

AGREEMENT FOR PROVISION OF
 PHYSICIAN SERVICES
 FOR
 CORRECTIONAL HEALTH SERVICES PROGRAMS
 BETWEEN
 COUNTY OF ORANGE
 AND
 CORRECTIONAL MANAGED CARE MEDICAL CORPORATION
 JULY 1, 2018 THROUGH JUNE 30, 2020

THIS AGREEMENT entered into this 1st day of July 1 2018, which date is enumerated for purposes of reference only, is by and between the COUNTY OF ORANGE, a political subdivision of State of California (COUNTY), and CORRECTIONAL MANAGED CARE MEDICAL CORPORATION, a California for-profit corporation (CONTRACTOR). COUNTY and CONTRACTOR may sometimes be referred to herein individually as “Party” or collectively as “Parties.” This Agreement shall be administered by the County of Orange Health Care Agency (ADMINISTRATOR).

W I T N E S S E T H:

WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of Custody Physician Services described herein to the residents of Orange County; and

WHEREAS, COUNTY has entered into a separate agreement with a hospital for provision of Hospital Services for Correctional Health Services Programs (Hospital); and

WHEREAS, CONTRACTOR agrees to provide Custody Physician Services at Hospital; and

WHEREAS, CONTRACTOR is agreeable to the rendering of such services on the terms and conditions hereinafter set forth; and

WHEREAS, COUNTY may amend the Maximum Obligation by an amount not to exceed ten percent (10%) of the Maximum Obligation funding for this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, benefits, and promises contained herein, COUNTY and CONTRACTOR do hereby agree as follows:

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CONTENTS

<u>PARAGRAPH</u>	<u>PAGE</u>
Title Page.....	1
Contents	2
Referenced Contract Provisions	4
I. Acronyms.....	5
II. Alteration of Terms	6
III. Assignment of Debts.....	6
IV. Compliance.....	6
V. Confidentiality	10
VI. Delegation, Assignment and Subcontracts.....	11
VII. Employee Eligibility Verification	12
VIII. Expenditure and Revenue Report.....	12
IX. Facilities, Payments and Services.....	12
X. Indemnification and Insurance	13
XI. Inspections and Audits.....	17
XII. Licenses and Laws.....	18
XIII. Literature, Advertisements, and Social Media.....	19
XIV. Maximum Obligation.....	20
XV. Minimum Wage Laws.....	20
XVI. Nondiscrimination	20
XVII. Notices	22
XVIII. Notification of Death.....	23
XIX. Records Management and Maintenance	24
XX. Research and Publication	25
XXI. Severability.....	25
XXII. Special Provisions.....	25
XXIII. Status of Contractor.....	26
XXIV. Term	26
XXV. Termination	27
XXVI. Third Party Beneficiary	28
XXVII. Waiver of Default or Breach.....	28
Signature Page.....	29
34 //	
35 //	
36 //	
37 //	

1
2
3
4
5
6
7
8
9
10
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21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37

CONTENTS

EXHIBIT A

PAGE

I. Definitions	1
II. Payment and Billings.....	3
III. Physician Services	6
IV. Other Vendor Services.....	12
V. Utilization Review/Quality Assurance.....	13
VI. Data Fiscal Reporting Requirements	14
VII. Interruptions in Service	15
VIII. Records	15

EXHIBIT B

I. Business Associate Contract.....	1
-------------------------------------	---

EXHIBIT C

II. Personal Information Privacy and Security Contract	1
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REFERENCED CONTRACT PROVISIONS

Term: July 1, 2018 through June 30, ~~2020~~2021

Period One means the period from July 1, 2018 through June 30, 2019

Period Two means the period from July 1, 2019 through June 30, 2020

Period Three means the period from July 1, 2020 through June 30, 2021

Maximum Obligation:

Period One Maximum Obligation: \$2,815,557

Period Two Maximum Obligation: \$2,815,557

Period Two Maximum Obligation: \$2,815,557

TOTAL MAXIMUM OBLIGATION: ~~\$5,631,114~~\$8,446,671

Basis for Reimbursement: Negotiated Amount

Payment Method: Monthly in Arrears

CONTRACTOR DUNS Number: 85-972-7898

CONTRACTOR TAX ID Number: 33-0795028

Notices to COUNTY and CONTRACTOR:

COUNTY: County of Orange
Health Care Agency
Contract Services
405 West 5th Street, Suite 600
Santa Ana, CA 92701-4637

CONTRACTOR: Correctional Managed Care Medical Corporation
Attn: Linda Cardoza, Chief Operating Officer
300 S. Harbor Blvd., Suite 920
Anaheim, CA 92805
Email: LindaC@cmcmc.com

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I. ACRONYMS

The following standard definitions are for reference purposes only and may or may not apply in their entirety throughout this Agreement:

4	A. AB 109	Assembly Bill 109, 2011 Public Safety Realignment
5	B. ARRA	American Recovery and Reinvestment Act of 2009
6	C. CCC	California Civil Code
7	D. CCR	California Code of Regulations
8	E. CEO	County Executive Office
9	F. CFR	Code of Federal Regulations
10	G. CHPP	COUNTY HIPAA Policies and Procedures
11	H. CHS	Correctional Health Services
12	I. COI	Certificate of Insurance
13	J. CPA	Certified Public Accountant
14	K. DEA	Drug Enforcement Agency
15	L. DPFS	Drug Program Fiscal Systems
16	M. DRS	Designated Record Set
17	N. ePHI	Electronic Protected Health Information
18	O. GAAP	Generally Accepted Accounting Principles
19	P. HCA	County of Orange Health Care Agency
20	Q. HHS	Federal Health and Human Services Agency
21	R. HIPAA	Health Insurance Portability and Accountability Act of 1996, Public
22		Law 104-191
23	S. HITECH	Health Information Technology for Economic and Clinical Health
24		Act, Public Law 111-005
25	T. HSC	California Health and Safety Code
26	U. ISO	Insurance Services Office
27	V. OCJS	Orange County Jail System
28	W. OCPD	Orange County Probation Department
29	X. OCR	Federal Office for Civil Rights
30	Y. OCSD	Orange County Sheriff's Department
31	Z. OIG	Federal Office of Inspector General
32	AA. OMB	Federal Office of Management and Budget
33	AB. OPM	Federal Office of Personnel Management
34	AC. PCI DSS	Payment Card Industry Data Security Standard
35	AD. PHI	Protected Health Information
36	AE. PII	Personally Identifiable Information
37	AF. PRA	California Public Records Act

1	AG. SIR	Self-Insured Retention
2	AH. TB	Tuberculosis
3	AI. USC	United States Code
4	AJ. WIC	Women, Infants and Children

6 **II. ALTERATION OF TERMS**

7 A. This Agreement, together with Exhibit A and B, attached hereto and incorporated herein, fully
8 expresses the complete understanding of COUNTY and CONTRACTOR with respect to the subject matter
9 of this Agreement.

10 B. Unless otherwise expressly stated in this Agreement, no addition to, or alteration of the terms of
11 this Agreement or any Exhibits, whether written or verbal, made by the parties, their officers, employees or
12 agents shall be valid unless made in the form of a written amendment to this Agreement, which has been
13 formally approved and executed by both parties.

14 **III. ASSIGNMENT OF DEBTS**

15 Unless this Agreement is followed without interruption by another Agreement between the parties
16 hereto for the same services and substantially the same scope, at the termination of this Agreement,
17 CONTRACTOR shall assign to COUNTY any debts owing to CONTRACTOR by or on behalf of persons
18 receiving services pursuant to this Agreement. CONTRACTOR shall immediately notify by mail each of
19 these persons, specifying the date of assignment, the County of Orange as assignee, and the address to
20 which payments are to be sent. Payments received by CONTRACTOR from or on behalf of said persons,
21 shall be immediately given to COUNTY.
22

23 **IV. COMPLIANCE**

24 A. COMPLIANCE PROGRAM - ADMINISTRATOR has established a Compliance Program for
25 the purpose of ensuring adherence to all rules and regulations related to federal and state health care
26 programs.
27

28 1. ADMINISTRATOR shall provide CONTRACTOR with a copy of the policies and
29 procedures relating to ADMINISTRATOR's Compliance Program, Code of Conduct and access to
30 General Compliance and Annual Provider Trainings.

31 2. CONTRACTOR has the option to provide ADMINISTRATOR with proof of its own
32 Compliance Program, Code of Conduct and any Compliance related policies and procedures.
33 CONTRACTOR's Compliance Program, Code of Conduct and any related policies and procedures shall
34 be verified by ADMINISTRATOR's Compliance Department to ensure they include all required elements
35 by ADMINISTRATOR's Compliance Officer as described in this Paragraph IV (COMPLIANCE). These
36 elements include:

37 a. Designation of a Compliance Officer and/or compliance staff.

- b. Written standards, policies and/or procedures.
- c. Compliance related training and/or education program and proof of completion.
- d. Communication methods for reporting concerns to the Compliance Officer.
- e. Methodology for conducting internal monitoring and auditing.
- f. Methodology for detecting and correcting offenses.
- g. Methodology/Procedure for enforcing disciplinary standards.

3. If CONTRACTOR does not provide proof of its own Compliance program to ADMINISTRATOR, CONTRACTOR shall acknowledge to comply with ADMINISTRATOR's Compliance Program and Code of Conduct, the CONTRACTOR shall submit to the ADMINISTRATOR within thirty (30) calendar days of execution of this Agreement a signed acknowledgement that CONTRACTOR shall comply with ADMINISTRATOR's Compliance Program and Code of Conduct.

4. If CONTRACTOR elects to have its own Compliance Program, Code of Conduct and any Compliance related policies and procedures review by ADMINISTRATOR, then CONTRACTOR shall submit a copy of its compliance Program, code of Conduct and all relevant policies and procedures to ADMINISTRATOR within thirty (30) calendar days of execution of this Agreement. ADMINISTRATOR's Compliance Officer, or designee, shall review said documents within a reasonable time, which shall not exceed forty five (45) calendar days, and determine if CONTRACTOR's proposed compliance program and code of conduct contain all required elements to the ADMINISTRATOR's satisfaction as consistent with the HCA's Compliance Program and Code of Conduct. ADMINISTRATOR shall inform CONTRACTOR of any missing required elements and CONTRACTOR shall revise its compliance program and code of conduct to meet ADMINISTRATOR's required elements within thirty (30) calendar days after ADMINISTRATOR's Compliance Officer's determination and resubmit the same for review by the ADMINISTRATOR.

5. Upon written confirmation from ADMINISTRATOR's Compliance Officer that the CONTRACTOR's compliance program, code of conduct and any Compliance related policies and procedures contain all required elements, CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of CONTRACTOR's compliance program, code of conduct, related policies and procedures and contact information for the ADMINISTRATOR's Compliance Program.

B. SANCTION SCREENING – CONTRACTOR shall screen all Covered Individuals employed or retained to provide services related to this Agreement semi-annually to ensure that they are not designated as Ineligible Persons, as pursuant to this Agreement. Screening shall be conducted against the General Services Administration's Excluded Parties List System or System for Award Management, the Health and Human Services/Office of Inspector General List of Excluded Individuals/Entities, and the California Medi-Cal Suspended and Ineligible Provider List and/or any other list or system as identified by the ADMINISTRATOR.

1 1. For purposes of this Paragraph IV (COMPLIANCE), Covered Individuals includes all
2 employees, interns, volunteers, contractors, subcontractors, agents, and other persons who provide health
3 care items or services or who perform billing or coding functions on behalf of ADMINISTRATOR.
4 Notwithstanding the above, this term does not include part-time or per-diem employees, contractors,
5 subcontractors, agents, and other persons who are not reasonably expected to work more than one hundred
6 sixty (160) hours per year; except that any such individuals shall become Covered Individuals at the point
7 when they work more than one hundred sixty (160) hours during the calendar year. CONTRACTOR shall
8 ensure that all Covered Individuals relative to this Agreement are made aware of ADMINISTRATOR's
9 Compliance Program, Code of Conduct and related policies and procedures (or CONTRACTOR's own
10 compliance program, code of conduct and related policies and procedures if CONTRACTOR has elected to
11 use its own).

12 2. An Ineligible Person shall be any individual or entity who:

13 a. is currently excluded, suspended, debarred or otherwise ineligible to participate in federal
14 and state health care programs; or

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

18 3. CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement.
19 CONTRACTOR shall not hire or engage any Ineligible Person to provide services relative to this
20 Agreement.

21 4. CONTRACTOR shall screen all current Covered Individuals and subcontractors semi-
22 annually to ensure that they have not become Ineligible Persons. CONTRACTOR shall also request that
23 its subcontractors use their best efforts to verify that they are eligible to participate in all federal and State
24 of California health programs and have not been excluded or debarred from participation in any federal or
25 state health care programs, and to further represent to CONTRACTOR that they do not have any Ineligible
26 Person in their employ or under contract.

27 5. Covered Individuals shall be required to disclose to CONTRACTOR immediately any
28 debarment, exclusion or other event that makes the Covered Individual an Ineligible Person.
29 CONTRACTOR shall notify ADMINISTRATOR immediately if a Covered Individual providing services
30 directly relative to this Agreement becomes debarred, excluded or otherwise becomes an Ineligible Person.

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

1 7. CONTRACTOR shall notify ADMINISTRATOR immediately if a Covered Individual or
 2 entity is currently excluded, suspended or debarred, or is identified as such after being sanction screened.
 3 Such individual or entity shall be immediately removed from participating in any activity associated with
 4 this Agreement. ADMINISTRATOR will determine appropriate repayment from, or sanction(s) to
 5 CONTRACTOR for services provided by ineligible person or individual. CONTRACTOR shall promptly
 6 return any overpayments within forty-five (45) business days after the overpayment is verified by
 7 ADMINISTRATOR.

8 C. GENERAL COMPLIANCE TRAINING – ADMINISTRATOR shall make General Compliance
 9 Training available to Covered Individuals.

10 1. CONTRACTORS that have acknowledged to comply with ADMINISTRATOR’s
 11 Compliance Program shall use its best efforts to encourage completion by all Covered Individuals;
 12 provided, however, that at a minimum CONTRACTOR shall assign at least one (1) designated
 13 representative to complete the General Compliance Training when offered.

14 2. Such training will be made available to Covered Individuals within thirty (30) calendar days
 15 of employment or engagement.

16 3. Such training will be made available to each Covered Individual annually.

17 4. ADMINISTRATOR will track training completion while CONTRACTOR shall provide
 18 copies of training certification upon request.

19 5. Each Covered Individual attending a group training shall certify, in writing, attendance at
 20 compliance training. ADMINISTRATOR shall provide instruction on group training completion while
 21 CONTRACTOR shall retain the training certifications. Upon written request by ADMINISTRATOR,
 22 CONTRACTOR shall provide copies of the certifications.

23 D. SPECIALIZED PROVIDER TRAINING – ADMINISTRATOR shall make Specialized Provider
 24 Training, where appropriate, available to Covered Individuals.

25 1. CONTRACTOR shall ensure completion of Specialized Provider Training by all Covered
 26 Individuals relative to this Agreement.

27 2. Such training will be made available to Covered Individuals within thirty (30) calendar days
 28 of employment or engagement.

