members of Board of Directors or duly authorized agent, if  
16 appropriate, ("Covered Individuals") are made aware of CONTRACTOR'S Compliance Program  
17 policies and procedures.

18 2. If CONTRACTOR elects to adopt HCA's Compliance Program, ADMINISTRATOR shall  
19 provide CONTRACTOR with a copy of the relevant HCA Policies and Procedures relating to the Office  
20 of Compliance. CONTRACTOR shall ensure that Covered Individuals relative to this Agreement are  
21 made aware of these Policies and Procedures.

22 B. CODE OF CONDUCT - Under the direction of the HCA Office of Compliance, a Code of  
23 Conduct for adherence by all HCA employees and contract providers has been developed.

24 1. Within thirty (30) calendar days of award of this Agreement, CONTRACTOR has the  
25 option of submitting to ADMINISTRATOR a signed acknowledgement and agreement that  
26 CONTRACTOR shall comply with the HCA Code of Conduct or CONTRACTOR shall submit a copy  
27 of its Code of Conduct to ADMINISTRATOR for review and comparison to federal, state and county  
28 standards by the HCA Compliance Officer.

29 2. If CONTRACTOR elects to submit a copy of its Code of Conduct, HCA's Compliance  
30 Officer shall advise CONTRACTOR of any necessary changes to CONTRACTOR'S Code of Conduct  
31 to meet minimum standards and CONTRACTOR shall either take necessary action to meet said  
32 standards or shall be asked to acknowledge and agree to the HCA Code of Conduct.

33 3. Failure of CONTRACTOR to submit the acknowledgement of the HCA Code of Conduct  
34 or its own Code of Conduct shall constitute a material breach of this Agreement, and failure to cure such  
35 breach within sixty (60) calendar days of such notice from ADMINISTRATOR shall constitute grounds  
36 for termination of this Agreement as to the non-complying party.  
37

//

1 C. CONTRACTOR shall screen all Covered Individuals employed or retained to provide services  
2 related to this Agreement to ensure that they are not designated as "Ineligible Persons," as defined  
3 hereunder. Screening shall be conducted against the General Services Administration's List of Parties  
4 Excluded from Federal Programs and the Health and Human Services/Office of Inspector General List  
5 of Excluded Individuals/Entities.

6 1. Ineligible Person shall be any individual or entity who:

7 a. is currently excluded, suspended, debarred or otherwise ineligible to participate in the  
8 federal health care programs; or

9 b. has been convicted of a criminal offense related to the provision of health care items or  
10 services and has not been reinstated in the federal health care programs after a period of exclusion,  
11 suspension, debarment, or ineligibility.

12 2. CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement.  
13 CONTRACTOR shall not hire or engage any Ineligible Person to provide services relative to this  
14 Agreement.

15 3. CONTRACTOR shall screen all current Covered Individuals annually unless otherwise  
16 authorized in writing by ADMINISTRATOR, to ensure that they have not become Ineligible Persons.

17 4. Covered Individuals shall be required to disclose to CONTRACTOR immediately any  
18 debarment, exclusion or other event that makes the Covered Individual an Ineligible Person.  
19 CONTRACTOR shall notify COUNTY immediately upon such disclosure.

20 5. In addition to screening organizations and vendors under subcontract, CONTRACTOR  
21 shall also request that its subcontractors use their best efforts to verify that they are eligible to participate  
22 in all federal and State of California health programs and have not been excluded or debarred from  
23 participation in any federal or state health care programs, and to further represent to CONTRACTOR  
24 that they do not have any Ineligible Person in their employ or under contract.

25 6. CONTRACTOR acknowledges that Ineligible Persons are precluded from providing  
26 federal and state funded health care services by contract with COUNTY in the event that they are  
27 currently sanctioned or excluded by a federal or state law enforcement regulatory or licensing agency. If  
28 CONTRACTOR becomes aware that a Covered Individual has become an Ineligible Person,  
29 CONTRACTOR shall remove such individual from responsibility for, or involvement with, HCA  
30 business operations related to this Agreement.

31 D. REIMBURSEMENT STANDARDS

32 1. CONTRACTOR shall take reasonable precaution to ensure that the coding of health care  
33 claims and billing for same are prepared and submitted in an accurate and timely manner and are  
34 consistent with federal, state and county laws and regulations. This includes compliance with federal  
35 and state health care program regulations and procedures or instructions otherwise communicated by  
36 regulatory agencies including the Centers for Medicare and Medicaid Services or their agents.

37 //



1 applicable State and Federal requirements, and which are necessary for the provision of the services  
2 hereunder.

3  
4 **V. INDEMNIFICATION AND INSURANCE**

5 A. CONTRACTOR agrees to indemnify, defend with counsel approved in writing by COUNTY,  
6 and hold COUNTY, its elected and appointed officials, officers, employees, agents and those special  
7 districts and agencies which COUNTY'S Board of Supervisors acts as the governing Board ("COUNTY  
8 INDEMNITEES") harmless from any claims, demands or liability of any kind or nature, including but  
9 not limited to personal injury or property damage, arising from or related to the services, products or  
10 other performance provided by CONTRACTOR pursuant to this CONTRACT. If judgment is entered  
11 against CONTRACTOR and COUNTY by a court of competent jurisdiction because of the concurrent  
12 active negligence of COUNTY or COUNTY INDEMNITEES, CONTRACTOR and COUNTY agree  
13 that liability will be apportioned as determined by the court. Neither party shall request a jury  
14 apportionment.

