

AGREEMENT FOR PROVISION OF
PHYSICAL EXAMINATION SERVICES
BETWEEN
COUNTY OF ORANGE

AND
OCCUPATIONAL HEALTH CENTERS OF CALIFORNIA, A MEDICAL CORPORATION
DBA CONCENTRA MEDICAL CENTERS
JULY 1, 2016 THROUGH JUNE 30, 2019

THIS AGREEMENT entered into this 1st day of July 2016, which date is enumerated for purposes of reference only, is by and between the COUNTY OF ORANGE (COUNTY) and OCCUPATIONAL HEALTH CENTERS OF CALIFORNIA, A MEDICAL CORPORATION, DBA CONCENTRA MEDICAL CENTERS, a California for profit corporation (CONTRACTOR). 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 Physical Examination Services described herein to applicants and employees of the County of Orange; and

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

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS

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REFERENCED CONTRACT PROVISIONS

Term: July 1, 2016 through June 30, 2019

Period One means the period July 1, 2016 through June 30, 2017

Period Two means the period July 1, 2017 through June 30, 2018

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

~~**Maximum Obligation:**~~

~~Period One Maximum Obligation: \$300,000~~

~~Period Two Maximum Obligation: 300,000~~

~~Period Three Maximum Obligation: 300,000~~

~~TOTAL MAXIMUM OBLIGATION: \$900,000~~

“Maximum Obligation:

Period One Maximum Obligation:	\$ 400,000
Period Two Maximum Obligation:	400,000
Period Three Maximum Obligation:	400,000
TOTAL MAXIMUM OBLIGATION:	\$1,200,000”

Basis for Reimbursement: Fee-for Service

Payment Method: Payment in Arrears

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: Occupational Health Centers of California, a Medical Corporation
dba Concentra Medical Centers
Attn: Office of the General Counsel
5080 Spectrum Drive, #1200 West Tower
Addison, TX 75001
Todd Doolittle
Todd_Doolittle@concentra.com
Legal_Contracts@concentra.com (for legal information only)

I. ACRONYMS

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

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4	A. AA	Alcoholics Anonymous
5	B. AB 109	Assembly Bill 109, 2011 Public Safety Realignment
6	C. ABC	Allied Behavioral Care
7	D. ACH	Acute Care Hospital
8	E. ADAS	Alcohol and Drug Abuse Services
9	F. ADL	Activities of Daily Living
10	G. ADP	Alcohol and Drug Program
11	H. AES	Advanced Encryption Standard
12	I. AFLP	Adolescent Family Life Program
13	J. AIDS	Acquired Immune Deficiency Syndrome
14	K. AIM	Access for Infants and Mothers
15	L. AMHS	Adult Mental Health Services
16	M. ARRA	American Recovery and Reinvestment Act of 2009
17	N. ASAM PPC	American Society of Addiction Medicine Patient Placement Criteria
18	O. ASI	Addiction Severity Index
19	P. ASIST	Applied Suicide Intervention Skills Training
20	Q. ASO	Administrative Services Organization
21	R. ASRS	Alcohol and Drug Programs Reporting System
22	S. BBS	Board of Behavioral Sciences
23	T. BCP	Business Continuity Plan
24	U. BH	Base Hospital
25	V. BHS	Behavioral Health Services
26	W. CalOMS	California Outcomes Measurement System
27	X. CalWORKs	California Work Opportunity and Responsibility for Kids
28	Y. CAP	Corrective Action Plan
29	Z. CAT	Centralized Assessment Team
30	AA. CCC	California Civil Code
31	AB. CCLD	(California) Community Care Licensing Division
32	AC. CCR	California Code of Regulations
33	AD. CDCR	California Department of Corrections and Rehabilitation
34	AE. CDSS	California Department of Social Services
35	AF. CER	Children's Emergency Receiving Center
36	AG. CESI	Client Evaluation of Self at Intake
37	AH. CEST	Client Evaluation of Self and Treatment