29 3. Such training will be made available to each Covered Individual annually.

30 4. ADMINISTRATOR will track online completion of training while CONTRACTOR shall
 31 provide copies of the certifications upon request.

32 5. Each Covered Individual attending a group training shall certify, in writing, attendance at
 33 compliance training. ADMINISTRATOR shall provide instructions on completing the training in a group
 34 setting while CONTRACTOR shall retain the certifications. Upon written request by
 35 ADMINISTRATOR, CONTRACTOR shall provide copies of the certifications.

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E. MEDICAL BILLING, CODING, AND DOCUMENTATION COMPLIANCE STANDARDS

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

2. CONTRACTOR shall not submit any false, fraudulent, inaccurate and/or fictitious claims for payment or reimbursement of any kind.

3. CONTRACTOR shall bill only for those eligible services actually rendered which are also fully documented. When such services are coded, CONTRACTOR shall use proper billing codes which accurately describes the services provided and must ensure compliance with all billing and documentation requirements.

4. CONTRACTOR shall act promptly to investigate and correct any problems or errors in coding of claims and billing, if and when, any such problems or errors are identified.

5. CONTRACTOR shall promptly return any overpayments within forty-five (45) business days after the overpayment is verified by the ADMINISTRATOR.

F. Failure to comply with the obligations stated in this Paragraph IV (COMPLIANCE) shall constitute a breach of the Agreement on the part of CONTRACTOR and grounds for COUNTY to terminate the Agreement. Unless the circumstances require a sooner period of cure, CONTRACTOR shall have thirty (30) calendar days from the date of the written notice of default to cure any defaults grounded on this Paragraph IV (COMPLIANCE) prior to ADMINITRATOR’s right to terminate this Agreement on the basis of such default.

V. CONFIDENTIALITY

A. CONTRACTOR shall maintain the confidentiality of all records, including billings and any audio and/or video recordings, in accordance with all applicable federal, state and county codes and regulations, as they now exist or may hereafter be amended or changed.

B. Prior to providing any services pursuant to this Agreement, all members of the [Board of Directors] or its designee or authorized agent, employees, consultants, subcontractors, volunteers and interns of the CONTRACTOR shall agree, in writing, with CONTRACTOR to maintain the confidentiality of any and all information and records which may be obtained in the course of providing such services. This Agreement shall specify that it is effective irrespective of all subsequent resignations or terminations of CONTRACTOR members of the Board of Directors or its designee or authorized agent, employees, consultants, subcontractors, volunteers and interns.

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VI. DELEGATION, ASSIGNMENT AND SUBCONTRACTS

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2 A. CONTRACTOR may not delegate the obligations hereunder, either in whole or in part, without
3 prior written consent of COUNTY. CONTRACTOR shall provide written notification of
4 CONTRACTOR's intent to delegate the obligations hereunder, either in whole or part, to
5 ADMINISTRATOR not less than sixty (60) calendar days prior to the effective date of the delegation.
6 Any attempted assignment or delegation in derogation of this paragraph shall be void.

7 B. CONTRACTOR may not assign the rights hereunder, either in whole or in part, without the prior
8 written consent of COUNTY.

9 1. If CONTRACTOR is a nonprofit organization, any change from a nonprofit corporation to
10 any other corporate structure of CONTRACTOR, including a change in more than fifty percent (50%) of
11 the composition of the Board of Directors within a two (2) month period of time, shall be deemed an
12 assignment for purposes of this paragraph, unless CONTRACTOR is transitioning from a community
13 clinic/health center to a Federally Qualified Health Center and has been so designated by the Federal
14 Government. Any attempted assignment or delegation in derogation of this subparagraph shall be void.

15 2. If CONTRACTOR is a for-profit organization, any change in the business structure, including
16 but not limited to, the sale or transfer of more than ten percent (10%) of the assets or stocks of
17 CONTRACTOR, change to another corporate structure, including a change to a sole proprietorship, or a
18 change in fifty percent (50%) or more of Board of Directors or any governing body of CONTRACTOR at
19 one time shall be deemed an assignment pursuant to this paragraph. Any attempted assignment or
20 delegation in derogation of this subparagraph shall be void.

21 3. If CONTRACTOR is a governmental organization, any change to another structure, including
22 a change in more than fifty percent (50%) of the composition of its governing body (i.e. Board of
23 Supervisors, City Council, School Board) within a two (2) month period of time, shall be deemed an
24 assignment for purposes of this paragraph. Any attempted assignment or delegation in derogation of this
25 subparagraph shall be void.

26 4. Whether CONTRACTOR is a nonprofit, for-profit, or a governmental organization,
27 CONTRACTOR shall provide written notification of CONTRACTOR's intent to assign the obligations
28 hereunder, either in whole or part, to ADMINISTRATOR not less than sixty (60) calendar days prior to
29 the effective date of the assignment.

30 5. Whether CONTRACTOR is a nonprofit, for-profit, or a governmental organization,
31 CONTRACTOR shall provide written notification within thirty (30) calendar days to ADMINISTRATOR
32 when there is change of less than fifty percent (50%) of Board of Directors or any governing body of
33 CONTRACTOR at one time.

34 C. CONTRACTOR's obligations undertaken pursuant to this Agreement may be carried out by
35 means of subcontracts, provided such subcontracts are approved in advance, in writing by
36 ADMINISTRATOR, meet the requirements of this Agreement as they relate to the service or activity under
37 subcontract, and include any provisions that ADMINISTRATOR may require.

1 B. In the event that CONTRACTOR is unable to provide the services, staffing, facilities, or supplies
 2 as required, ADMINISTRATOR may, at its sole discretion, reduce the Maximum Obligation for the
 3 appropriate Period as well as the Total Maximum Obligation. The Maximum Obligation for the
 4 appropriate Period as well as the Total Maximum Obligation shall be in an amount proportionate to the
 5 number of days in which CONTRACTOR was determined to be unable to provide services, staffing,
 6 facilities or supplies.

8 **X. INDEMNIFICATION AND INSURANCE**

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

18 B. COUNTY agrees to indemnify, defend and hold CONTRACTOR, its officers, employees, agents,
 19 directors, members, shareholders and/or affiliates harmless from any claims, demands or liability of any
 20 kind or nature, including but not limited to personal injury or property damage, arising from or related to
 21 the services, products or other performance provided by COUNTY pursuant to this Agreement. If
 22 judgment is entered against COUNTY and CONTRACTOR by a court of competent jurisdiction because
 23 of the concurrent active negligence of CONTRACTOR, COUNTY and CONTRACTOR agree that
 24 liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

25 C. Each party agrees to provide the indemnifying party with written notification of any claim related
 26 to services provided by either party pursuant to this Agreement within thirty (30) calendar days of notice
 27 thereof, and in the event the indemnifying party is subsequently named party to the litigation, each party
 28 shall cooperate with the indemnifying party in its defense.

29 D. Prior to the provision of services under this Agreement, CONTRACTOR agrees to purchase all
 30 required insurance at CONTRACTOR's expense, including all endorsements required herein, necessary to
 31 satisfy COUNTY that the insurance provisions of this Agreement have been complied with.
 32 CONTRACTOR agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on
 33 deposit with COUNTY during the entire term of this Agreement. In addition, all subcontractors
 34 performing work on behalf of CONTRACTOR pursuant to this Agreement shall obtain insurance subject
 35 to the same terms and conditions as set forth herein for CONTRACTOR.

36 E. CONTRACTOR shall ensure that all subcontractors performing work on behalf of
 37 CONTRACTOR pursuant to this Agreement shall be covered under CONTRACTOR's insurance as an

1 Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for
 2 CONTRACTOR. CONTRACTOR shall not allow subcontractors to work if subcontractors have less than
 3 the level of coverage required by COUNTY from CONTRACTOR under this Agreement. It is the
 4 obligation of CONTRACTOR to provide notice of the insurance requirements to every subcontractor and
 5 to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance
 6 must be maintained by CONTRACTOR through the entirety of this Agreement for inspection by
 7 COUNTY representative(s) at any reasonable time.

8 F. All SIRs shall be clearly stated on the COI. Any SIR in an amount in excess of \$50,000 shall
 9 specifically be approved by the CEO/Office of Risk Management upon review of CONTRACTOR's
 10 current audited financial report. If CONTRACTOR's SIR is approved, CONTRACTOR, in addition to,
 11 and without limitation of, any other indemnity provision(s) in this Agreement, agrees to all of the
 12 following:

13 1. In addition to the duty to indemnify and hold the COUNTY harmless against any and all
 14 liability, claim, demand or suit resulting from CONTRACTOR's, its agents, employee's or subcontractor's
 15 performance of this Agreement, CONTRACTOR shall defend the COUNTY at its sole cost and expense
 16 with counsel approved by Board of Supervisors against same; and

17 2. CONTRACTOR's duty to defend, as stated above, shall be absolute and irrespective of any
 18 duty to indemnify or hold harmless; and

19 3. The provisions of California Civil Code Section 2860 shall apply to any and all actions to
 20 which the duty to defend stated above applies, and the CONTRACTOR's SIR provision shall be
 21 interpreted as though the CONTRACTOR was an insurer and the COUNTY was the insured.

22 G. If CONTRACTOR fails to maintain insurance as required in this Paragraph X
 23 (INDEMNIFICATION AND INSURANCE) for the full term of this Agreement, such failure shall
 24 constitute a breach of CONTRACTOR's obligation hereunder and ground for COUNTY to terminate this
 25 Agreement.

26 H. QUALIFIED INSURER

27 1. The policy or policies of insurance must be issued by an insurer with a minimum rating of A-
 28 (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of
 29 the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred, but not
 30 mandatory, that the insurer be licensed to do business in the state of California (California Admitted
 31 Carrier).

32 2. If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk
 33 Management retains the right to approve or reject a carrier after a review of the company's performance and
 34 financial ratings.

35 I. The policy or policies of insurance maintained by CONTRACTOR shall provide the minimum
 36 limits and coverage as set forth below:

37 //

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$3,000,000 per occurrence \$6,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence
Network Security & Privacy Liability	\$1,000,000 per claims made
Professional Liability Insurance	\$3,000,000 per claims made \$6,000,000 aggregate
Sexual Misconduct Liability	\$1,000,000 per occurrence

J. REQUIRED COVERAGE FORMS

1. The Commercial General Liability coverage shall be written on ISO form CG 00 01, or a substitute form providing liability coverage at least as broad.

2. The Business Automobile Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing coverage at least as broad.

K. REQUIRED ENDORSEMENTS

1. The Commercial General Liability policy shall contain the following endorsements, which shall accompany the COI:

a. An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, employees, and agents as Additional Insureds, or provide blanket coverage, which will state ***AS REQUIRED BY WRITTEN AGREEMENT.***

b. A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that the CONTRACTOR's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

2. The Network Security and Privacy Liability policy shall contain the following endorsements which shall accompany the Certificate of Insurance:

//

1 a. An Additional Insured endorsement naming the County of Orange, its elected and
2 appointed officials, officers, agents and employees as Additional Insureds for its vicarious liability.

3 b. A primary and non-contributing endorsement evidencing that the Contractor's insurance
4 is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and
5 non-contributing.

6 L. All insurance policies required by this Agreement shall waive all rights of subrogation against the
7 County of Orange, its elected and appointed officials, officers, agents and employees when acting within the
8 scope of their appointment or employment.

9 M. The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all
10 rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and
11 employees, or provide blanket coverage, which will state **AS REQUIRED BY WRITTEN**
12 **AGREEMENT.**

13 N. CONTRACTOR shall notify COUNTY in writing within thirty (30) days of any policy
14 cancellation and within ten (10) days for non-payment of premium and provide a copy of the cancellation
15 notice to COUNTY. Failure to provide written notice of cancellation shall constitute a breach of
16 CONTRACTOR's obligation hereunder and ground for COUNTY to terminate this Agreement.

17 O. If CONTRACTOR's Professional Liability or Network Security & Privacy Liability are "Claims
18 Made" policies, CONTRACTOR shall agree to maintain coverage for two (2) years following the
19 completion of the Agreement.

20 P. The Commercial General Liability policy shall contain a "severability of interests" clause also
21 known as a "separation of insureds" clause (standard in the ISO CG 0001 policy).

22 Q. COUNTY expressly retains the right to require CONTRACTOR to increase or decrease insurance
23 of any of the above insurance types throughout the term of this Agreement. Any increase or decrease in
24 insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect
25 COUNTY.

26 R. COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If
27 CONTRACTOR does not deposit copies of acceptable COIs and endorsements with COUNTY
28 incorporating such changes within thirty (30) calendar days of receipt of such notice, such failure shall
29 constitute a breach of CONTRACTOR's obligation hereunder and ground for termination of this
30 Agreement by COUNTY.

31 S. The procuring of such required policy or policies of insurance shall not be construed to limit
32 CONTRACTOR's liability hereunder nor to fulfill the indemnification provisions and requirements of this
33 Agreement, nor act in any way to reduce the policy coverage and limits available from the insurer.

34 T. SUBMISSION OF INSURANCE DOCUMENTS

35 1. The COI and endorsements shall be provided to COUNTY as follows:

36 a. Prior to the start date of this Agreement.

37 b. No later than the expiration date for each policy.

1 c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding
2 changes to any of the insurance types as set forth in Subparagraph G, above.

3 2. The COI and endorsements shall be provided to the COUNTY at the address as specified in
4 the Referenced Contract Provisions of this Agreement.

5 3. If CONTRACTOR fails to submit the COI and endorsements that meet the insurance
6 provisions stipulated in this Agreement by the above specified due dates, ADMINISTRATOR shall have
7 sole discretion to impose one or both of the following:

8 a. ADMINISTRATOR may withhold or delay any or all payments due CONTRACTOR
9 pursuant to any and all Agreements between COUNTY and CONTRACTOR until such time that the
10 required COI and endorsements that meet the insurance provisions stipulated in this Agreement are
11 submitted to ADMINISTRATOR.

12 b. CONTRACTOR may be assessed a penalty of one hundred dollars (\$100) for each late
13 COI or endorsement for each business day, pursuant to any and all Agreements between COUNTY and
14 CONTRACTOR, until such time that the required COI and endorsements that meet the insurance
15 provisions stipulated in this Agreement are submitted to ADMINISTRATOR.

16 c. If CONTRACTOR is assessed a late penalty, the amount shall be deducted from
17 CONTRACTOR's monthly invoice.

18 4. In no cases shall assurances by CONTRACTOR, its employees, agents, including any
19 insurance agent, be construed as adequate evidence of insurance. COUNTY will only accept valid COIs
20 and endorsements, or in the interim, an insurance binder as adequate evidence of insurance coverage.

21 **XI. INSPECTIONS AND AUDITS**

22
23 A. ADMINISTRATOR, any authorized representative of COUNTY, any authorized representative
24 of the State of California, the Secretary of the United States Department of Health and Human Services, the
25 Comptroller General of the United States, or any other of their authorized representatives, shall have access
26 to any books, documents, and records, including but not limited to, financial statements, general ledgers,
27 relevant accounting systems, medical and client records, of CONTRACTOR that are directly pertinent to
28 this Agreement, for the purpose of responding to a beneficiary complaint or conducting an audit, review,
29 evaluation, or examination, or making transcripts during the periods of retention set forth in the Records
30 Management and Maintenance Paragraph of this Agreement. Such persons may at all reasonable times
31 inspect or otherwise evaluate the services provided pursuant to this Agreement, and the premises in which
32 they are provided.