15 B. Without limiting CONTRACTOR'S indemnification, CONTRACTOR shall maintain in force  
16 at all times during the term of this Agreement a policy, or policies, of insurance covering its operations  
17 as specified on Page 3 of this Agreement.

18 C. All insurance policies except Worker's Compensation and Employer's Liability shall contain  
19 the following clauses:

20 1. "The County of Orange is included as an additional insured with respect to the operations  
21 of the named insured performed under contract with the County of Orange."

22 2. "It is agreed that any insurance maintained by the County of Orange shall apply in excess  
23 of, and not contribute with, insurance provided by this policy."

24 3. "This insurance shall not be canceled, limited or non-renewed until after thirty (30) days  
25 written notice has been given to the Orange County HCA/Medical & Institutional Health Services  
26 Operations, 405 W. 5<sup>th</sup> Street, Seventh Floor, Santa Ana, CA 92701."

27 D. Certificates of Insurance and endorsements evidencing the above coverages and clauses shall be  
28 mailed to COUNTY as referenced on Page 3 of this Agreement.

29  
30 **VI. INSPECTIONS AND AUDITS**

31 A. ADMINISTRATOR, any authorized representative of COUNTY, any authorized representative  
32 of the State of California, the Secretary of the United States Department of Health and Human Services,  
33 the Comptroller General of the United States, or any other of their authorized representatives, shall have  
34 access to any books, documents, and records, including but not limited to, medical and client records, of  
35 CONTRACTOR that are directly pertinent to this Agreement, for the purpose of responding to a  
36 beneficiary complaint or conducting an audit, review, evaluation, or examination, or making transcripts  
37 during the periods of retention set forth in the Records Management and Maintenance paragraph of this

1 Agreement. Such persons may at all reasonable times inspect or otherwise evaluate the services  
2 provided pursuant to this Agreement, and the premises in which they are provided.

3 B. CONTRACTOR shall actively participate and cooperate with any person specified in  
4 subparagraph A. above in any evaluation or monitoring of the services provided pursuant to this  
5 Agreement, and shall provide the above-mentioned persons adequate office space to conduct such  
6 evaluation or monitoring.

7 C. AUDIT RESPONSE

8 1. Following an audit report, in the event of non-compliance with applicable laws and  
9 regulations governing funds provided through this Agreement, COUNTY may terminate this Agreement  
10 as provided for in the Termination paragraph or direct CONTRACTOR to immediately implement  
11 appropriate corrective action. A plan of corrective action shall be submitted to ADMINISTRATOR in  
12 writing within thirty (30) calendar days after receiving notice from ADMINISTRATOR.

13 2. If the audit reveals that money is payable from one party to the other, that is, reimbursement  
14 by CONTRACTOR to COUNTY, or payment of sums due from COUNTY to CONTRACTOR, said  
15 funds shall be due and payable from one party to the other within sixty (60) calendar days of receipt of  
16 the audit results. If reimbursement is due from CONTRACTOR to COUNTY, and such reimbursement  
17 is not received within said sixty (60) calendar days, COUNTY may, in addition to any other remedies,  
18 reduce any amount owed CONTRACTOR by an amount not to exceed the reimbursement due  
19 COUNTY.

20 D. Within fourteen (14) calendar days of receipt by CONTRACTOR, CONTRACTOR shall  
21 forward to ADMINISTRATOR a copy of any audit report. Such audit shall include, but not be limited  
22 to, management, financial, programmatic or any other type of audit of CONTRACTOR'S operations,  
23 whether or not the cost of such operation or audit is reimbursed in whole or in part through this  
24 Agreement.

25  
26 **VII. LICENSES AND LAW**

27 A. CONTRACTOR, its officers, agents, employees, and subcontractors shall, throughout the term  
28 of this Agreement, maintain all necessary licenses, permits, approvals, certificates, waivers and  
29 exemptions necessary for the provision of the services hereunder and required by the laws and  
30 regulations of the United States, State of California, COUNTY and any other applicable governmental  
31 agencies. CONTRACTOR shall notify ADMINISTRATOR immediately and in writing of its inability  
32 to obtain or maintain, irrespective of the pendency of any appeal, such permits, licenses, approvals,  
33 certificates, waivers and exemptions. Said inability shall be cause for termination of this Agreement.

34 B. CONTRACTOR shall comply with all laws, rules or regulations applicable to the services  
35 provided hereunder, as any may now exist or be hereafter changed.

36 //

37 //

1 C. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

2 1. CONTRACTOR agrees to furnish to ADMINISTRATOR within thirty (30) days of the  
3 award of this Agreement:

4 a. In the case of an individual contractor, his/her name, date of birth, social security  
5 number, and residence address;

6 b. In the case of a contractor doing business in a form other than as an individual, the  
7 name, date of birth, social security number, and residence address of each individual who owns an  
8 interest of ten percent (10%) or more in the contracting entity;

9 c. A certification that CONTRACTOR has fully complied with all applicable Federal and  
10 State reporting requirements regarding its employees;

11 d. A certification that CONTRACTOR has fully complied with all lawfully served Wage  
12 and Earnings Assignment Orders and Notices of Assignment, and will continue to so comply.