1	AI. CFDA	Catalog of Federal Domestic Assistance
2	AJ. CFR	Code of Federal Regulations
3	AK. CHDP	Child Health and Disability Prevention
4	AL. CHHS	California Health and Human Services Agency
5	AM. CHPP	COUNTY HIPAA Policies and Procedures
6	AN. CHS	Correctional Health Services
7	AO. CIPA	California Information Practices Act
8	AP. CMPPA	Computer Matching and Privacy Protection Act
9	AQ. COI	Certificate of Insurance
10	AR. CPA	Certified Public Accountant
11	AS. CSI	Client and Services Information
12	AT. CSW	Clinical Social Worker
13	AU. CYBHS	Children and Youth Behavioral Health Services
14	AV. DATAR	Drug Abuse Treatment Access Report
15	AW. DCR	Data Collection and Reporting
16	AX. DD	Dually Diagnosed
17	AY. DEA	Drug Enforcement Agency
18	BZ. DHCS	California Department of Health Care Services
19	BA. D/MC	Drug/Medi-Cal
20	BB. DMV	California Department of Motor Vehicles
21	BC. DoD	US Department of Defense
22	BD. DPFS	Drug Program Fiscal Systems
23	BE. DRC	Probation's Day Reporting Center
24	BF. DRP	Disaster Recovery Plan
25	BG. DRS	Designated Record Set
26	BH. DSM	Diagnostic and Statistical Manual of Mental Disorders
27	BI. DSM-IV	Diagnostic and Statistical Manual of Mental Disorders. 4th Edition
28	BJ. DSM-V	Diagnostic and Statistical Manual of Mental Disorders. 5th Edition
29	BK. EBP	Evidence-Based Practice
30	BL. EDN	Electronic Disease Notification System
31	BM. EEOC	Equal Employment Opportunity Commission
32	BN. EHR	Electronic Health Records
33	BO. ePHI	Electronic Protected Health Information
34	BP. EPSDT	Early and Periodic Screening, Diagnosis, and Treatment
35	BQ. ERC	Emergency Receiving Center
36	BR. FFS	Fee For service
37	BS. FIPS	Federal Information Processing Standards

1	BT. FQHC	Federally Qualified Health Center
2	BU. FSP	Full Service Partnership
3	BV. FTE	Full Time Equivalent
4	BW. GAAP	Generally Accepted Accounting Principles
5	BX. HAB	Federal HIV/AIDS Bureau
6	BY. HCA	County of Orange Health Care Agency
7	BZ. HHS	Federal Health and Human Services Agency
8	CA. HIPAA	Health Insurance Portability and Accountability Act of 1996, Public
9		Law 104-191
10	CB. HITECH	Health Information Technology for Economic and Clinical Health
11		Act, Public Law 111-005
12	CC. HIV	Human Immunodeficiency Virus
13	CD. HRSA	Federal Health Resources and Services Administration
14	CE. HSC	California Health and Safety Code
15	CF. IBNR	Incurred But Not Reported
16	CG. ID	Identification
17	CH. IEA	Information Exchange Agreement
18	CI. IMD	Institute for Mental Disease
19	CJ. IOM	Institute of Medicine
20	CK. IRIS	Integrated Records and Information System
21	CL. ISO	Insurance Services Office
22	CM. ITC	Indigent Trauma Care
23	CN. LCSW	Licensed Clinical Social Worker
24	CO. LGBTQI	Lesbian, Gay, Bisexual, Transgender, Questioning, and Intersex
25	CP. LPS	Lanterman/Petris/Short (Act)
26	CQ. LPT	Licensed Psychiatric Technician
27	CR. MAT	Medication Assisted Treatment
28	CS. MEDS	Medi-Cal Eligibility Determination System
29	CT. MFT	Marriage and Family Therapist
30	CU. MH	Mental Health
31	CV. MHIS	Mental Health Inpatient Services
32	CW. MIHS	Medical and Institutional Health Services
33	CX. MHP	Mental Health Plan
34	CY. MHRC	Mental Health Rehabilitation Centers
35	CZ. MHS	Mental Health Specialist
36	DA. MHSA	Mental Health Services Act
37	DB. MORS	Milestones of Recovery Scale

1	DC. MS	Mandatory Supervision
2	DD. MSN	Medical Safety Net
3	DE. MTP	Master Treatment Plan
4	DF. NA	Narcotics Anonymous
5	DG. NIAT	Network Improvement of Addiction Treatment
6	DH. NIH	National Institutes of Health
7	DI. NIST	National Institute of Standards and Technology
8	DJ. NOA	Notice of Action
9	DK. NP	Nurse Practitioner
10	DL. NPDB	National Provider Data Bank
11	DM. NPI	National Provider Identifier
12	DN. NPP	Notice of Privacy Practices
13	DO. OCEMS	Orange County Emergency Medical Services
14	DP. OCJS	Orange County Jail System
15	DQ. OC-MEDS	Orange County Medical Emergency Data System
16	DR. OCPD	Orange County Probation Department
17	DS. OCR	Federal Office for Civil Rights
18	DT. OCSD	Orange County Sheriff's Department
19	DU. OIG	Federal Office of Inspector General
20	DV. OMB	Federal Office of Management and Budget
21	DW. OPM	Federal Office of Personnel Management
22	DX. ORR	Federal Office of Refugee Resettlement
23	DY. P&P	Policy and Procedure
24	DZ. PA DSS	Payment Application Data Security Standard
25	EA. PAF	Partnership Assessment Form
26	EB. PAR	Prior Authorization Request
27	EC. PBM	Pharmaceutical Benefits Management
28	ED. PC	California Penal Code
29	EE. PCI DSS	Payment Card Industry Data Security Standard
30	EF. PCP	Primary Care Provider
31	EG. PCS	Post-Release Community Supervision
32	EH. PHI	Protected Health Information
33	EI. PI	Personal Information
34	EJ. PII	Personally Identifiable Information
35	EK. PRA	California Public Records Act
36	EL. PSAI/ACT	Perinatal Substance Abuse Services Initiative/Assessment and
37		Coordination Team