33 B. CONTRACTOR shall actively participate and cooperate with any person specified in
34 Subparagraph A. above in any evaluation or monitoring of the services provided pursuant to this
35 Agreement, and shall provide the above-mentioned persons adequate office space to conduct such
36 evaluation or monitoring.

37 C. AUDIT RESPONSE

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

6 2. If the audit reveals that money is payable from one party to the other, that is, reimbursement
 7 by CONTRACTOR to COUNTY, or payment of sums due from COUNTY to CONTRACTOR, said
 8 funds shall be due and payable from one party to the other within sixty (60) calendar days of receipt of the
 9 audit results. If reimbursement is due from CONTRACTOR to COUNTY, and such reimbursement is not
 10 received within said sixty (60) calendar days, COUNTY may, in addition to any other remedies provided
 11 by law, reduce any amount owed CONTRACTOR by an amount not to exceed the reimbursement due
 12 COUNTY.

13 D. CONTRACTOR shall retain a licensed certified public accountant, who will prepare and file with
 14 ADMINISTRATOR, an annual, independent, organization-wide audit of related expenditures as may be
 15 required during the term of this Agreement.

16 E. CONTRACTOR shall forward to ADMINISTRATOR a copy of any audit report within fourteen
 17 (14) calendar days of receipt. Such audit shall include, but not be limited to, management, financial,
 18 programmatic or any other type of audit of CONTRACTOR's operations, whether or not the cost of such
 19 operation or audit is reimbursed in whole or in part through this Agreement.

20 21 **XII. LICENSES AND LAWS**

22 A. CONTRACTOR, its officers, agents, employees, affiliates, and subcontractors shall, throughout
 23 the term of this Agreement, maintain all necessary licenses, permits, approvals, certificates, accreditations,
 24 waivers, and exemptions necessary for the provision of the services hereunder and required by the laws,
 25 regulations and requirements of the United States, the State of California, COUNTY, and all other
 26 applicable governmental agencies. CONTRACTOR shall notify ADMINISTRATOR immediately and in
 27 writing of its inability to obtain or maintain, irrespective of the pendency of any hearings or appeals,
 28 permits, licenses, approvals, certificates, accreditations, waivers and exemptions. Said inability shall be
 29 cause for termination of this Agreement.

30 **B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS**

31 1. CONTRACTOR certifies it is in full compliance with all applicable federal and State
 32 reporting requirements regarding its employees and with all lawfully served Wage and Earnings
 33 Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term
 34 of the Agreement with the County of Orange. Failure to comply shall constitute a material breach of the
 35 Agreement and failure to cure such breach within sixty (60) calendar days of notice from the COUNTY
 36 shall constitute grounds for termination of the Agreement.

37 //

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

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

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

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

11 C. CONTRACTOR shall comply with all applicable governmental laws, regulations, and
12 requirements as they exist now or may be hereafter amended or changed.

13 D. CONTRACTOR attests that all CONTRACTOR physicians providing services under this
14 Agreement are and will continue to be as long as this Agreement remains in effect, the holders of currently
15 valid licenses to practice medicine in the State of California and are members in good standing of the
16 medical staff of CONTRACTOR's facility.

17 **XIII. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA**

18 A. Any written information or literature, including educational or promotional materials, distributed
19 by CONTRACTOR to any person or organization for purposes directly or indirectly related to this
20 Agreement must be approved at least thirty (30) calendar days in advance and in writing by
21 ADMINISTRATOR before distribution. For the purposes of this Agreement, distribution of written
22 materials shall include, but not be limited to, pamphlets, brochures, flyers, newspaper or magazine ads, and
23 electronic media such as the Internet.
24

25 B. Any advertisement through radio, television broadcast, or the Internet, for educational or
26 promotional purposes, made by CONTRACTOR for purposes directly or indirectly related to this Agreement
27 must be approved in advance at least thirty (30) calendar days and in writing by ADMINISTRATOR.

28 C. If CONTRACTOR uses social media (such as Facebook, Twitter, YouTube or other publicly
29 available social media sites) in support of the services described within this Agreement, CONTRACTOR
30 shall develop social media policies and procedures and have them available to ADMINISTRATOR upon
31 reasonable notice. CONTRACTOR shall inform ADMINISTRATOR of all forms of social media used to
32 either directly or indirectly support the services described within this Agreement. CONTRACTOR shall
33 comply with COUNTY Social Media Use Policy and Procedures as they pertain to any social media
34 developed in support of the services described within this Agreement. CONTRACTOR shall also include
35 any required funding statement information on social media when required by ADMINISTRATOR.

36 D. Any information as described in Subparagraphs A. and B. above shall not imply endorsement by
37 COUNTY, unless ADMINISTRATOR consents thereto in writing.

XIV. MAXIMUM OBLIGATION

A. The Total Maximum Obligation of COUNTY for services provided in accordance with this Agreement, and the separate Maximum Obligations for each period under this Agreement, are as specified in the Referenced Contract Provisions of this Agreement, except as allowed for in Subparagraph B. below. .

B. ADMINISTRATOR may amend the Maximum Obligation by an amount not to exceed ten percent (10%) of Period One funding for this Agreement.

XV. MINIMUM WAGE LAWS

A. Pursuant to the United States of America Fair Labor Standards Act of 1938, as amended, and State of California Labor Code, §1178.5, CONTRACTOR shall pay no less than the greater of the federal or California Minimum Wage to all its employees that directly or indirectly provide services pursuant to this Agreement, in any manner whatsoever. CONTRACTOR shall require and verify that all its contractors or other persons providing services pursuant to this Agreement on behalf of CONTRACTOR also pay their employees no less than the greater of the federal or California Minimum Wage.

B. CONTRACTOR shall comply and verify that its contractors comply with all other federal and State of California laws for minimum wage, overtime pay, record keeping, and child labor standards pursuant to providing services pursuant to this Agreement.

C. Notwithstanding the minimum wage requirements provided for in this clause, CONTRACTOR, where applicable, shall comply with the prevailing wage and related requirements, as provided for in accordance with the provisions of Article 2 of Chapter 1, Part 7, Division 2 of the Labor Code of the State of California (§§1770, et seq.), as it now exists or may hereafter be amended.

XVI. NONDISCRIMINATION

A. EMPLOYMENT

1. During the term of this Agreement, CONTRACTOR and its Covered Individuals shall not unlawfully discriminate against any employee or applicant for employment because of his/her race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Additionally, during the term of this Agreement, CONTRACTOR and its Covered Individuals shall require in its subcontracts that subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of his/her race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

2. CONTRACTOR and its Covered Individuals shall not discriminate against employees or applicants for employment in the areas of employment, promotion, demotion or transfer; recruitment or

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1 recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for
2 training, including apprenticeship.

3 3. CONTRACTOR shall not discriminate between employees with spouses and employees with
4 domestic partners, or discriminate between domestic partners and spouses of those employees, in the
5 provision of benefits.

6 4. CONTRACTOR shall post in conspicuous places, available to employees and applicants for
7 employment, notices from ADMINISTRATOR and/or the United States Equal Employment Opportunity
8 Commission setting forth the provisions of the Equal Opportunity clause.

9 5. All solicitations or advertisements for employees placed by or on behalf of CONTRACTOR
10 and/or subcontractor shall state that all qualified applicants will receive consideration for employment
11 without regard to race, religious creed, color, national origin, ancestry, physical disability, mental
12 disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender
13 expression, age, sexual orientation, or military and veteran status. Such requirements shall be deemed
14 fulfilled by use of the term EOE.

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

20 B. SERVICES, BENEFITS AND FACILITIES – CONTRACTOR and/or subcontractor shall not
21 discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities on
22 the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability,
23 medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age,
24 sexual orientation, or military and veteran status in accordance with Title IX of the Education
25 Amendments of 1972 as they relate to 20 USC §1681 - §1688; Title VI of the Civil Rights Act of 1964
26 (42 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); Title 9, Division 4, Chapter 6,
27 Article 1 (§10800, et seq.) of the California Code of Regulations; and Title II of the Genetic Information
28 Nondiscrimination Act of 2008, 42 USC 2000ff, et seq. as applicable, and all other pertinent rules and
29 regulations promulgated pursuant thereto, and as otherwise provided by state law and regulations, as all
30 may now exist or be hereafter amended or changed. For the purpose of this Nondiscrimination paragraph,
31 Discrimination includes, but is not limited to the following based on one or more of the factors identified
32 above:

- 33 1. Denying a client or potential client any service, benefit, or accommodation.
- 34 2. Providing any service or benefit to a client which is different or is provided in a different
35 manner or at a different time from that provided to other clients.
- 36 3. Restricting a client in any way in the enjoyment of any advantage or privilege enjoyed by
37 others receiving any service or benefit.

1 4. Treating a client differently from others in satisfying any admission requirement or condition,
 2 or eligibility requirement or condition, which individuals must meet in order to be provided any service or
 3 benefit.

4 5. Assignment of times or places for the provision of services.

5 C. COMPLAINT PROCESS – CONTRACTOR shall advise all clients that CONTRACTOR’s
 6 and/or subcontractor’s clients may file all complaints alleging discrimination in the delivery of services with
 7 ADMINISTRATOR.

8 1. Whenever possible, problems shall be resolved informally and at the point of service. Clients
 9 may initiate a grievance or complaint directly with ADMINISTRATOR either orally or in writing.

10 2. Within the time limits procedurally imposed, the complainant shall be notified in writing as to
 11 the findings regarding the alleged complaint and, if not satisfied with the decision, may file an appeal.

12 D. PERSONS WITH DISABILITIES – CONTRACTOR and/or subcontractor agree to comply with
 13 the provisions of §504 of the Rehabilitation Act of 1973, as amended, (29 USC 794 et seq., as
 14 implemented in 45 CFR 84.1 et seq.), and the Americans with Disabilities Act of 1990 as amended (42
 15 USC 12101 et seq.; as implemented in 29 CFR 1630), as applicable, pertaining to the prohibition of
 16 discrimination against qualified persons with disabilities in all programs or activities; and if applicable, as
 17 implemented in Title 45, CFR, §84.1 et seq., as they exist now or may be hereafter amended together with
 18 succeeding legislation.

19 E. RETALIATION – Neither CONTRACTOR nor subcontractor, nor its employees or agents shall
 20 intimidate, coerce or take adverse action against any person for the purpose of interfering with rights
 21 secured by federal or state laws, or because such person has filed a complaint, certified, assisted or
 22 otherwise participated in an investigation, proceeding, hearing or any other activity undertaken to enforce
 23 rights secured by federal or state law.

24 F. In the event of non-compliance with this paragraph or as otherwise provided by federal and state
 25 law, this Agreement may be canceled, terminated or suspended in whole or in part and CONTRACTOR or
 26 subcontractor may be declared ineligible for further contracts involving federal, state or county funds.

27 **XVII. NOTICES**

28 A. Unless otherwise specified, all notices, claims, correspondence, reports and/or statements
 29 authorized or required by this Agreement shall be effective:
 30

31 1. When written and deposited in the United States mail, first class postage prepaid and
 32 addressed as specified in the Referenced Contract Provisions of this Agreement or as otherwise directed by
 33 ADMINISTRATOR;

34 2. When faxed, transmission confirmed;

35 3. When sent by Email; or

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

1 B. Termination Notices shall be addressed as specified in the Referenced Contract Provisions of this
 2 Agreement or as otherwise directed by ADMINISTRATOR and shall be effective when faxed, transmission
 3 confirmed, or when accepted by U.S. Postal Service Express Mail, Federal Express, United Parcel Service,
 4 or any other expedited delivery service.

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

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

11 **XVIII. NOTIFICATION OF DEATH**

12 A. Upon becoming aware of the death of any person served pursuant to this Agreement,
 13 CONTRACTOR shall immediately notify ADMINISTRATOR.

14 B. All Notifications of Death provided to ADMINISTRATOR by CONTRACTOR shall contain the
 15 name of the deceased, the date and time of death, the nature and circumstances of the death, and the
 16 name(s) of CONTRACTOR's officers or employees with knowledge of the incident.

17 1. TELEPHONE NOTIFICATION – CONTRACTOR shall notify ADMINISTRATOR by
 18 telephone immediately upon becoming aware of the death due to non-terminal illness of any person served
 19 pursuant to this Agreement; provided, however, weekends and holidays shall not be included for purposes
 20 of computing the time within which to give telephone notice and, notwithstanding the time limit herein
 21 specified, notice need only be given during normal business hours.

22 2. WRITTEN NOTIFICATION

23 a. NON-TERMINAL ILLNESS – CONTRACTOR shall hand deliver, fax, and/or send via
 24 encrypted email to ADMINISTRATOR a written report within sixteen (16) hours after becoming aware of
 25 the death due to non-terminal illness of any person served pursuant to this Agreement.

26 b. TERMINAL ILLNESS – CONTRACTOR shall notify ADMINISTRATOR by written
 27 report hand delivered, faxed, sent via encrypted email, and/or postmarked and sent via U.S. Mail within
 28 forty-eight (48) hours of becoming aware of the death due to terminal illness of any person served pursuant
 29 to this Agreement.

30 C. If there are any questions regarding the cause of death of any person served pursuant to this
 31 Agreement who was diagnosed with a terminal illness, or if there are any unusual circumstances related to
 32 the death, CONTRACTOR shall immediately notify ADMINISTRATOR in accordance with this
 33 Notification of Death Paragraph.

34 //

35 //

36 //

XIX. RECORDS MANAGEMENT AND MAINTENANCE

1
2 A. CONTRACTOR, its officers, agents, employees and subcontractors shall, throughout the term of
3 this Agreement, prepare, maintain and manage records appropriate to the services provided and in
4 accordance with this Agreement and all applicable requirements.

5 B. CONTRACTOR shall implement and maintain administrative, technical and physical safeguards
6 to ensure the privacy of PHI and prevent the intentional or unintentional use or disclosure of PHI in
7 violation of the HIPAA, federal and state regulations and/or CHPP. CONTRACTOR shall mitigate to the
8 extent practicable, the known harmful effect of any use or disclosure of PHI made in violation of federal or
9 state regulations and/or COUNTY policies.

10 C. CONTRACTOR's participant, client, and/or patient records shall be maintained in a secure
11 manner. CONTRACTOR shall maintain participant, client, and/or patient records and must establish and
12 implement written record management procedures.

13 D. CONTRACTOR shall retain all financial records for a minimum of seven (7) years from the
14 commencement of the contract, unless a longer period is required due to legal proceedings such as
15 litigations and/or settlement of claims.

16 E. CONTRACTOR shall make records pertaining to the costs of services, participant fees, charges,
17 billings, and revenues available at one (1) location within the limits of the County of Orange.