13 2. Failure of CONTRACTOR to timely submit the data and/or certifications required by  
14 subparagraphs 1.a., 1.b., 1.c., or 1.d. above, or to comply with all Federal and State employee reporting  
15 requirements for child support enforcement, or to comply with all lawfully served Wage and Earnings  
16 Assignment Orders and Notices of Assignment, shall constitute a material breach of this Agreement; and  
17 failure to cure such breach within sixty (60) calendar days of notice from COUNTY shall constitute  
18 grounds for termination of this Agreement.

19 3. It is expressly understood that this data will be transmitted to governmental agencies  
20 charged with the establishment and enforcement of child support orders, or as permitted by federal  
21 and/or state statute.

22 D. CONTRACTOR warrants that it shall make its best effort to fully comply with all federal and  
23 state statutes and regulations regarding the employment of aliens and others and that employees  
24 performing work under this Agreement meet the citizenship or alien status requirement set forth in  
25 federal statutes and regulations. CONTRACTOR shall obtain, from all employees performing work  
26 hereunder, all verification and other documentation of employment eligibility status required by federal  
27 or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act  
28 of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended.  
29 CONTRACTOR shall retain all such documentation for all covered employees for the period prescribed  
30 by the law.

31  
32 **VIII. LITERATURE**

33 Any written information, including educational and promotional materials, distributed by  
34 CONTRACTOR to any person for purposes directly or indirectly related to this Agreement must be  
35 approved by ADMINISTRATOR before distribution. For the purposes of this Agreement, distribution  
36 of written materials shall include electronic media such as the Internet. Such information shall not imply  
37 endorsement by the COUNTY, unless ADMINISTRATOR consents thereto in writing.

**IX. NONDISCRIMINATION**

**A. EMPLOYMENT -**

1  
2  
3 1. CONTRACTOR shall ensure that applicants are employed, and that employees are treated  
4 during employment, without regard to their ethnic group identification, race, religion, ancestry, color,  
5 creed, sex, marital status, national origin, age (40 and over), sexual preference, medical condition, or  
6 physical or mental disability. Such action shall include, but not be limited to the following:  
7 employment, upgrade, demotion or transfer; recruitment or recruitment advertising; layoff or  
8 termination; rate of pay or other forms of compensation; and selection for training, including  
9 apprenticeship. There shall be posted in conspicuous places, available to employees and applicants for  
10 employment, notices from ADMINISTRATOR and/or the United States Equal Employment Opportunity  
11 Commission setting forth the provisions of the Equal Opportunity Clause.

12 2. All solicitations or advertisements for employees placed by or on behalf of CONTRACTOR  
13 shall state that all qualified applicants will receive consideration for employment without regard to  
14 ethnic group identification, race, religion, ancestry, color, creed, sex, marital status, national origin, age  
15 (40 and over), sexual preference, medical condition, or physical or mental disability. Such requirement  
16 shall be deemed fulfilled by use of the phrase "an equal opportunity employer".

17 3. Each labor union or representative of workers with which CONTRACTOR has a collective  
18 bargaining agreement or other contract or understanding must post a notice advising the labor union or  
19 workers' representative of the commitments under this Nondiscrimination paragraph and shall post  
20 copies of the notice in conspicuous places available to employees and applicants for employment.

21 4. In the event of non-compliance with this paragraph or as otherwise provided by State and  
22 Federal law, this Agreement may be canceled, terminated or suspended in whole or in part and  
23 CONTRACTOR may be declared ineligible for further contracts involving Federal or State funds.

24 **B. SERVICES, BENEFITS, AND FACILITIES -** CONTRACTOR shall not discriminate in the  
25 provision of services, the allocation of benefits, or in the accommodation in facilities on the basis of  
26 ethnic group identification, race, religion, ancestry, color, creed, sex, marital status, national origin, age  
27 (40 and over), sexual preference, medical condition, or physical or mental disability in accordance with  
28 Title IX of the Education Amendments of 1972; Title VI of the Civil Rights Act of 1964 (42 U.S.C.A.  
29 §2000d); the Age Discrimination Act of 1975 (42 U.S.C.A. §6101); and Title 9, Division 4, Chapter 6,  
30 Article 1 (§10800, et seq.) of the California Code of Regulations, and all other pertinent rules and  
31 regulations promulgated pursuant thereto, and as otherwise provided by State law and regulations, as all  
32 may now exist or be hereafter amended or changed.

33 1. For the purpose of this subparagraph B., "discrimination" means denying, based on one or  
34 more of the factors identified above, a client or potential client any service, benefit, or accommodation  
35 that would be provided to another and includes, but is not limited to, the following:

36 a. Providing any service or benefit to a client, which is different or is provided in a  
37 different manner or at a different time from that provided to other clients.



1 1. When written and deposited in the United States mail, first class postage prepaid and  
2 addressed as specified on Page 3 of this Agreement, or as otherwise directed by ADMINISTRATOR; or

3 2. When faxed, transmission confirmed; or

4 3. When sent by electronic mail; or

5 4. When accepted by U.S. Postal Service Express Mail, Federal Express, United Parcel  
6 Service, or other expedited delivery service.