18 F. CONTRACTOR shall ensure all HIPAA (DRS) requirements are met. HIPAA requires that
19 clients, participants and/or patients be provided the right to access or receive a copy of their DRS and/or
20 request addendum to their records. Title 45 CFR §164.501, defines DRS as a group of records maintained
21 by or for a covered entity that is:

22 1. The medical records and billing records about individuals maintained by or for a covered
23 health care provider;

24 2. The enrollment, payment, claims adjudication, and case or medical management record
25 systems maintained by or for a health plan; or

26 3. Used, in whole or in part, by or for the covered entity to make decisions about individuals.

27 G. CONTRACTOR may retain client, and/or patient documentation electronically in accordance
28 with the terms of this Agreement and common business practices. If documentation is retained
29 electronically, CONTRACTOR shall, in the event of an audit or site visit:

30 1. Have documents readily available within forty-eight (48) hour notice of a scheduled audit or
31 site visit.

32 2. Provide auditor or other authorized individuals access to documents via a computer terminal.

33 3. Provide auditor or other authorized individuals a hardcopy printout of documents, if
34 requested.

35 H. CONTRACTOR shall ensure compliance with requirements pertaining to the privacy and security
36 of PII and/or PHI. CONTRACTOR shall notify COUNTY immediately by telephone call plus email or
37 fax upon the discovery of a Breach of unsecured PHI and/or PII.

1 I. CONTRACTOR may be required to pay any costs associated with a Breach of privacy and/or
 2 security of PII and/or PHI, including but not limited to the costs of notification. CONTRACTOR shall pay
 3 any and all such costs arising out of a Breach of privacy and/or security of PII and/or PHI.

4 J. CONTRACTOR shall retain all client and/or patient medical records for seven (7) years following
 5 discharge of the client and/or patient, with the exception of non-emancipated minors for whom records must
 6 be kept for at least one (1) year after such minors have reached the age of eighteen (18) years, or for seven
 7 (7) years after the last date of service, whichever is longer.

8 9 **XX. RESEARCH AND PUBLICATION**

10 CONTRACTOR shall not utilize information and/or data received from COUNTY, or arising out of,
 11 or developed, as a result of this Agreement for the purpose of personal or professional research, or for
 12 publication.

13 14 **XXI. SEVERABILITY**

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

20 21 **XXII. SPECIAL PROVISIONS**

22 A. CONTRACTOR shall not use the funds provided by means of this Agreement for the following
 23 purposes:

- 24 1. Making cash payments to intended recipients of services through this Agreement.
- 25 2. Lobbying any governmental agency or official. CONTRACTOR shall file all certifications
 26 and reports in compliance with this requirement pursuant to Title 31, USC, §1352 (e.g., limitation on use
 27 of appropriated funds to influence certain federal contracting and financial transactions).
- 28 3. Fundraising.
- 29 4. Purchase of gifts, meals, entertainment, awards, or other personal expenses for
 30 CONTRACTOR's staff, volunteers, or members of the Board of Directors or governing body.
- 31 5. Reimbursement of CONTRACTOR's members of the Board of Directors or governing body
 32 for expenses or services.
- 33 6. Making personal loans to CONTRACTOR's staff, volunteers, interns, consultants,
 34 subcontractors, and members of the Board of Directors or governing body, or its designee or authorized
 35 agent, or making salary advances or giving bonuses to CONTRACTOR's staff.

36 //

37 //

XXV. TERMINATION

1
2 A. Either party may terminate this Agreement, without cause, upon one hundred eighty (180)
3 calendar days' written notice given the other party.

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

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

10 1. The loss by CONTRACTOR of legal capacity.
11 2. Cessation of services.
12 3. The delegation or assignment of CONTRACTOR's services, operation or administration to
13 another entity without the prior written consent of COUNTY.

14 4. The neglect by any physician or licensed person employed by CONTRACTOR of any duty
15 required pursuant to this Agreement.

16 5. The loss of accreditation or any license required by the Licenses and Laws Paragraph of this
17 Agreement.

18 6. The continued incapacity of any physician or licensed person to perform duties required
19 pursuant to this Agreement.

20 7. Unethical conduct or malpractice by any physician or licensed person providing services
21 pursuant to this Agreement; provided, however, COUNTY may waive this option if CONTRACTOR
22 removes such physician or licensed person from serving persons treated or assisted pursuant to this
23 Agreement.

24 D. CONTINGENT FUNDING

25 1. Any obligation of COUNTY under this Agreement is contingent upon the following:

26 a. The continued availability of federal, state and county funds for reimbursement of
27 COUNTY's expenditures, and

28 b. Inclusion of sufficient funding for the services hereunder in the applicable budget(s)
29 approved by the Board of Supervisors.

30 2. In the event such funding is subsequently reduced or terminated, COUNTY may suspend,
31 terminate or renegotiate this Agreement upon thirty (30) calendar days' written notice given
32 CONTRACTOR. If COUNTY elects to renegotiate this Agreement due to reduced or terminated funding,
33 CONTRACTOR shall not be obligated to accept the renegotiated terms.

34 E. In the event this Agreement is suspended or terminated prior to the completion of the term as
35 specified in the Referenced Contract Provisions of this Agreement, ADMINISTRATOR may, at its sole
36 discretion, reduce the Maximum Obligation of this Agreement in an amount consistent with the reduced
37 term of the Agreement.

1 F. In the event this Agreement is terminated by either party pursuant to Subparagraphs B., C. or D.
2 above, CONTRACTOR shall do the following:

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

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

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

9 4. If clients are to be transferred to another facility for services, furnish ADMINISTRATOR,
10 upon request, all client information and records deemed necessary by ADMINISTRATOR to effect an
11 orderly transfer.

12 5. Assist ADMINISTRATOR in effecting the transfer of clients in a manner consistent with
13 client's best interests.

14 6. If records are to be transferred to COUNTY, pack and label such records in accordance with
15 directions provided by ADMINISTRATOR.

16 7. Return to COUNTY, in the manner indicated by ADMINISTRATOR, any equipment and
17 supplies purchased with funds provided by COUNTY.

18 8. To the extent services are terminated, cancel outstanding commitments covering the
19 procurement of materials, supplies, equipment, and miscellaneous items, as well as outstanding
20 commitments which relate to personal services. With respect to these canceled commitments,
21 CONTRACTOR shall submit a written plan for settlement of all outstanding liabilities and all claims
22 arising out of such cancellation of commitment which shall be subject to written approval of
23 ADMINISTRATOR.

24 G. The rights and remedies of COUNTY provided in this Termination Paragraph shall not be
25 exclusive, and are in addition to any other rights and remedies provided by law or under this Agreement.
26

27 **XXVI. THIRD PARTY BENEFICIARY**

28 Neither party hereto intends that this Agreement shall create rights hereunder in third parties including,
29 but not limited to, any subcontractors or any clients provided services pursuant to this Agreement.
30

31 **XXVII. WAIVER OF DEFAULT OR BREACH**

32 Waiver by COUNTY of any default by CONTRACTOR shall not be considered a waiver of any
33 subsequent default. Waiver by COUNTY of any breach by CONTRACTOR of any provision of this
34 Agreement shall not be considered a waiver of any subsequent breach. Waiver by COUNTY of any default
35 or any breach by CONTRACTOR shall not be considered a modification of the terms of this Agreement.
36 //

37 //

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

3
4 CORRECTIONAL MANAGED CARE MEDICAL CORPORATION

5
6
7 BY: _____ DATED: _____

8
9 TITLE: _____

10
11
12 BY: _____ DATED: _____

13
14 TITLE: _____

15
16
17
18 COUNTY OF ORANGE

19
20
21 BY: _____ DATED: _____

22 HEALTH CARE AGENCY

23
24
25 APPROVED AS TO FORM
26 OFFICE OF THE COUNTY COUNSEL
27 ORANGE COUNTY, CALIFORNIA

28
29
30 BY: _____ DATED: _____

31 DEPUTY

32
33
34 If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the
35 President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer
36 or any Assistant Treasurer. If the contract is signed by one (1) authorized individual only, a copy of the corporate resolution
37 or by-laws whereby the board of directors has empowered said authorized individual to act on its behalf by his or her
signature alone is required by ADMINISTRATOR.

1 EXHIBIT A
 2 TO AGREEMENT FOR PROVISION OF
 3 PHYSICIAN SERVICES
 4 FOR
 5 CORRECTIONAL HEALTH SERVICES PROGRAMS
 6 BETWEEN
 7 COUNTY OF ORANGE
 8 AND
 9 CORRECTIONAL MANAGED CARE MEDICAL CORPORATION
 10 JULY 1, 2018 THROUGH JUNE 30, 2020
 11

12 **I. DEFINITIONS**

13 The parties agree to the following terms and definitions, and to those terms and definitions which, for
 14 convenience, are set forth elsewhere in the Agreement.

15 A. "Ancillary Services" means those support services other than room, board, and medical and nursing
 16 services that are provided by CONTRACTOR to Custody Patients during the course of their care and
 17 include such services as laboratory, pharmacy, and physical therapy services. They are generally
 18 distinguished from a Clinic Service by the absence of a corresponding Physician or Specialty Physician
 19 Service.

20 B. "CHS Pool" means funding, in addition to the Maximum Obligations as set forth in the Referenced
 21 Contract Provisions of this Agreement, for services provided in accordance with Paragraph IV of this
 22 Exhibit A to Agreement which shall be made available to CONTRACTOR by submitting claims to the
 23 Intermediary in accordance with Paragraph II of Exhibit A to this Agreement.

24 C. "Clinic Services" means ambulatory care provided on an outpatient basis to Custody Patients for
 25 diagnosis or treatment, usually by a specialty physician.

26 D. "CHS Medical Director" means the Health Care Agency's Correctional Health Services Medical
 27 Director.

28 E. "Contracting Hospital" means a hospital that has executed an Agreement for Hospital Services
 29 with Correctional Health Services Programs. The Contracting Hospital at the execution of this Agreement
 30 is Anaheim Global Medical Center.

31 F. "Contract Officers" means ADMINISTRATOR's and CONTRACTOR's designees, who shall
 32 administer the Agreement for the respective parties.

33 G. "Correctional Health Services" or "CHS" means the Health Care Agency's Correctional Health
 34 Services which is the division which encompasses and oversees adult and juvenile correctional healthcare.

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1 H. "County Health Care Professional" means physicians, nurses, health officers or other persons or
 2 classes of persons designated by ADMINISTRATOR to perform the treatment authorization functions
 3 specified in the Agreement.

4 I. "Custody Patient" means any of the following:

5 1. An Orange County Jail inmate referred to CONTRACTOR for treatment by any CHS
 6 Program or Deputy.

7 2. A person brought to HOSPITAL for treatment by an Orange County Deputy who has already
 8 been booked into the Orange County Jail.

9 3. A person brought to HOSPITAL's emergency department by an Orange County Deputy for
 10 medical clearance prior to booking after being deferred from the COUNTY's Intake and Release Center.

11 4. A minor, brought to HOSPITAL for treatment, who is under the care and custody of the
 12 Orange County Probation Department pursuant to, or pending the filing of, a petition under the Welfare
 13 and Institutions Code.

14 5. Any requirement by the Agreement for the provision of services to Custody Patients shall also
 15 be deemed to be a requirement to provide services to infants, only until discharge, born to any person
 16 identified in Subparagraphs 1. through 4. above. Such infants shall be designated as "Newborns" for the
 17 purposes of the Agreement.

18 6. It is understood by the parties that Custody Patients excludes those persons, who, at the time of
 19 service, are escorted by local law enforcement and/or housed or subsequently booked into a city jail.

20 J. "Deputy" means a sworn officer of the Orange County Sheriff's Department.

21 K. "Emergency" means the sudden and unexpected onset of a symptom, illness, or injury which, in the
 22 judgment of a physician, requires immediate diagnosis and/or treatment in order to alleviate or attempt to
 23 prevent severe pain, permanent disability, serious medical complications or loss of life.

24 L. "Fiscal Intermediary" or "Intermediary" means an independent company that has a contract with
 25 COUNTY to maintain a custody database of all services provided to Custody Patients and to receive and
 26 adjudicate claims submitted by CONTRACTOR or other third party Medical Services providers on behalf
 27 of the COUNTY, which at the execution of the Agreement is Advanced Medical Management, Inc.

28 M. "Fiscal Year" means the period from July 1 through the following June 30.

29 N. "Hospital Services" means all Medical Services provided by Contracting Hospital excluding
 30 Physician Services.

31 O. "Inpatient" means a Custody Patient admitted to Contracting Hospital for the purpose of receiving
 32 Medical Services, with the expectation of remaining hospitalized at least overnight.

33 P. "JHS" means the Health Care Agency's Juvenile Health Services Program.

34 Q. "Medical Services" means any diagnostic, treatment, or supportive services, which are determined
 35 by ADMINISTRATOR to be medically necessary to protect life or prevent significant disability, and/or to
 36 diagnose and treat illness or injuries which require treatment to prevent serious deterioration of health.
 37 Medical Services include any service or examination authorized in accordance with the Agreement.

1 R. “Outpatient Services” means any Clinic Services or Ancillary Services provided to Custody
2 Patients which do not require an admission into HOSPITAL’s facility.

3 S. “Pharmacy Services” means the dispensing by CONTRACTOR and/or HOSPITAL staff of any
4 medications prescribed by persons providing Medical Services at HOSPITAL’s facility.

5 T. “Physician Services” means all Medical Services provided by CONTRACTOR to Custody Patients
6 within the Contracting Hospital, and other local hospital facilities as specified herein, including those
7 Physician Services provided by Contracting Hospital’s “hospital-based” physicians.

8 U. “Physician Services – Jail” means those services provided by physicians and specialty physicians,
9 by County employed physicians to Custody Patients within the COUNTY’s jail facilities. V. “TAR”
10 means Treatment Authorization Request.

11 W. “Unit” means a secure separate patient care area, which is dedicated for the treatment of Outpatient
12 and Inpatient Custody Patients referred by COUNTY.

13 X. “Vendor” means a provider of services which are outside of CONTRACTOR’s normal scope of
14 services offered in accordance with Paragraph III of this Exhibit A to the Agreement, but are deemed
15 medically necessary for a Custody Patient.

16
17 **II. PAYMENTS AND BILLINGS**

18 A. As compensation for Medical Services provided in accordance with Paragraph II of this Exhibit A
19 to the Agreement, COUNTY shall reimburse CONTRACTOR \$234,629.75 per month, in arrears;
20 provided, however, that the total of all such monthly payments shall not exceed the COUNTY’s Total
21 Maximum Obligation, as specified in the Referenced Contract Provision section of the Agreement.

22 1. The monthly payment shall be calculated as one-twelfth (1/12th) of the maximum obligation
23 adjusted in accordance with Paragraph XIV of the Agreement.

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35 2. The Maximum Obligation, as specified in the Referenced Contract Provisions section of the
36 Agreement, is calculated as follows, which calculations may be modified by mutual written agreement
37 between CONTRACTOR and ADMINISTRATOR.

1		
2	Administrative Fees	\$ 232,870
3	Program Fees	\$ 494,127
4	Emergency Services	\$ 150,000
5	Negotiated Amount Services	<u>\$ 1,682,600</u>
6	SUBTOTAL	\$ 2,559,597
7	Profit (Limited to 10%)	<u>\$ 255,960</u>
8	TOTAL	\$ 2,815,557
9		

10 a. Administrative Fees and Program Fees may include payments for consulting, certified
11 public accounting, or legal services that are incurred during the normal course of business that are
12 necessary in order for CONTRACTOR to fulfill duties and obligations under this Agreement.

13 b. The Negotiated Amount Services are used to pay for the following in-patient and/or CHS
14 Specialty Physician Services provided at Anaheim Global Medical Center: Anesthesiology, Cardiology,
15 Dermatology, Endocrinology, ENT, General Surgery, Gastroenterology, Hematology/Oncology, Infectious
16 Disease, Internal Medicine/Critical Care, Nephrology, Neurology, Obstetrics/Gyn, Ophthalmology, Oral
17 Surgery, Orthopedics, Pathology, Podiatry, Psychiatry, Pulmonology, Radiology, Telemedicine, and
18 Urology. The negotiated amount also includes in-patient care provided by Chest & Critical Care for
19 inmates hospitalized at Orange County Global Medical Center.

20 3. The amount specified for Emergency Services at Anaheim Global Medical Center may be
21 adjusted based on actual utilization of these services. If the identified funds for Emergency Services are not
22 used in their entirety, the difference between the actual amount utilized and the specified amount shall be
23 returned to COUNTY or Intermediary, as may be directed by ADMINISTRATOR. If actual cost of
24 Emergency Services exceed amount of the identified funds for Emergency Services, ADMINISTRATOR
25 shall authorize additional funding from the CHS Pool for said Emergency Services only.

26 4. At ADMINISTRATOR's and CONTRACTOR'S mutual agreement, Outpatient Services as
27 specified in Paragraph III.C.3 below may be provided within COUNTY's jail facilities by its Physician
28 Services-In Jail provider or CONTRACTOR.

29 a. Evaluate the frequency of requests for specialty Outpatient Services specified in
30 Subparagraph B.1 below. If CONTRACTOR and ADMINISTRATOR mutually agree that any of these
31 services are being provided at a frequency that justifies regular availability of these specialties,
32 CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to transfer specialty categories
33 from Subparagraph A.2.b to Subparagraph B.1 and/or from Subparagraph B.1 to Subparagraph A.2.b if
34 Custody Patient trends indicate.

35 B. As compensation for Medical Services provided in accordance with Paragraph IV of this Exhibit A
36 to the Agreement, reimbursement shall be from the CHS Pool through claims submitted to the Intermediary
37 or through the Reimbursement Account as described in subparagraph C.2.

1 1. For the Specialty Physician Services specified below, the rates specified are the maximum
 2 allowable rates based on the Area 26 Medicare Resource Based Relative Value Scale (RBRVS), unless
 3 otherwise approved in advance and in writing by ADMINISTRATOR.

<u>Service</u>	<u>Maximum Rate</u>
Cardiothoracic Surgery	120%
Neurosurgery	120%
Ophthalmology Retinal	160%
Plastic Surgery	Pass Through
Pediatrics	125%
Vascular Surgery	120%

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 13 2. For Other Vendor Services secured by CONTRACTOR on behalf of Custody Patients,
 14 including specialties not specified above, pediatric specialties as appropriate, and Physician Services
 15 provided at other hospitals as requested and approved by ADMINISTRATOR, CONTRACTOR shall
 16 make every effort to assist ADMINISTRATOR and Contracting Hospital in securing the required services.
 17 Rates for these Other Vendor Services shall be negotiated by CONTRACTOR, which rates shall be
 18 approved, in writing, by ADMINISTRATOR.

19 3. CONTRACTOR shall make every effort to negotiate reasonable reimbursement rates with all
 20 Vendors.

21 4. CONTRACTOR shall submit to ADMINISTRATOR for approval by July 1st of each Period,
 22 an updated listing and proposed rate schedule for the above identified Other Vendor Services.
 23 CONTRACTOR shall provide an update of this schedule to ADMINISTRATOR each time an established
 24 Vendor rate for a service is due for review/negotiation.

25 C. ADMINISTRATOR and CONTRACTOR shall agree on one of following reimbursement
 26 processes for Other Vendor Services specified on CONTRACTOR's schedule in Subparagraph B.1 above.
 27 For Vendor Services not on CONTRACTOR's schedule, CONTRACTOR shall propose the
 28 reimbursement process at the same time the negotiated rate(s) with Vendor is submitted to
 29 ADMINISTRATOR for approval. At ADMINISTRATOR's sole discretion, any designated
 30 reimbursement process may be modified upon written notification to CONTRACTOR and Vendor.

31 1. CONTRACTOR may request Vendors submit invoices directly to the Fiscal Intermediary for
 32 processing and payment or through the Reimbursement Account as described in subparagraph C.2.

33 2. At ADMINISTRATOR's sole discretion, ADMINISTRATOR will direct the Fiscal
 34 Intermediary to advance an initial amount, as determined by ADMINISTRATOR, to CONTRACTOR for
 35 the purpose of reimbursing Vendors. This advance shall be referred to as the "Reimbursement Account"
 36 and CONTRACTOR shall maintain an accounting of Vendors paid with these funds in accordance with the
 37 Report Paragraph of this Exhibit A to the Agreement and shall submit said accounting to

1 ADMINISTRATOR and Fiscal Intermediary with any request for additional funds to replenish the
2 Reimbursement Account.

3 a. CONTRACTOR shall submit a monthly reconciliation of the Reimbursement Account to
4 ADMINISTRATOR. CONTRACTOR shall require its Vendors to submit claims to CONTRACTOR
5 within ninety (90) days, or less, of the date services were provided. If CONTRACTOR’S Vendors do not
6 submit or correct claims information as required by the Agreement, the costs of Vendor’s services shall not
7 be claimable by CONTRACTOR and which shall be reflected in the monthly reconciliation.

8 b. No later than May 15th of each Period, CONTRACTOR and ADMINISTRATOR shall
9 agree on the amount required to reimburse claims received by CONTRACTOR from Vendors through
10 September 30. If additional funds are needed, CONTRACTOR shall submit an invoice to Intermediary.

11 c. After September 30th of each Period, any funds remaining in the Reimbursement Account
12 shall be either: paid to COUNTY, paid to Intermediary, deposited into the Reimbursement Account, or
13 applied by COUNTY as payment on any obligation by COUNTY to CONTRACTOR.

14 D. For reimbursement of services provided in accordance with Paragraph III of this Exhibit A to the
15 Agreement, CONTRACTOR shall submit its invoices to ADMINISTRATOR. CONTRACTOR’S invoice
16 shall be on a form approved or supplied by ADMINISTRATOR and provide such information as is
17 required by ADMINISTRATOR. Invoices received after the due date may not be paid within the same
18 month. Payments to CONTRACTOR should be released by COUNTY no later than twenty one (21) days
19 after receipt of the correctly completed invoice form.

20 E. For reimbursement of services provided in accordance with Paragraph IV of this Exhibit A to the
21 Agreement, CONTRACTOR and/or Vendor invoices shall be submitted to Intermediary no later than
22 ninety (90) days following the date of service and shall provide such information as is required by
23 ADMINISTRATOR.

24 F. ADMINISTRATOR may withhold or delay any payment if CONTRACTOR fails to comply with
25 any provision of the Agreement.

26 G. COUNTY shall not reimburse CONTRACTOR for services provided beyond the expiration
27 and/or termination of the Agreement, except as may otherwise be provided under the Agreement, or
28 specifically agreed upon in a subsequent Agreement.

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32 **III. PHYSICIAN SERVICES**

33 A. Unless otherwise specified herein, the cost of all Physician Services provided in accordance with
34 this Paragraph III shall be deemed included in COUNTY’S Maximum Obligation to CONTRACTOR.

35 B. COUNTY’S Agreement with Contracting Hospital/Corporation for provision of the Unit. The
36 capacity of the Unit is as follows:
37

1 1. Licensed acute hospital Inpatient Services for up to eleven (11) Custody Patients in four (4)
2 rooms, and

3 2. Licensed Outpatient examination and treatment services in two (2) other rooms, and which
4 shall be capable of being used as an isolation room for one (1) Custody Patient who requires Inpatient
5 Services.

6 C. CONTRACTOR shall provide all authorized Physician Services required by Custody Patients at
7 Contracting Hospital/Corporation (includes Orange County Global Medical Center for Chest and Critical
8 Care) who are both on and off the Unit. Services to Custody Patients shall be available and
9 provided in the same manner as to CONTRACTOR's other patients. Physician Services to be provided by
10 CONTRACTOR shall include, but not be limited to the following:

11 1. Inpatient Services – On the Unit (Anaheim Global Medical Center)

12 a. The level of Inpatient Services that shall be provided on the Unit includes, but is not
13 limited to Inpatient Non-Critical Care, Obstetric, I.V., and Rehabilitation Services.

14 b. The parties agree that Contracting Hospital has modified the Unit to accommodate
15 Telemetry Services for up to four (4) Custody Patients.

16 c. CONTRACTOR shall accept transfers of Custody Patients who have been hospitalized at
17 another facility for emergency or scope of service purposes when the medical condition of the patient allows
18 for transfer to Contracting Hospital.

19 d. Custody Patients may be admitted to the Unit directly from Contracting Hospital's
20 emergency department.

21 e. If a person brought into Contracting Hospital's emergency department is admitted and
22 then becomes a Custody Patient after the admission, Contracting Hospital shall transfer such persons to the
23 Unit as soon as medically appropriate and CONTRACTOR shall coordinate the transfer of care from the
24 treating physician to CONTRACTOR, if appropriate.

25 f. Unit Census - CONTRACTOR shall use its best efforts to assist COUNTY in discharging
26 any patient(s) from within the Unit to a lower level of care based on the availability of such services either
27 within the Jail system or at another facility providing the required service(s).

28 2. Off Unit Inpatient Services – COUNTY will make every effort to ensure that Custody Patients
29 requiring Physician Services as specified herein remain on the Unit. However, the parties agree that certain
30 services may be medically necessary to provide in other areas of the Contracting Hospital (Off Unit) either
31 due to the Custody Patient's medical condition, or due to the census and/or custody classification mix.
32 CONTRACTOR shall provide all Off Unit Physician Services at Anaheim Global Medical Center.
33 Services at Orange County Global Medical Center are limited to Chest and Critical Care only. Services at
34 Anaheim Global Medical Center include but are not limited to the following:

35 a. Any Custody Patient that should be otherwise on the Unit, but are Off Unit due to census
36 count and/or custody classification mix.

37

1) These services shall include accepted transfers of Custody Patients who have been hospitalized at another facility for emergency or scope of service purposes when the medical condition of the patient allows for transfer to the Contracting Hospital.

2) Persons admitted Off Unit through the emergency department who become Custody Patients following their admission.

3) Custody Patients requiring admission to another area of Contracting Hospital after surgery, such as the Intensive Care Unit.

b. The parties agree the following Inpatient Services cannot be accommodated on the Unit due to level of medical care required:

1) Inpatient Newborn - Any requirement of this Agreement for the provision of Physician services to Custody Patients shall also be deemed to be a requirement to provide services to any infants, born to any Custody Patient, only until discharge of said infant. CONTRACTOR shall bill appropriate third-party payors for these Bed Days; therefore, COUNTY shall not provide reimbursement for Inpatient Newborn Bed Days.

2) ICU/CCU and Post-Partum Obstetrics

3) 23 Hour Stay in the emergency department

3. Outpatient Services – On the Unit

a. CONTRACTOR shall provide the following Outpatient clinics, with specialty Physicians, within the Contracting Hospital. “PRN” means the clinic should be provided within seventy-two (72) hours of request by COUNTY, unless precluded by Sheriff’s transportation issues. In accordance with Subparagraph II.A.4, such clinics may be provided in COUNTY’s jail facilities at sole discretion of ADMINISTRATOR.

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CLINIC

Off-site Unit

Orthopedics

6 times per month

Neurology

1 time per month and PRN

General Surgery

PRN

ENT

2 times per month and PRN

1	Oral Surgery	2 times per month and PRN
2	Gastroenterology	2 times per month and PRN
3	Infectious Disease	1 time per month
4	Pulmonary Medicine	PRN
5	Cardiology	3 times per month and PRN
6	Obstetrics/Gynecology	4 times per month and PRN
7	Ophthalmology	4 times per month and PRN
8	Dermatology	1 time per month and PRN
9	Nephrology	1 time per month and PRN
10	Urology	1 time per month and PRN
11	Endocrinology	2 times per month and PRN
12	Podiatry	1 time per month and PRN
13	Telemedicine	As needed

14
15 b. ADMINISTRATOR and CONTRACTOR may mutually agree, in writing, to adjust the
16 number of clinics to be provided per week or per month based on patient utilization trends to more
17 effectively and efficiently utilize CONTRACTOR's physicians, Contracting Hospital's facility and
18 Contracting Hospital's services.

19 c. CONTRACTOR acknowledges the transportation and security challenges associated with
20 scheduling Custody Patients for Outpatient Services. CONTRACTOR shall require its physicians to make
21 every effort to accommodate COUNTY's request for clinic times.

22 d. CONTRACTOR shall provide Telemedicine Services including, but not limited to
23 Medical and Ancillary Services when appropriate, or when directed by the CHS Medical Director or
24 designee and mutually agreed to by both COUNTY and CONTRACTOR.

25 e. CONTRACTOR shall require its physicians to arrive at scheduled Clinic times. If
26 Custody Patients have not appeared for the Outpatient Visit, CONTRACTOR's physicians shall coordinate
27 with either Contracting Hospital's or ADMINISTRATOR's Case Management Nurse as to status of the
28 Custody Patients. For Custody Patients that are expected to arrive within thirty (30) minutes,
29 CONTRACTOR's physicians shall be required to wait until they arrive to provide the requested care.

30 f. If Custody Patients have been scheduled for Outpatient Services and are transported to
31 Contracting Hospital, and CONTRACTOR's physician either does not arrive or leaves prior to waiting
32 thirty (30) minutes for Custody Patients to arrive, ADMINISTRATOR shall deduct \$125 per patient
33 requiring a rescheduled Outpatient Visit as a result of CONTRACTOR's physician failure to provide
34 services.

35 g. CONTRACTOR is required to accommodate all scheduled clinics as outlined in this
36 Paragraph III, Exhibit A, unless said clinics have been adjusted in accordance with this Paragraph III of
37 Exhibit A subparagraph C, subparagraphs 3b, 5b and 5c.

1) Unless authorized by CHS Medical Director or Designee, cancelled or missed clinics must be rescheduled by CONTRACTOR no later than seven (7) days from the date of the cancelled or missed clinic.

2) Administrator reserves the right to delay or withhold monthly payment for missed or cancelled clinics that are not rescheduled or have not been approved by CHS Medical Director or Designee in accordance with this Paragraph III of Exhibit A subparagraph C, subparagraph 3f.

h. CONTRACTOR shall receive prior written approval before providing any non-emergency elective medical procedures to Custody Patients referred by COUNTY, unless explicitly authorized by the CHS Medical Director or designee, which authorization shall be followed with appropriate documentation. CONTRACTOR, Contracting Hospital and the CHS Medical Director shall maintain written protocols for the provision of outpatient medical procedures.