7 B. Termination Notices shall be addressed as specified on Page 3 of this Agreement or as  
8 otherwise directed by ADMINISTRATOR and shall be effective when faxed, transmission confirmed, or  
9 when accepted by U.S. Postal Service Express Mail, Federal Express, United Parcel Service, or other  
10 expedited delivery service.

11 C. CONTRACTOR shall notify ADMINISTRATOR, in writing, within twenty-four (24) hours of  
12 becoming aware of any occurrence of a serious nature that may expose COUNTY to liability. Such  
13 occurrences shall include, but not be limited to, accidents, injuries, or acts of negligence, or loss or  
14 damage to any County property in possession of CONTRACTOR.

15 D. For purposes of this Agreement, any notice to be provided by COUNTY may be given by  
16 ADMINISTRATOR.

17  
18 **XI. SEVERABILITY**

19 If a court of competent jurisdiction declares any provision of this Agreement or application thereof  
20 to any person or circumstances to be invalid or if any provision of this Agreement contravenes any  
21 federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement or  
22 the application thereof shall remain valid, and the remaining provisions of this Agreement shall remain  
23 in full force and effect, and to that extent the provisions of this Agreement are severable.

24  
25 **XII. STATUS OF CONTRACTOR**

26 CONTRACTOR is, and shall at all times be deemed to be, an independent contractor and shall be  
27 wholly responsible for the manner in which it performs the services required of it by the terms of this  
28 Agreement. CONTRACTOR is entirely responsible for compensating staff, subcontractors, and  
29 consultants employed by CONTRACTOR. This Agreement shall not be construed as creating the  
30 relationship of employer and employee, or principal and agent, between COUNTY and CONTRACTOR  
31 or any of CONTRACTOR'S employees, agents, consultants, or subcontractors. CONTRACTOR  
32 assumes exclusively the responsibility for the acts of its employees, agents, consultants, or  
33 subcontractors as they relate to the services to be provided during the course and scope of their  
34 employment. CONTRACTOR, its agents, employees, consultants, or subcontractors, shall not be  
35 entitled to any rights or privileges of COUNTY employees and shall not be considered in any manner to  
36 be COUNTY employees.

37 //

**XIII. TERM**

The term of this Agreement shall commence and terminate as specified on Page 3 of this Agreement, unless otherwise sooner terminated as provided in this Agreement; provided, however, CONTRACTOR shall be obligated to perform such duties as would normally extend beyond this term, including but not limited to, obligations with respect to confidentiality, indemnification, audits, reporting and accounting.

**XIV. TERMINATION**

A. Either party may terminate this Agreement, without cause, upon thirty (30) calendar days written notice given the other party.

B. Unless otherwise specified in this Agreement, COUNTY may terminate this Agreement upon five (5) calendar days written notice if CONTRACTOR fails to perform any of the terms of this Agreement. At ADMINISTRATOR'S sole discretion, CONTRACTOR may be allowed up to thirty (30) calendar days for corrective action.

C. COUNTY may terminate this Agreement immediately, upon written notice, on the occurrence of any of the following events:

1. The loss by CONTRACTOR of legal capacity.
2. Cessation of services.
3. The delegation or assignment of CONTRACTOR'S services operation or administration to another entity without the prior written consent of COUNTY.
4. The loss of accreditation or any license required by the Licenses and Law paragraph of this Agreement.

**D. CONTINGENT FUNDING**

1. Any obligation of COUNTY under this Agreement is contingent upon the following:
  - a. The continued availability of Federal, State, and County funds for reimbursement of COUNTY'S expenditures, and
  - b. Inclusion of sufficient funding for the services hereunder in the applicable budget approved by the Board of Supervisors.

2. In the event such funding is subsequently reduced or terminated, COUNTY may terminate or renegotiate this Agreement upon thirty (30) calendar days written notice given CONTRACTOR.

E. After receiving a Notice of Termination CONTRACTOR shall do the following:

1. Comply with termination instructions provided by ADMINISTRATOR in a manner, which is consistent with recognized standards of quality care and prudent business practice.

2. Obtain immediate clarification from ADMINISTRATOR of any unsettled issues of contract performance during the remaining contract term.

3. Until the date of termination, continue to provide the same level of service required by this Agreement.

1 4. If records are to be transferred to COUNTY, pack and label such records in accordance with  
2 directions provided by ADMINISTRATOR.

3 F. The rights and remedies of COUNTY provided in this Termination paragraph shall not be  
4 exclusive, and are in addition to any other rights and remedies provided by law or under this Agreement.

5  
6 **XV. THIRD PARTY BENEFICIARY**

7 Neither party hereto intends that this Agreement shall create rights hereunder in third parties  
8 including, but not limited to, any subcontractors or any clients provided services hereunder.

9  
10 **XVI. WAIVER OF DEFAULT OR BREACH**

11 Waiver by COUNTY of any default by CONTRACTOR shall not be considered a waiver of any  
12 subsequent default. Waiver by COUNTY of any breach by CONTRACTOR of any provision of this  
13 Agreement shall not be considered a waiver of any subsequent breach. Waiver by COUNTY of any  
14 default or any breach by CONTRACTOR shall not be considered a modification of the terms of this  
15 Agreement.