4. Other Off Unit Outpatient Services - CONTRACTOR shall provide the Physician Services related to the following Off Unit Outpatient Services to Custody Patients:

a. Emergency Department Services provided at the Contracting Hospital, including all Physician Services provided by the physician on duty in the emergency room and any consulting Physician Services.

b. Pre-Booking Medical Clearance Visits including all Physician Services provided by the physician on duty in the emergency room and any consulting Physician Services; provided, however, that these services are limited to only those patients presenting in Contracting Hospital's emergency department meeting all of the following criteria:

1) Accompanied by an Orange County Deputy; and

2) Taken first to the COUNTY's Intake and Release Center and required by ADMINISTRATOR's staff to seek medical clearance before booking; and

3) Are subsequently booked into the Orange County Jail System.

c. Radiology Visit Services the physician component, performed in the HOSPITAL

d. ED/Radiology Visit Services including services stipulated for Emergency Room Visits and Radiology Visits, which may be provided during an Emergency Room visit.

e. Outpatient Surgery

5. Outpatient Services – On site jail clinics

a. CONTRACTOR shall provide the following Outpatient clinics, with specialty Physicians, within the Central Jail.

CLINIC

On-site Jail

Orthopedics

2 times per month

General Surgery

2 times per month and PRN

Cardiology

1 time per month and PRN

Occupational Hand Therapist

4 times per month

	Dermatology	1 time per month and PRN
	Podiatry	1 time per month and PRN
	Telemedicine	As needed

b. ADMINISTRATOR and CONTRACTOR may mutually agree, in writing, to authorize additional specialty clinics.

c. If CONTRACTOR and ADMINISTRATOR mutually agree that any of these services are being provided at a frequency that justifies a modification of service levels, the CONTRACTOR and ADMINISTRATOR may agree, in writing to modify the frequency level.

d. All CONTRACTOR staff or subcontractors working within the Central Jail shall be required to complete and pass the Orange County Sheriff's Department mandatory background investigation, and maintain appropriate clearance throughout the term of the Agreement. Additionally, CONTRACTOR shall ensure that all CONTRACTOR's staff and subcontractors providing Outpatient Services pursuant to the Agreement cooperate with COUNTY and its agents in maintaining security at the COUNTY facilities.

D. County Health Care Professionals may contact CONTRACTOR's Physicians by telephone for the purposes of consultation and case coordination.

E. CONTRACTOR shall ensure that its physicians obtain staffing privileges at Contracting Hospital and maintain such privileges in accordance with the length of this Agreement.

F. CONTRACTOR shall recruit, screen, qualify, orient, provide, manage, compensate, and evaluate all physicians required to provide any Physician Services which may be requested and authorized pursuant to the Agreement.

1. CONTRACTOR's physicians or designees shall write legibly in Custody Patient charts. A copy of the Custody Patient's chart, notes and orders shall accompany the Custody Patient back to the Jail. It is understood by both parties that said recommendations shall not be implemented or relied upon until and unless approved by the CHS Medical Director or designee.

2. CONTRACTOR's physicians shall discharge patients on a timely basis, avoiding unnecessary late night, weekend and holiday discharges.

3. CONTRACTOR shall provide COUNTY upon request with the name, specialty, board status, professional license number, DEA number, and office phone number of each physician providing services hereunder. In addition, upon three (3) working days' notice, CONTRACTOR shall make available for review, each physician's application to CONTRACTOR, the physician's contract, inclusive of reimbursement terms, professional license, medical malpractice coverage, and DEA certificate.

G. CONTRACTOR shall coordinate with the HOSPITAL to provide those medical reports required by COUNTY for Custody Patients provided services pursuant to the Agreement. At a minimum, CONTRACTOR shall provide a physician's discharge summary for all Outpatient and Inpatient services

1 provided hereunder. The summary shall include, but not be limited to, the patient complaint(s), diagnosis,
 2 basis for and nature of treatment provided, physician orders, patient condition on discharge, and
 3 recommended follow-up treatment. The summary shall be submitted to the CHS Medical Director, or
 4 designee, the same day as the date of discharge.

5 1. Upon request by a County Health Care Professional or the Contract Officer, CONTRACTOR
 6 shall report the status of the condition of any Inpatient.

7 2. For Custody Patients, as defined in Subparagraph I.I.4. to this Exhibit A to the Agreement,
 8 CONTRACTOR shall coordinate with Contracting Hospital to provide such medical reports to the
 9 COUNTY staff who have accompanied the Custody Patient to Contracting Hospital, immediately after
 10 services are rendered, and prior to the Custody Patient returning to COUNTY's juvenile detention facility
 11 or CONTRACTOR shall fax said medical reports to the designated County Health Care Professional as
 12 soon as it is available.

13 H. CONTRACTOR shall designate a person or persons to coordinate all services related to the
 14 Agreement with COUNTY staff and designated staff from the Contracting Hospital. This coordination
 15 includes the following:

16 1. Custody Patient appointment and admission scheduling and cancellations.

17 2. Receiving and routing of treatment authorizations. As of the execution of the Agreement,
 18 Treatment Authorizations are currently provided in a paper format. CONTRACTOR agrees to collaborate
 19 with ADMINISTRATOR in the implementation of an electronic Treatment Authorization system for better
 20 coordination and monitoring of service utilization. CONTRACTOR also agrees to collaborate with
 21 ADMINISTRATOR to streamline and automate any and all processes as they relate to scheduling Custody
 22 Patients for services at Contracting Hospital or elsewhere as appropriate.

23 3. Establishing, providing, inputting, and maintaining medical records, as may be required by the
 24 ADMINISTRATOR.

25 4. Receiving and forwarding telephonic, computerized, and written communications between
 26 hospital and CONTRACTOR staff, and COUNTY personnel, including ADMINISTRATOR's Case
 27 Management Nurse, Deputies, and ADMINISTRATOR's other off-site medical and administrative staff.

28 5. Providing clinical and clerical support for CONTRACTOR's physicians performing
 29 outpatient treatment and examinations during scheduled outpatient clinic hours. A registration clerk shall
 30 be assigned to the Unit during the hours that Clinics are operating.

31 //

32 6. Requesting tests and procedures ordered by CONTRACTOR's physicians, and routing of test
 33 results to appropriate medical staff.

35 **IV. OTHER VENDOR SERVICES**

36 A. Unless otherwise specified herein, the cost of all following Physician Services provided in
 37 accordance with this Paragraph IV shall not be deemed to be included in COUNTY's Maximum

1 Obligation to CONTRACTOR and shall be reimbursed on a per services basis in accordance with
2 Subparagraph II.B. of this Exhibit A to the Agreement.

3 B. CONTRACTOR acknowledges that some Custody Patients admitted to the Unit may also have a
4 concurrent mental illness. CONTRACTOR shall be responsible for providing medical and psychiatric
5 services required or requested for the Custody Patient admitted to the unit. COUNTY shall reimburse
6 CONTRACTOR or CONTRACTOR's Vendor for Psychiatric services in accordance with Subparagraph
7 II.E. of the Exhibit A to the Agreement

8 C. Specialty Physician Services as specified in Paragraph II.B.1, as it may be modified by mutual
9 written agreement between CONTRACTOR and ADMINISTRATOR.

10 D. Care provided to all Custody Patients at Orange County Global Medical Center for Chest and
11 Critical Care shall be included in the capitated rate structure and should not result in an additional charge.

12 E. Other Vendor Services

13 1. It is expected that most Physician Services required by Custody Patients shall be provided
14 directly by CONTRACTOR. In the event that CONTRACTOR is unable to provide a requested specialty
15 service, CONTRACTOR shall arrange for Physician Services to be provided by appropriate Vendors, with
16 ADMINISTRATOR's prior approval. COUNTY shall reimburse the Vendors in accordance with
17 Subparagraph II.C of this Exhibit A to the Agreement.

18 2. It is expected by the parties that most Physician Services required by Custody Patients, as
19 defined in Subparagraph I.I.4 of this Exhibit A to the Agreement, will not require a pediatric specialty. In
20 the event CONTRACTOR is unable to provide a requested specialty pediatric service, CONTRACTOR
21 shall arrange for Physician Services to be provided by appropriate Vendors, with
22 ADMINISTRATOR's prior approval. COUNTY shall reimburse the Vendors in accordance with
23 Subparagraph II.C of this Exhibit A.

24
25 **V. UTILIZATION REVIEW/QUALITY ASSURANCE**

26 A. CONTRACTOR, the CHS Medical Director and/or CHS Administrative Nurse Practitioner (or
27 designees) and Administrators Case Management Team shall collaborate regarding Utilization Review
28 and Case Management issues which are specific to Custody Patients, both hospitalized and/or in the
29 outpatient setting.

30 //

31 B. CONTRACTOR'S Case Management personnel shall perform utilization review for both
32 Hospital/Inpatient Physician Services and Out Patient Clinic Services provided to Custody Patients
33 receiving Medical Services in conjunction with COUNTY'S Case Management staff and/or the CHS
34 Medical Director (or designee).

35 1. CONTRACTOR and ADMINISTRATOR'S Case Management staff shall discuss
36 hospitalized and/or clinic patients weekly and as necessary for continuity and appropriateness of care
37 issues. Communication will include the following:

1 a. Each Custody Patient's medical necessity to remain on the Unit versus return to the jail
2 setting. COUNTY shall use its best efforts to discharge any patient(s) from within the Unit to the Jail based
3 on the availability of such services within the Jail system.

4 2. CONTRACTOR and ADMINISTRATOR'S Management staff shall participate in a
5 quarterly meeting between Administrator, Contractor, and Contracted Hospital for joint discussion
6 regarding patient management. Additionally, collaboration between all parties will be required as it relates
7 to coordinating statistical information and reports.

8 a. A monthly utilization report shall be produced by the CONTRACTOR regarding Clinic
9 appointments shall be submitted to the following: CHS Medical Director and Administrative Team and the
10 Administrator's Case Management Supervisor.

11 b. The monthly utilization report shall include, when appropriate, recommendations
12 regarding reducing missed clinic appointments and analysis regarding volume trends for Clinic and
13 Outpatient Visits.

14 c. Additional reports may be required throughout the term of the contract as clinical and
15 utilization issues arise. Contractor will provide additional information as requested by Administrator.

16 **VI. DATA FISCAL REPORTING REQUIREMENTS**

17 A. CONTRACTOR shall submit to COUNTY's Fiscal Intermediary, via electronic data interface
18 and within ninety (90) calendar days of the date of service all utilization data for Custody Patients
19 receiving Medical Services in accordance with Paragraph III of this Exhibit A to the Agreement, consistent
20 with the data structure and requirements in accordance with direction provided by ADMINISTRATOR.
21 The parties agree that this data is essential to monitoring the services provided by CONTRACTOR on
22 behalf of COUNTY.
23

24 1. Intermediary shall perform an initial audit of claims data submitted by CONTRACTOR,
25 including, but not limited to: confirming custody verification, ensuring there are no duplicate claims,
26 verifying use of valid diagnosis and procedure codes.

27 2. Data from claims passing the audit process shall be included in a CHS Custody Database.

28 3. A report of claims that do not pass the audit process shall be submitted to
29 ADMINISTRATOR and CONTRACTOR for review/correction by CONTRACTOR. CONTRACTOR
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31 shall have thirty (30) calendar days to provide such corrections so that the data may be appended to the
32 CHS Custody Database.

33 4. COUNTY shall not be responsible for consideration of any data not submitted or corrected by
34 CONTRACTOR in accordance with the Agreement.

35 B. For services provided in accordance with Paragraph IV of this Exhibit A to the Agreement,
36 CONTRACTOR shall ensure that regardless of the choice(s) of reimbursement mechanism(s) for Vendors
37 as detailed in Subparagraph I.I.C., CONTRACTOR shall ensure that either CONTRACTOR submits data

1 consistent with that specified in Subparagraph A above or require that Vendor submit the claims and data
 2 consistent with that specified in Subparagraph A above to COUNTY's Intermediary. CONTRACTOR
 3 shall require, when possible, for Vendors claiming to the Intermediary directly to submit their claims and
 4 data electronically. Claims and claims data not received within ninety (90) calendar days of the date of
 5 service are not guaranteed to be paid by the Intermediary.

6 C. Data reporting requirements set forth in this Agreement may be modified by mutual written
 7 agreement of the parties' designated Contract Officers.

8 D. Fiscal Reporting

9 1. On a monthly basis, the CONTRACTOR shall provide a utilization report of the capitated
 10 medical specialties listed in Subparagraph II.A.2.b. of Exhibit A to the Agreement. This report will show
 11 utilization in terms of dollars and will be compared to budgeted amounts. Template for this report will be
 12 provided by the ADMINISTRATOR.

13 2. The CONTRACTOR shall submit an expenditure report sixty (60) calendar days after the end
 14 of the term of the AGREEMENT to the ADMINSTRATOR. Template for this report will be provided by
 15 the ADMINISTRATOR.

16 3. The CONTRACTOR shall submit an independent audit of related expenditures during the
 17 term of this Agreement submitted ninety (90) calendar days after the end of the term of the Agreement.

18 **VII. INTERRUPTIONS IN SERVICE**

19 A. CONTRACTOR may be excused from providing services hereunder, or such portions thereof as
 20 CONTRACTOR is incapable of performing, if it is prevented from providing or arranging for the provision
 21 of services by reason of war, fire, insurrection, labor matters, riots, the elements, earthquakes, other acts of
 22 God, or other grave cause.

23 1. To such extent it may be held harmless for damages suffered by COUNTY during such
 24 interruption; provided, however, any obligation by COUNTY to pay CONTRACTOR may be reduced.

25 2. To the extent than any disruption in service is the result of actions taken by the Sheriff for
 26 security purposes, CONTRACTOR may be excused from providing services hereunder and any obligation
 27 by COUNTY to pay CONTRACTOR shall not be affected.

28 B. If CONTRACTOR is unable to provide or arrange for the provision of a substantial portion of the
 29 services hereunder for twenty (20) consecutive calendar days, COUNTY may terminate all or a portion of
 30 the Agreement upon ten (10) calendar days prior written notice given at any time during or after such
 31 period to CONTRACTOR.
 32

33 **VIII. RECORDS**

34 A. CONTRACTOR shall maintain records that are adequate to substantiate the services for which
 35 claims are submitted for reimbursement under the Agreement and the charges thereto. Such records may
 36 include, but not be limited to, individual patient charts and utilization review records.
 37

1 1. CONTRACTOR shall keep and maintain records of each service rendered to each Custody
2 Patient, the Custody Patient to whom the service was rendered, the date the service was rendered, and such
3 additional information as COUNTY may require.

4 2. CONTRACTOR shall maintain books, records, documents, and other evidence, accounting
5 procedures, and practices sufficient to reflect properly all direct and indirect cost of whatever nature
6 claimed to have been incurred in the performance of the Agreement and in accordance with Medicare
7 principles of reimbursement and generally accepted accounting principles.