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1 IN WITNESS WHEREOF, the parties have executed this Agreement, in the County of Orange, State  
2 of California.

3  
4 FINANCIAL MARKETING CONCEPTS, INC

5  
6 DATE: December 28, 2009

DATE: \_\_\_\_\_

7  
8 PRINTED NAME: Edward W. Rahn

PRINTED NAME: \_\_\_\_\_

9  
10 BY: 

BY: \_\_\_\_\_

11  
12 TITLE: President / CEO

TITLE: \_\_\_\_\_

13  
14 If Contractor is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the President  
15 or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any  
16 Assistant Treasurer. If the Agreement is signed by one (1) authorized individual only, a copy of the corporate resolution or  
17 by-laws whereby the board of directors has empowered said authorized individual to act on its behalf by his or her signature  
18 alone is required.

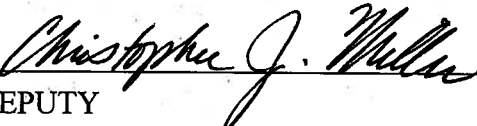
19  
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21  
22 COUNTY OF ORANGE

23  
24 BY: \_\_\_\_\_  
25 CHAIR OF THE BOARD  
26 OF SUPERVISORS

SIGNED AND CERTIFIED THAT A COPY  
OF THIS DOCUMENT HAS BEEN  
DELIVERED TO THE CHAIR OF THE  
BOARD PER G.C. SEC. 25103, RESO 79-1535  
ATTEST:

27 BY: \_\_\_\_\_  
28 DARLENE J. BLOOM  
29 Clerk of the Board of Supervisors  
30 of Orange County, California

31  
32 APPROVED AS TO FORM  
33 OFFICE OF THE COUNTY COUNSEL  
34 ORANGE COUNTY, CALIFORNIA

35  
36 BY:   
37 DEPUTY

DATED: 11-20-09

1 EXHIBIT A  
2 TO AGREEMENT WITH  
3 FINANCIAL MARKETING CONCEPTS, INC  
4

5 JANUARY 26, 2010 THROUGH JANUARY 25, 2015  
6

7 **I. DEFINITIONS**

8 The parties agree to the following terms and definitions, and to those terms and definitions that, for  
9 convenience, are set forth, elsewhere in this Agreement.

10 A. "Average Wholesale Price" or "AWP" means the average wholesale price of a prescription drug  
11 in effect on the date the prescription was dispensed as listed by Medi-Span Prescription Pricing Guide  
12 (with supplements), or other applicable industry standard reference selected by CONTRACTOR.

13 B. "Brand Name Drug" means a drug that has a trade name and may only be produced and sold by  
14 the pharmaceutical company holding the patent or a company that has been licensed and authorized by  
15 the patent holder to produce and sell the drug.

16 C. "Claim(s)" means those claim submitted for reimbursement by Participating Pharmacies to  
17 CONTRACTOR for prescription drugs dispensed to Participating Residents in accordance with the  
18 terms of this Agreement.

19 D. "Drug Cost" means the price, negotiated by CONTRACTOR, of a prescription drug dispensed to  
20 Participating Residents by a Participating Pharmacy.

21 E. "Formulary" means the list of Brand Name Drugs and Generic Drugs maintained by  
22 CONTRACTOR for which discounted pricing is being made available to Participating Residents. The  
23 Formulary shall be subject to change from time to time without notice.

24 F. "Generic Drug" means a drug that is therapeutically equivalent (identical in strength,  
25 concentration, and dosage) to a Brand Name Drug that is generally made available when patent  
26 protection of the Brand Name Drug expires. Generic Drugs shall include all products involved in the  
27 patent litigation, single-source Generic Drugs, and Generic Drugs that may only be available in a limited  
28 supply.

29 G. "Imaging Services" means diagnostic radiological services limited to Computed Tomography  
30 ("CT") scans, Magnetic Resonance Imaging ("MRI"), and Positron Emission Tomography ("PET")  
31 scans performed at nationally recognized and certified imaging centers.

32 H. "Laboratory Services" means medical blood, hair, saliva, urine, and stool tests performed by  
33 independent federally and state certified clinics and laboratories.

34 I. "Manufacturer" means a pharmaceutical company that has contracted with CONTRACTOR (or  
35 its affiliates or agents) to offer discounts or rebates for pharmaceutical products in connection with  
36 CONTRACTOR'S services through this Agreement as well as those agreements with other  
37 governmental agencies.

1 J. "Maximum Allowable Cost" or "MAC" means the upper limit price charged for prescription  
2 drug based on a pricing schedule developed and maintained by CONTRACTOR.

3 K. "Participating Imaging Provider" means a diagnostic imaging center that has agreed to provide  
4 Imaging Services to Participating Residents in accordance with the terms of its agreement with  
5 CONTRACTOR. The location of a Participating Imaging Provider can be accessed by calling 1-800-  
6 903-3921. Additional information may be accessed at <http://coast2coast.prepaidimaging.com/> .  
7 Participating Imaging Providers are subject to change from time to time without notice.

8 L. "Participating Laboratory Provider" means a laboratory that has agreed to provide certain  
9 Laboratory Services to Participating Residents in accordance with the terms of its agreement with  
10 CONTRACTOR. The location of a Participating Laboratory Provider can be accessed at  
11 <http://coast2coast.prepaidlab.com/> . Participating Laboratory Providers are subject to change from time  
12 to time without notice.

13 M. "Participating Pharmacy" means a pharmacy that has agreed to provide certain pharmacy  
14 services to Participating Residents in accordance with the terms of its agreement with CONTRACTOR.  
15 A list of Participating Pharmacies can be accessed at [http://coast2coastrx.com/pharmacy\\_locator.html](http://coast2coastrx.com/pharmacy_locator.html) .  
16 Participating Pharmacies are subject to change from time to time without notice.

17 N. "Participating Resident" means any individual who registers for and/or possesses a card for  
18 CONTRACTOR'S Discount Pharmacy Card Program for Orange County.

19 O. "Pharmacy Benefits Manager" or "PBM" means the organization secured by and contracted with  
20 CONTRACTOR to reimburse Participating Pharmacies for claims submitted on behalf of Participating  
21 Residents for prescription drugs. As of the execution of this Agreement, CONTRACTOR'S PBM is  
22 WellDyneRx.

23 P. "Rebate" means, for any period, reimbursements or other discounts received under a  
24 Manufacturer's discount program with respect to pharmaceutical products dispensed to a Participating  
25 Resident under the terms of this Agreement.

26 Q. "Usual and Customary" or "U&C" means the amount a Participating Pharmacy would normally  
27 charge to a cash paying customer for the same prescription drug  
28

## 29 **II. CONTRACTOR'S OBLIGATIONS**

### 30 **A. Discount Pharmacy Card Program**

31 1. CONTRACTOR shall provide a Discount Pharmacy Card Program ("Program") at no cost to  
32 COUNTY or its residents.

33 2. CONTRACTOR'S Program shall be known as the Coast2Coast Rx Prescription Benefit Card  
34 Program.

35 3. CONTRACTOR'S Program shall include discounted Pharmacy, Imaging and Laboratory  
36 Services benefits.

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1 4. The parties acknowledge that the Coast2Coast Rx Prescription Benefit Card Program is not  
2 any form of insurance and all materials promoting the Program shall state "This is NOT Insurance"  
3 using substantially similar terms.

4 5. The Coast2Coast Rx Prescription Benefit Card Program shall be open to all interested  
5 individuals with no age, income, or other eligibility restrictions.

6 a. There shall be no fee charged to Participating Residents for the right to use the  
7 Prescription Benefit Card.

8 b. There shall be no limitation on the number of times the Prescription Benefit Card may be  
9 used.

10 c. Participating Residents may share the use of their card with other family members or  
11 friends.

12 6. CONTRACTOR shall be prohibited from selling or otherwise disclosing Participating  
13 Resident information gathered by any third parties, including, but not limited to, marketing firms for the  
14 sale of other products.

15 7. CONTRACTOR shall maintain as confidential all Participating Resident information  
16 gathered from the Program and shall comply with all laws regarding the privacy and confidentiality of  
17 Participating Resident Protected Health Information (PHI). Except as provided for in Paragraph VI of  
18 this Agreement, COUNTY does not expect or desire access to any Participating Resident's PHI.

19 8. CONTRACTOR shall develop an outreach strategy designed to clearly communicate the  
20 benefits and limitations of the Program to potential Participating Residents.

21 a. CONTRACTOR shall print and distribute the Prescription Benefit Card for use by  
22 Participating Residents at CONTRACTOR'S cost. COUNTY shall approve the Prescription Benefit  
23 Card design prior to CONTRACTOR'S printing of the Prescription Benefit Card.

24 b. CONTRACTOR shall distribute its Coast2Coast Rx Prescription Benefit Cards to  
25 Participating Pharmacies in COUNTY and to other such governmental offices (such as libraries, health  
26 departments, etc.) designated by COUNTY

27 9. CONTRACTOR, in conjunction with COUNTY, will promote the card in all media formats  
28 appropriate, including newspaper, radio, and the internet through press releases.

29 10. Participating Residents shall have access to a toll-free customer service call center.

30 11. CONTRACTOR shall create a private label website for COUNTY to link to from its website  
31 that will describe the Coast2Coast Rx Prescription Benefit Card Program. COUNTY's residents shall  
32 have the ability to print a card from such website to become Participating Residents as well as the ability  
33 to check prescription drug prices under the Program, find a Participating Pharmacy, contact Customer  
34 Service, and view Frequently Asked Questions.

35 B. Pharmacy Services Program

36 1. CONTRATOR shall maintain a Formulary of those medications available to Participating  
37 Residents at discounted prices.

1 a. COUNTY acknowledges that CONTRACTOR and/or its affiliates may contract with  
2 certain Manufacturers to participate in Rebate programs and CONTRACTOR and/or its affiliates shall  
3 retain one hundred percent (100%) of Rebates.

4 b. COUNTY acknowledges that CONTRACTOR and/or its affiliates may receive fees or  
5 other compensation from Manufacturers, including administrative fees for property provided or services  
6 rendered to a Manufacturer including providing physicians and pharmacists with clinical messages.

7 c. COUNTY acknowledges that the discounted prices paid by Participating Residents may  
8 include a dispensing fee which may consist of an administrative fee to be paid to Participating  
9 Pharmacies and/or CONTRACTOR.