8 3. CONTRACTOR shall ensure the maintenance of medical records required by
9 Sections 70747 through and including 70751 of the California Code of Regulations, as they exist now or
10 may hereafter be amended, and other records related to the services rendered, the medical necessity of the
11 service, and the quality of the care provided. Records shall be maintained in accordance with Section
12 51476 of Title 22 of the California Code of Regulations, as it exists now or may hereafter be amended.

13 B. Records Retention

14 1. All financial records connected with the performance of this Agreement shall be retained by
15 the parties, at a location in the County of Orange unless otherwise approved in advance and in writing by
16 ADMINISTRATOR, as required pursuant to Subparagraph XVIII.D. of this Agreement.

17 2. All patient records connected with the performance of this Agreement shall be retained by the
18 parties, at a location in the County of Orange unless otherwise approved in advance and in writing by
19 ADMINISTRATOR, as required pursuant to Subparagraph XVIII.J. of this Agreement.

20 3. Records which relate to litigation or settlement of claims arising out of the performance of this
21 Agreement, or costs and expenses of this Agreement as to which exception has been taken by
22 COUNTY or State or Federal governments, shall be retained by CONTRACTOR until disposition of such
23 appeals, litigation, claims or exceptions is completed.

24 C. Report Distribution

25 1. Upon CONTRACTOR's request, COUNTY may provide or cause the Fiscal Intermediary to
26 provide, a complete copy of any data and reports prepared by the Fiscal Intermediary in accordance
27 with the Agreement between COUNTY and the Fiscal Intermediary for services relating to the Correctional
28 Health Services Program.

29 //

30 2. CONTRACTOR shall not be entitled to any patient identifying information under this
31 Subparagraph. Said patient identifying information shall mean for purposes of the Agreement, services
32 provided to any Custody Patient at COUNTY's jail facilities or any other health care facility other than
33 Contracting Hospital and Orange County Global Medical Center if services were provided by
34 CONTRACTOR's physician(s). Nothing in this Subparagraph shall affect the ability of CONTRACTOR
35 to examine records it submits to the Fiscal Intermediary or COUNTY.

1 D. CONTRACTOR shall provide those medical reports required by COUNTY for Custody Patients
2 provided services pursuant to the Agreement. Upon request, CONTRACTOR shall report the status to
3 COUNTY of the condition of any Custody Patient receiving Inpatient Services.

4 E. CONTRACTOR shall provide access by COUNTY to any medical records of Custody Patients in
5 accordance with all applicable laws and regulations as they now exist or may hereafter be changed.

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1 EXHIBIT B
 2 TO AGREEMENT FOR PROVISION OF
 3 PHYSICIAN SERVICES
 4 FOR
 5 CORRECTIONAL HEALTH SERVICES PROGRAMS
 6 BETWEEN
 7 COUNTY OF ORANGE
 8 AND
 9 CORRECTIONAL MANAGED CARE MEDICAL CORPORATION
 10 JULY 1, 2018 THROUGH JUNE 30, 2020
 11

12 **I. BUSINESS ASSOCIATE CONTRACT**

13 A. GENERAL PROVISIONS AND RECITALS

14 1. The parties agree that the terms used, but not otherwise defined below in Paragraph B, shall
 15 have the same meaning given to such terms under the Health Insurance Portability and Accountability Act
 16 of 1996, Public Law 104-191 (“HIPAA”), the Health Information Technology for Economic and Clinical
 17 Health Act, Public Law 111-005 (“the HITECH Act”), and their implementing regulations at
 18 45 CFR Parts 160 and 164 (“the HIPAA regulations”) as they may exist now or be hereafter amended.

19 2. The parties agree that a business associate relationship under HIPAA, the HITECH Act, and
 20 the HIPAA regulations between the CONTRACTOR and COUNTY arises to the extent that
 21 CONTRACTOR performs, or delegates to subcontractors to perform, functions or activities on behalf of
 22 COUNTY pursuant to, and as set forth in, the Agreement that are described in the definition of “Business
 23 Associate” in 45 CFR § 160.103.

24 3. The COUNTY wishes to disclose to CONTRACTOR certain information pursuant to the terms
 25 of the Agreement, some of which may constitute Protected Health Information (“PHI”), as defined below in
 26 Subparagraph B.10, to be used or disclosed in the course of providing services and activities pursuant to,
 27 and as set forth, in the Agreement.

28 4. The parties intend to protect the privacy and provide for the security of PHI that may be
 29 created, received, maintained, transmitted, used, or disclosed pursuant to the Agreement in compliance with
 30 the applicable standards, implementation specifications, and requirements of HIPAA, the HITECH Act, and
 31 the HIPAA regulations as they may exist now or be hereafter amended.

32 5. The parties understand and acknowledge that HIPAA, the HITECH Act, and the HIPAA
 33 regulations do not pre-empt any state statutes, rules, or regulations that are not otherwise pre-empted by
 34 other Federal law(s) and impose more stringent requirements with respect to privacy of PHI.

35 6. The parties understand that the HIPAA Privacy and Security rules, as defined below in
 36 Subparagraphs B.9. and B.14., apply to the CONTRACTOR in the same manner as they apply to a covered
 37 entity (COUNTY). CONTRACTOR agrees therefore to be in compliance at all times with the terms of this

1 Business Associate Contract, as it exists now or be hereafter updated with notice to CONTRACTOR, and
 2 the applicable standards, implementation specifications, and requirements of the Privacy and the Security
 3 rules, as they may exist now or be hereafter amended, with respect to PHI and electronic PHI created,
 4 received, maintained, transmitted, used, or disclosed pursuant to the Agreement.

5 B. DEFINITIONS

6 1. "Administrative Safeguards" are administrative actions, and policies and procedures, to
 7 manage the selection, development, implementation, and maintenance of security measures to protect
 8 electronic PHI and to manage the conduct of CONTRACTOR's workforce in relation to the protection of
 9 that information.

10 2. "Breach" means the acquisition, access, use, or disclosure of PHI in a manner not permitted
 11 under the HIPAA Privacy Rule which compromises the security or privacy of the PHI.

12 a. Breach excludes:

13 1) Any unintentional acquisition, access, or use of PHI by a workforce member or person
 14 acting under the authority of CONTRACTOR or COUNTY, if such acquisition, access, or use was made in
 15 good faith and within the scope of authority and does not result in further use or disclosure in a manner not
 16 permitted under the Privacy Rule.

17 2) Any inadvertent disclosure by a person who is authorized to access PHI at
 18 CONTRACTOR to another person authorized to access PHI at the CONTRACTOR, or organized health
 19 care arrangement in which COUNTY participates, and the information received as a result of such
 20 disclosure is not further used or disclosed in a manner not permitted under the HIPAA Privacy Rule.

21 3) A disclosure of PHI where CONTRACTOR or COUNTY has a good faith belief that
 22 an unauthorized person to whom the disclosure was made would not reasonably have been able to retain
 23 such information.

24 b. Except as provided in paragraph (a) of this definition, an acquisition, access, use, or
 25 disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule is presumed to be a breach
 26 unless CONTRACTOR demonstrates that there is a low probability that the PHI has been compromised
 27 based on a risk assessment of at least the following factors:

28 1) The nature and extent of the PHI involved, including the types of identifiers and the
 29 likelihood of re-identification;

30 2) The unauthorized person who used the PHI or to whom the disclosure was made;

31 3) Whether the PHI was actually acquired or viewed; and

32 4) The extent to which the risk to the PHI has been mitigated.

33 3. "Data Aggregation" shall have the meaning given to such term under the HIPAA Privacy Rule
 34 in 45 CFR § 164.501.

35 4. "Designated Record Set" shall have the meaning given to such term under the HIPAA Privacy
 36 Rule in 45 CFR § 164.501.

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1 5. “Disclosure” shall have the meaning given to such term under the HIPAA regulations in
2 45 CFR § 160.103.

3 6. “Health Care Operations” shall have the meaning given to such term under the HIPAA Privacy
4 Rule in 45 CFR § 164.501.

5 7. “Individual” shall have the meaning given to such term under the HIPAA Privacy Rule in 45
6 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45
7 CFR § 164.502(g).

8 8. “Physical Safeguards” are physical measures, policies, and procedures to protect
9 CONTRACTOR’s electronic information systems and related buildings and equipment, from natural and
10 environmental hazards, and unauthorized intrusion.

11 9. “The HIPAA Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable
12 Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.

13 10. “Protected Health Information” or “PHI” shall have the meaning given to such term under the
14 HIPAA regulations in 45 CFR § 160.103.

15 11. “Required by Law” shall have the meaning given to such term under the HIPAA Privacy Rule
16 in 45 CFR § 164.103.

17 12. “Secretary” shall mean the Secretary of the Department of Health and Human Services or his
18 or her designee.

19 13. “Security Incident” means attempted or successful unauthorized access, use, disclosure,
20 modification, or destruction of information or interference with system operations in an information system.
21 “Security incident” does not include trivial incidents that occur on a daily basis, such as scans, “pings”, or
22 unsuccessful attempts to penetrate computer networks or servers maintained by CONTRACTOR.

23 14. “The HIPAA Security Rule” shall mean the Security Standards for the Protection of electronic
24 PHI at 45 CFR Part 160, Part 162, and Part 164, Subparts A and C.

25 15. “Subcontractor” shall have the meaning given to such term under the HIPAA regulations in 45
26 CFR § 160.103.

27 16. “Technical safeguards” means the technology and the policy and procedures for its use that
28 protect electronic PHI and control access to it.

29 17. “Unsecured PHI” or “PHI that is unsecured” means PHI that is not rendered unusable,
30 unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology
31 specified by the Secretary of Health and Human Services in the guidance issued on the HHS Web site.

32 18. “Use” shall have the meaning given to such term under the HIPAA regulations in 45 CFR §
33 160.103.

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36 **C. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE:**

37 1. CONTRACTOR agrees not to use or further disclose PHI COUNTY discloses to

1 CONTRACTOR other than as permitted or required by this Business Associate Contract or as required by
2 law.

3 2. CONTRACTOR agrees to use appropriate safeguards, as provided for in this Business
4 Associate Contract and the Agreement, to prevent use or disclosure of PHI COUNTY discloses to
5 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY other
6 than as provided for by this Business Associate Contract.

7 3. CONTRACTOR agrees to comply with the HIPAA Security Rule at Subpart C of 45 CFR Part
8 164 with respect to electronic PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates,
9 receives, maintains, or transmits on behalf of COUNTY.

10 4. CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known
11 to CONTRACTOR of a Use or Disclosure of PHI by CONTRACTOR in violation of the requirements of
12 this Business Associate Contract.

13 5. CONTRACTOR agrees to report to COUNTY immediately any Use or Disclosure of PHI not
14 provided for by this Business Associate Contract of which CONTRACTOR becomes aware.
15 CONTRACTOR must report Breaches of Unsecured PHI in accordance with Paragraph E below and as
16 required by 45 CFR § 164.410.

17 6. CONTRACTOR agrees to ensure that any Subcontractors that create, receive, maintain, or
18 transmit PHI on behalf of CONTRACTOR agree to the same restrictions and conditions that apply through
19 this Business Associate Contract to CONTRACTOR with respect to such information.

20 7. CONTRACTOR agrees to provide access, within fifteen (15) calendar days of receipt of a
21 written request by COUNTY, to PHI in a Designated Record Set, to COUNTY or, as directed by
22 COUNTY, to an Individual in order to meet the requirements under 45 CFR § 164.524.

23 8. CONTRACTOR agrees to make any amendment(s) to PHI in a Designated Record Set that
24 COUNTY directs or agrees to pursuant to 45 CFR § 164.526 at the request of COUNTY or an Individual,
25 within thirty (30) calendar days of receipt of said request by COUNTY. CONTRACTOR agrees to notify
26 COUNTY in writing no later than ten (10) calendar days after said amendment is completed.

27 9. CONTRACTOR agrees to make internal practices, books, and records, including policies and
28 procedures, relating to the use and disclosure of PHI received from, or created or received by
29 CONTRACTOR on behalf of, COUNTY available to COUNTY and the Secretary in a time and manner as
30 determined by COUNTY or as designated by the Secretary for purposes of the Secretary determining
31 COUNTY's compliance with the HIPAA Privacy Rule.

32 10. CONTRACTOR agrees to document any Disclosures of PHI COUNTY discloses to
33 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY, and
34 to make information related to such Disclosures available as would be required for COUNTY to respond to
35 a request by an Individual for an accounting of Disclosures of PHI in accordance with
36 45 CFR § 164.528.

37 11. CONTRACTOR agrees to provide COUNTY or an Individual, as directed by COUNTY, in a

1 time and manner to be determined by COUNTY, that information collected in accordance with the
 2 Agreement, in order to permit COUNTY to respond to a request by an Individual for an accounting of
 3 Disclosures of PHI in accordance with 45 CFR § 164.528.

4 12. CONTRACTOR agrees that to the extent CONTRACTOR carries out COUNTY's obligation
 5 under the HIPAA Privacy and/or Security rules CONTRACTOR will comply with the requirements of 45
 6 CFR Part 164 that apply to COUNTY in the performance of such obligation.

7 13. CONTRACTOR shall work with COUNTY upon notification by CONTRACTOR to
 8 COUNTY of a Breach to properly determine if any Breach exclusions exist as defined in Subparagraph
 9 B.2.a. above.

10 D. SECURITY RULE

11 1. CONTRACTOR shall comply with the requirements of 45 CFR § 164.306 and establish and
 12 maintain appropriate Administrative, Physical and Technical Safeguards in accordance with
 13 45 CFR § 164.308, § 164.310, § 164.312, and § 164.316 with respect to electronic PHI COUNTY
 14 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of
 15 COUNTY. CONTRACTOR shall follow generally accepted system security principles and the
 16 requirements of the HIPAA Security Rule pertaining to the security of electronic PHI.

17 2. CONTRACTOR shall ensure that any subcontractors that create, receive, maintain, or transmit
 18 electronic PHI on behalf of CONTRACTOR agree through a contract with CONTRACTOR to the same
 19 restrictions and requirements contained in this Paragraph D of this Business Associate Contract.

20 3. CONTRACTOR shall report to COUNTY immediately any Security Incident of which it
 21 becomes aware. CONTRACTOR shall report Breaches of Unsecured PHI in accordance with
 22 Subparagraph E. below and as required by 45 CFR § 164.410.

23 E. BREACH DISCOVERY AND NOTIFICATION

24 1. Following the discovery of a Breach of Unsecured PHI , CONTRACTOR shall notify
 25 COUNTY of such Breach, however both parties agree to a delay in the notification if so advised by a law
 26 enforcement official pursuant to 45 CFR § 164.412.

27 a. A Breach shall be treated as discovered by CONTRACTOR as of the first day on which
 28 such Breach is known to CONTRACTOR or, by exercising reasonable diligence, would have been known
 29 to CONTRACTOR.

30 b. CONTRACTOR shall be deemed to have knowledge of a Breach, if the Breach is known,
 31 or by exercising reasonable diligence would have known, to any person who is an employee, officer, or other
 32 agent of CONTRACTOR, as determined by federal common law of agency.

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35 2. CONTRACTOR shall provide the notification of the Breach immediately to the County
 36 Privacy Officer. CONTRACTOR's notification may be oral, but shall be followed by written notification
 37 within 24 hours of the oral notification.