10 d. One hundred percent (100%) of all prescription drug costs and dispensing fees shall be  
11 paid by the Participating Resident at the point of sale. Neither CONTRACTOR nor COUNTY shall be  
12 responsible or liable for the payment of drugs dispensed by Participating Pharmacies or for the fees or  
13 taxes associated with the dispensing of such prescription drugs.

14 e. The formulary may include pet medications which are eligible for discounts under  
15 CONTRACTOR'S Program.

16 2. CONTRACTOR shall maintain a network of contracted Participating Pharmacies (including  
17 retail and mail order pharmacies) with which CONTRACTOR has negotiated to sell prescription drugs  
18 to Participating Residents at a discounted price.

19 a. COUNTY acknowledges that CONTRACTOR is neither an owner nor an operator of any  
20 Participating Pharmacies nor does CONTRACTOR exercise any control over the professional judgment  
21 used by any pharmacist when dispensing drugs or medications to Participating Residents. Nothing in  
22 this Agreement shall be construed as to require a Participating Pharmacy to dispense any drug to any  
23 Participating Resident if, in the pharmacist's professional judgment, such prescription drug should not  
24 be dispensed. Neither CONTRACTOR nor COUNTY shall be liable for any claim or damages arising  
25 from the dispensing of any prescription drugs by any Participating Pharmacy.

26 b. Upon request of ADMINSTRATOR, CONTRACTOR shall make available contracts  
27 related to the Program with Participating Pharmacies.

28 3. Participating Pharmacies shall have access to a toll-free customer service call center.

29 4. CONTRACTOR has available a mail order program which may be implemented at  
30 COUNTY'S option.

31 C. Laboratory Services Program

32 1. CONTRACTOR shall provide Participating Residents with access to Laboratory Services at  
33 discounted prices.

34 a. COUNTY acknowledges that CONTRACTOR and/or its affiliates may receive fees or  
35 other compensation from Participating Laboratories, including administrative fees for property provided  
36 or services rendered to a Participating Laboratory including providing physicians with clinical messages.

37 //

1           b. COUNTY acknowledges that the discounted prices paid by Participating Residents may  
2 include fee(s) which may consist of an administrative or ordering fee to be paid to Participating  
3 Laboratories and/or CONTRACTOR.

4           c. One hundred percent (100%) of all laboratory fees shall be pre-paid by the Participating  
5 Resident at the time the test is ordered.

6           1) COUNTY acknowledges that due to the level of discount being provided, that  
7 CONTRACTOR and its Participating Laboratories may require that the Participating Resident make  
8 such pre-payment by credit card or debit card that also functions as a credit card. COUNTY further  
9 acknowledges that Participating Residents desiring to cancel a pre-paid Laboratory Service order may be  
10 charged a cancellation fee.

11           2) Neither CONTRACTOR nor COUNTY shall be responsible or liable for the payment  
12 of services provided by Participating Laboratories or for the fees or taxes associated with the provision  
13 of such services.

14           3) Testing may be ordered through a Participating Resident's physician office or directly  
15 by the Participating Resident.

16           2. CONTRACTOR shall maintain a network of contracted Participating Laboratories in Orange  
17 County with which CONTRACTOR has negotiated to provide Laboratory Services to Participating  
18 Residents at a discounted price.

19           a. COUNTY acknowledges that CONTRACTOR is neither an owner nor an operator of any  
20 Participating Laboratories nor does CONTRACTOR exercise any control over the professional  
21 judgment used by any technician providing the Laboratory Services to Participating Residents. Neither  
22 CONTRACTOR nor COUNTY shall be liable for any claim or damages arising from the provision of or  
23 the results obtained from the Laboratory Services provided by any Participating Laboratory.

24           b. Upon request of ADMINSTRATOR, CONTRACTOR shall make available contracts  
25 related to the Program with Participating Laboratories.

26           3. Results from Laboratory Services shall be sent directly to the Participating Resident.  
27 Participating Residents shall be responsible for providing their health providers with the test results for  
28 interpretation and follow up care.

29           D. Imaging Services Program

30           1. CONTRACTOR shall provide Participating Residents with access to Imaging Services at  
31 discounted prices.

32           a. COUNTY acknowledges that CONTRACTOR and/or its affiliates may receive fees or  
33 other compensation from Participating Imaging Providers, including administrative fees for property  
34 provided or services rendered to a Participating Imaging Provider providing including physicians with  
35 clinical messages.

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1 C. Imaging Services

2 D. Other Programs may be added upon mutual written agreement between ADMINISTRATOR  
3 and CONTRACTOR.

4 B. COUNTY shall conduct itself in such a manner as to reflect only the highest standards of  
5 honesty, integrity and responsibility in the promotion and representation of CONTRACTOR'S  
6 Coast2Coast Rx Prescription Benefit Card Program.

7  
8 **IV. REPORTS**

9 A. CONTRACTOR shall handle all administrative activities associated with the use card including  
10 provision of usage reports to COUNTY.

11 B. CONTRACTOR shall assign a unique Group Code to COUNTY for cards printed by  
12 CONTRACTOR so that COUNTY'S Royalties, as provided for in Paragraph V of this Exhibit A to the  
13 Agreement, can be tracked when the card is used at Participating Pharmacies, Participating Imaging  
14 Providers and Participating Laboratories by Participating Residents.

15 C. CONTRACTOR shall provide reports on Royalties due/paid to COUNTY on a monthly basis.

16 D. CONTRACTOR shall provide the following reports on a quarterly basis, which reports may be  
17 modified by mutual written agreement between CONTRACTOR and ADMINISTRATOR:

18 1. Card Activity:

- 19 a. Number of cards in use per month  
20 b. Number of cards printed from website

21 2. Pharmacy Services Activity

- 22 a. Total number of prescriptions filled and paid  
23 b. Drug Type by Brand or Generic  
24 c. Top Drug/Therapy Classes  
25 d. Top Participating Pharmacies, by zip code  
26 e. Average discount per prescription (by Brand, Generic, total)  
27 f. Average savings per prescription  
28 g. Average savings per card used  
29 h. Total Program savings.

30 i. Should County elect to implement CONTRACTOR'S mail order pharmacy option,  
31 CONTRACTOR shall provided monthly/quarterly reports relating to usage and savings as mutually  
32 agreed, in writing, between COUNTY and CONTRACTOR

33 3. Imaging Services Activity

- 34 a. Total number of images ordered and paid  
35 b. Images by type (CT, MRI, PET)  
36 c. Top Participating Imaging Providers, by zip code  
37 d. Average discount per Imaging Service (by CT, MRI, PET, and Total)

- 1 e. Average savings per Image
- 2 f. Average savings per card used
- 3 g. Total Program savings.
- 4 4. Laboratory Services Activity
- 5 a. Total number of laboratories ordered and paid
- 6 b. Laboratory Services by type
- 7 c. Top Participating Laboratory Providers, by zip code
- 8 d. Average discount per Laboratory Service
- 9 e. Average savings per Laboratory Service
- 10 f. Average savings per card used
- 11 g. Total Program savings.

## 12 V. ROYALTIES

13 A. CONTRACTOR shall make a payment, hereinafter referred to as a "Royalty," to COUNTY for  
14 each service used by Participating Residents as follows:  
15

16 1. Pharmacy Services

17 a. CONTRACTOR shall pay COUNTY for each prescription filled which results in a paid  
18 Claim.

19 b. Every time a Participating Resident purchases a prescription drug through a Participating  
20 Pharmacy, and CONTRACTOR receives compensation for that prescription through its PBM,  
21 CONTRACTOR shall pay COUNTY seventy-five cents (\$.75) per filled prescription resulting in a paid  
22 Claim.

23 c. Unless and until this Agreement is terminated by COUNTY, Royalty to COUNTY shall  
24 continue to be paid by CONTRACTOR as long as COUNTY'S Participating Residents continue to fill  
25 prescriptions under the Coast2Coast Rx Prescription Benefit Card Program and as long as  
26 CONTRACTOR receives its compensation for those prescriptions from CONTRACTOR'S PBM.

27 2. Imaging Services

28 a. CONTRACTOR shall pay COUNTY a Royalty for each Imaging Service pre-paid by a  
29 Participating Resident, including any Imaging Service(s) cancelled by a Participating Resident when no  
30 refunds shall be issued to Participating Residents as a result of the cancellation.

31 b. Every time a Participating Resident purchases an Imaging Service through a Participating  
32 Imaging Provider, and CONTRACTOR receives compensation for that Imaging Service,  
33 CONTRACTOR shall pay COUNTY fifty percent (50%) of CONTRACTOR'S commission from its  
34 Participating Imaging Providers. CONTRACTOR estimates COUNTY'S Royalty to range from \$25 to  
35 \$35 per Imaging Service.

36 c. Unless and until this Agreement is terminated by COUNTY, Royalty to COUNTY shall  
37 continue to be paid by CONTRACTOR as long as COUNTY'S Participating Residents continue to order

1 Imaging Services under the Coast2Coast Rx Prescription Benefit Card Program and as long as  
2 CONTRACTOR receives its compensation for those Imaging Services from CONTRACTOR'S  
3 Participating Imaging Providers.

4 3. Laboratory Services

5 a. CONTRACTOR shall pay COUNTY a Royalty for each Laboratory Service pre-paid by a  
6 Participating Resident.

7 b. Every time a Participating Resident purchases a Laboratory Service through a  
8 Participating Laboratory Provider, and CONTRACTOR receives compensation for that Laboratory  
9 Service, CONTRACTOR shall pay COUNTY fifty percent (50%) of CONTRACTOR'S commission  
10 from its Participating Laboratory Providers. CONTRACTOR estimates COUNTY'S Royalty to range  
11 from \$5 to \$10 per Laboratory Service.

12 c. Unless and until this Agreement is terminated by COUNTY, Royalty to COUNTY shall  
13 continue to be paid by CONTRACTOR as long as COUNTY'S Participating Residents continue to order  
14 Laboratory Services under the Coast2Coast Rx Prescription Benefit Card Program and as long as  
15 CONTRACTOR receives its compensation for those Laboratory Services from CONTRACTOR'S  
16 Participating Laboratory Providers.

17 B. CONTRACTOR shall mail Royalty payments, payable to the "County of Orange" to  
18 COUNTY'S address as specified on Page 3 of this Agreement.

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