- 1 3. CONTRACTOR's notification shall include, to the extent possible:
- 2 a. The identification of each Individual whose Unsecured PHI has been, or is reasonably
- 3 believed by CONTRACTOR to have been, accessed, acquired, used, or disclosed during the Breach;
- 4 b. Any other information that COUNTY is required to include in the notification to
- 5 Individual under 45 CFR §164.404 (c) at the time CONTRACTOR is required to notify COUNTY or
- 6 promptly thereafter as this information becomes available, even after the regulatory sixty (60) day period set
- 7 forth in 45 CFR § 164.410 (b) has elapsed, including:
- 8 1) A brief description of what happened, including the date of the Breach and the date of
- 9 the discovery of the Breach, if known;
- 10 2) A description of the types of Unsecured PHI that were involved in the Breach (such as
- 11 whether full name, social security number, date of birth, home address, account number, diagnosis, disability
- 12 code, or other types of information were involved);
- 13 3) Any steps Individuals should take to protect themselves from potential harm resulting
- 14 from the Breach;
- 15 4) A brief description of what CONTRACTOR is doing to investigate the Breach, to
- 16 mitigate harm to Individuals, and to protect against any future Breaches; and
- 17 5) Contact procedures for Individuals to ask questions or learn additional information,
- 18 which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.
- 19 4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in 45
- 20 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the COUNTY.
- 21 5. In the event that CONTRACTOR is responsible for a Breach of Unsecured PHI in violation of
- 22 the HIPAA Privacy Rule, CONTRACTOR shall have the burden of demonstrating that CONTRACTOR
- 23 made all notifications to COUNTY consistent with this Paragraph E and as required by the Breach
- 24 notification regulations, or, in the alternative, that the acquisition, access, use, or disclosure of PHI did not
- 25 constitute a Breach.
- 26 6. CONTRACTOR shall maintain documentation of all required notifications of a Breach or its
- 27 risk assessment under 45 CFR § 164.402 to demonstrate that a Breach did not occur.
- 28 7. CONTRACTOR shall provide to COUNTY all specific and pertinent information about the
- 29 Breach, including the information listed in Section E.3.b.(1)-(5) above, if not yet provided, to permit
- 30 COUNTY to meet its notification obligations under Subpart D of 45 CFR Part 164 as soon as practicable,
- 31 but in no event later than fifteen (15) calendar days after CONTRACTOR's initial report of the Breach to
- 32 COUNTY pursuant to Subparagraph E.2 above.
- 33 //
- 34 8. CONTRACTOR shall continue to provide all additional pertinent information about the
- 35 Breach to COUNTY as it may become available, in reporting increments of five (5) business days after the
- 36 last report to COUNTY. CONTRACTOR shall also respond in good faith to any reasonable requests for
- 37 further information, or follow-up information after report to COUNTY, when such request is made by

1 COUNTY.

2 9. If the Breach is the fault of CONTRACTOR, CONTRACTOR shall bear all expense or other
3 costs associated with the Breach and shall reimburse COUNTY for all expenses COUNTY incurs in
4 addressing the Breach and consequences thereof, including costs of investigation, notification, remediation,
5 documentation or other costs associated with addressing the Breach.

6 F. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

7 1. CONTRACTOR may use or further disclose PHI COUNTY discloses to CONTRACTOR as
8 necessary to perform functions, activities, or services for, or on behalf of, COUNTY as specified in the
9 Agreement, provided that such use or Disclosure would not violate the HIPAA Privacy Rule if done by
10 COUNTY except for the specific Uses and Disclosures set forth below.

11 a. CONTRACTOR may use PHI COUNTY discloses to CONTRACTOR, if necessary, for
12 the proper management and administration of CONTRACTOR.

13 b. CONTRACTOR may disclose PHI COUNTY discloses to CONTRACTOR for the proper
14 management and administration of CONTRACTOR or to carry out the legal responsibilities of
15 CONTRACTOR, if:

16 1) The Disclosure is required by law; or

17 2) CONTRACTOR obtains reasonable assurances from the person to whom the PHI is
18 disclosed that it will be held confidentially and used or further disclosed only as required by law or for the
19 purposes for which it was disclosed to the person and the person immediately notifies CONTRACTOR of
20 any instance of which it is aware in which the confidentiality of the information has been breached.

21 c. CONTRACTOR may use or further disclose PHI COUNTY discloses to CONTRACTOR
22 to provide Data Aggregation services relating to the Health Care Operations of CONTRACTOR.

23 2. CONTRACTOR may use PHI COUNTY discloses to CONTRACTOR, if necessary, to carry
24 out legal responsibilities of CONTRACTOR.

25 3. CONTRACTOR may use and disclose PHI COUNTY discloses to CONTRACTOR consistent
26 with the minimum necessary policies and procedures of COUNTY.

27 4. CONTRACTOR may use or disclose PHI COUNTY discloses to CONTRACTOR as required
28 by law.

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32 G. OBLIGATIONS OF COUNTY

33 1. COUNTY shall notify CONTRACTOR of any limitation(s) in COUNTY's notice of privacy
34 practices in accordance with 45 CFR § 164.520, to the extent that such limitation may affect
35 CONTRACTOR's Use or Disclosure of PHI.

36 2. COUNTY shall notify CONTRACTOR of any changes in, or revocation of, the permission by
37 an Individual to use or disclose his or her PHI, to the extent that such changes may affect CONTRACTOR's

1 Use or Disclosure of PHI.

2 3. COUNTY shall notify CONTRACTOR of any restriction to the Use or Disclosure of PHI that
3 COUNTY has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect
4 CONTRACTOR’s Use or Disclosure of PHI.

5 4. COUNTY shall not request CONTRACTOR to use or disclose PHI in any manner that would
6 not be permissible under the HIPAA Privacy Rule if done by COUNTY.

7 H. BUSINESS ASSOCIATE TERMINATION

8 1. Upon COUNTY’s knowledge of a material breach or violation by CONTRACTOR of the
9 requirements of this Business Associate Contract, COUNTY shall:

10 a. Provide an opportunity for CONTRACTOR to cure the material breach or end the
11 violation within thirty (30) business days; or

12 b. Immediately terminate the Agreement, if CONTRACTOR is unwilling or unable to cure
13 the material breach or end the violation within (30) days, provided termination of the Agreement is feasible.

14 2. Upon termination of the Agreement, CONTRACTOR shall either destroy or return to
15 COUNTY all PHI CONTRACTOR received from COUNTY or CONTRACTOR created, maintained, or
16 received on behalf of COUNTY in conformity with the HIPAA Privacy Rule.

17 a. This provision shall apply to all PHI that is in the possession of Subcontractors or agents of
18 CONTRACTOR.

19 b. CONTRACTOR shall retain no copies of the PHI.

20 c. In the event that CONTRACTOR determines that returning or destroying the PHI is not
21 feasible, CONTRACTOR shall provide to COUNTY notification of the conditions that make return or
22 destruction infeasible. Upon determination by COUNTY that return or destruction of PHI is infeasible,
23 CONTRACTOR shall extend the protections of this Business Associate Contract to such PHI and limit
24 further Uses and Disclosures of such PHI to those purposes that make the return or destruction infeasible, for
25 as long as CONTRACTOR maintains such PHI.

26 3. The obligations of this Business Associate Contract shall survive the termination of the
27 Agreement.

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EXHIBIT C
 TO AGREEMENT FOR PROVISION OF
 PHYSICIAN SERVICES
 FOR
 CORRECTIONAL HEALTH SERVICES PROGRAMS
 BETWEEN
 COUNTY OF ORANGE
 AND
 CORRECTIONAL MANAGED CARE MEDICAL CORPORATION
 JULY 1, 2018 THROUGH JUNE 30, 2020

I. PERSONAL INFORMATION PRIVACY AND SECURITY CONTRACT

Any reference to statutory, regulatory, or contractual language herein shall be to such language as in effect or as amended.

A. DEFINITIONS

1. "Breach" shall have the meaning given to such term under the IEA and CMPPA. It shall include a "PII loss" as that term is defined in the CMPPA.

2. "Breach of the security of the system" shall have the meaning given to such term under the California Information Practices Act, Civil Code § 1798.29(d).

3. "CMPPA Agreement" means the Computer Matching and Privacy Protection Act Agreement between the Social Security Administration and the California Health and Human Services Agency (CHHS).

4. "DHCS PI" shall mean Personal Information, as defined below, accessed in a database maintained by the COUNTY or California Department of Health Care Services (DHCS), received by CONTRACTOR from the COUNTY or DHCS or acquired or created by CONTRACTOR in connection with performing the functions, activities and services specified in the Agreement on behalf of the COUNTY.

5. "IEA" shall mean the Information Exchange Agreement currently in effect between the Social Security Administration (SSA) and DHCS.

6. "Notice-triggering Personal Information" shall mean the personal information identified in Civil Code section 1798.29(e) whose unauthorized access may trigger notification requirements under Civil Code § 1709.29. For purposes of this provision, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print, a photograph or a biometric identifier. Notice-triggering Personal Information includes PI in electronic, paper or any other medium.

7. "Personally Identifiable Information" (PII) shall have the meaning given to such term in the IEA and CMPPA.

8. "Personal Information" (PI) shall have the meaning given to such term in California Civil

1 Code§ 1798.3(a).

2 9. "Required by law" means a mandate contained in law that compels an entity to make a use or
3 disclosure of PI or PII that is enforceable in a court of law. This includes, but is not limited to, court orders
4 and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental or tribal
5 inspector general, or an administrative body authorized to require the production of information, and a civil
6 or an authorized investigative demand. It also includes Medicare conditions of participation with respect to
7 health care providers participating in the program, and statutes or regulations that require the production of
8 information, including statutes or regulations that require such information if payment is sought under a
9 government program providing public benefits.

10 10. "Security Incident" means the attempted or successful unauthorized access, use, disclosure,
11 modification, or destruction of PI, or confidential data utilized in complying with this Agreement; or
12 interference with system operations in an information system that processes, maintains or stores PI.

13 **B. TERMS OF AGREEMENT**

14 1. Permitted Uses and Disclosures of DHCS PI and PII by CONTRACTOR. Except as otherwise
15 indicated in this Exhibit, CONTRACTOR may use or disclose DHCS PI only to perform functions,
16 activities, or services for or on behalf of the COUNTY pursuant to the terms of the Agreement provided that
17 such use or disclosure would not violate the California Information Practices Act (CIPA) if done by the
18 COUNTY.

19 2. Responsibilities of CONTRACTOR
20 CONTRACTOR agrees:

21 a. Nondisclosure. Not to use or disclose DHCS PI or PII other than as permitted or required
22 by this Personal Information Privacy and Security Contract or as required by applicable state and federal
23 law.

24 b. Safeguards. To implement appropriate and reasonable administrative, technical, and
25 physical safeguards to protect the security, confidentiality and integrity of DHCS PI and PII, to protect
26 against anticipated threats or hazards to the security or integrity of DHCS PI and PII, and to prevent use or
27 disclosure of DHCS PI or PII other than as provided for by this Personal Information Privacy and Security
28 Contract. CONTRACTOR shall develop and maintain a written information privacy and security program
29 that include administrative, technical and physical safeguards appropriate to the size and complexity of
30 CONTRACTOR's operations and the nature and scope of its activities, which incorporate the requirements
31 of Paragraph (c), below. CONTRACTOR will provide COUNTY with its current policies upon request.

32 c. Security. CONTRACTOR shall ensure the continuous security of all computerized data
33 systems containing DHCS PI and PII. CONTRACTOR shall protect paper documents containing DHCS PI
34 and PII. These steps shall include, at a minimum:

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36 1) Complying with all of the data system security precautions listed in Paragraph E of
37 the Business Associate Contract, Exhibit B to the Agreement; and

1 2) Providing a level and scope of security that is at least comparable to the level and
2 scope of security established by the Office of Management and Budget in OMB Circular No. A-130,
3 Appendix III-Security of Federal Automated Information Systems, which sets forth guidelines for automated
4 information systems in Federal agencies.

5 3) If the data obtained by CONTRACTOR from COUNTY includes PII,
6 CONTRACTOR shall also comply with the substantive privacy and security requirements in the Computer
7 Matching and Privacy Protection Act Agreement between the SSA and the California Health and Human
8 Services Agency (CHHS) and in the Agreement between the SSA and DHCS, known as the Information
9 Exchange Agreement (IEA). The specific sections of the IEA with substantive privacy and security
10 requirements to be complied with are sections E, F, and G, and in Attachment 4 to the IEA, Electronic
11 Information Exchange Security Requirements, Guidelines and Procedures for Federal, State and Local
12 Agencies Exchanging Electronic Information with the SSA. CONTRACTOR also agrees to ensure that any
13 of CONTRACTOR's agents or subcontractors, to whom CONTRACTOR provides DHCS PII agree to the
14 same requirements for privacy and security safeguards for confidential data that apply to CONTRACTOR
15 with respect to such information.

16 d. Mitigation of Harmful Effects. To mitigate, to the extent practicable, any harmful effect
17 that is known to CONTRACTOR of a use or disclosure of DHCS PI or PII by CONTRACTOR or its
18 subcontractors in violation of this Personal Information Privacy and Security Contract.

19 e. CONTRACTOR's Agents and Subcontractors. To impose the same restrictions and
20 conditions set forth in this Personal Information and Security Contract on any subcontractors or other agents
21 with whom CONTRACTOR subcontracts any activities under the Agreement that involve the disclosure of
22 DHCS PI or PII to such subcontractors or other agents.

23 f. Availability of Information. To make DHCS PI and PII available to the DHCS and/or
24 COUNTY for purposes of oversight, inspection, amendment, and response to requests for records,
25 injunctions, judgments, and orders for production of DHCS PI and PII. If CONTRACTOR receives DHCS
26 PII, upon request by COUNTY and/or DHCS, CONTRACTOR shall provide COUNTY and/or DHCS
27 with a list of all employees, contractors and agents who have access to DHCS PII, including employees,
28 contractors and agents of its subcontractors and agents.

29 g. Cooperation with COUNTY. With respect to DHCS PI, to cooperate with and assist the
30 COUNTY to the extent necessary to ensure the DHCS's compliance with the applicable terms of the CIPA
31 including, but not limited to, accounting of disclosures of DHCS PI, correction of errors in DHCS PI,
32 production of DHCS PI, disclosure of a security breach involving DHCS PI and notice of such breach to the
33 affected individual(s).

34 h. Breaches and Security Incidents. During the term of the Agreement, CONTRACTOR
35 agrees to implement reasonable systems for the discovery of any breach of unsecured DHCS PI and PII or
36 security incident. CONTRACTOR agrees to give notification of any beach of unsecured DHCS PI
37 and PII or security incident in accordance with Paragraph F, of the Business Associate Contract,

1 Exhibit B to the Agreement.

2 i. Designation of Individual Responsible for Security. CONTRACTOR shall designate an
3 individual, (e.g., Security Officer), to oversee its data security program who shall be responsible for carrying
4 out the requirements of this Personal Information Privacy and Security Contract and for communicating on
5 security matters with the COUNTY.

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