1	EM.	PSC	Professional Services Contract
2	EN.	PTRC	Paramedic Trauma Receiving Center
3	EO.	QI	Quality Improvement
4	EP.	QIC	Quality Improvement Committee
5	EQ.	RHAP	Refugee Health Assessment Program
6	ER.	RHEIS	Refugee Health Electronic Information System
7	ES.	RN	Registered Nurse
8	ET.	RSA	Remote Site Access
9	EU.	SAPTBG	Substance Abuse Prevention and Treatment Block Grant
10	EV.	SD/MC	Short-Doyle Medi-Cal
11	EW.	SIR	Self-Insured Retention
12	EX.	SMA	Statewide Maximum Allowable (rate)
13	EY.	SNF	Skilled Nursing Facility
14	EZ.	SR	Supervised Release
15	FA.	SRP	Supervised Release Participant
16	FB.	SSA	County of Orange Social Services Agency
17	FC.	SSI	Supplemental Security Income
18	FD.	STP	Special Treatment Program
19	FE.	SUD	Substance Use Disorder
20	FF.	TAR	Treatment Authorization Request
21	FG.	TAY	Transitional Age Youth
22	FH.	TB	Tuberculosis
23	FI.	TBS	Therapeutic Behavioral Services
24	FJ.	TRC	Therapeutic Residential Center
25	FK.	TTY	Teletypewriter
26	FL.	TUPP	Tobacco Use Prevention Program
27	FM.	UMDAP	Uniform Method of Determining Ability to Pay
28	FN.	UOS	Units of Service
29	FO.	USC	United States Code
30	FP.	VOLAGs	Volunteer Agencies
31	FQ.	W&IC	California Welfare and Institutions Code
32	FR.	WIC	Women, Infants and Children
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1 meet said standards or shall be asked to acknowledge and agree to HCA's Compliance Program and
2 Code of Conduct if the CONTRACTOR's Compliance Program and Code of Conduct does not contain
3 all required elements.

4 5. Upon written confirmation from ADMINISTRATOR's Compliance Officer that the
5 CONTRACTOR's Compliance Program and Code of Conduct contains all required elements,
6 CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of
7 CONTRACTOR's Compliance Program, Code of Conduct and related policies and procedures.

8 6. Failure of CONTRACTOR to submit its Compliance Program, Code of Conduct and
9 relevant policies and procedures shall constitute a material breach of this Agreement. Failure to cure
10 such breach within sixty (60) calendar days of such notice from ADMINISTRATOR shall constitute
11 grounds for termination of this Agreement as to the non-complying party.

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

19 1. Covered Individuals includes all contractors, subcontractors, agents, and other persons who
20 provide health care items or services or who perform billing or coding functions on behalf of
21 ADMINISTRATOR. Notwithstanding the above, this term does not include part-time or per-diem
22 employees, contractors, subcontractors, agents, and other persons who are not reasonably expected to
23 work more than one hundred sixty (160) hours per year; except that any such individuals shall become
24 Covered Individuals at the point when they work more than one hundred sixty (160) hours during the
25 calendar year. CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are
26 made aware of ADMINISTRATOR's Compliance Program, Code of Conduct and related policies and
27 procedures.

28 2. An Ineligible Person shall be any individual or entity who:
29 a. is currently excluded, suspended, debarred or otherwise ineligible to participate in
30 federal and state health care programs; or
31 b. has been convicted of a criminal offense related to the provision of health care items or
32 services and has not been reinstated in the federal and state health care programs after a period of
33 exclusion, suspension, debarment, or ineligibility.

34 3. CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement.
35 CONTRACTOR shall not hire or engage any Ineligible Person to provide services relative to this
36 Agreement.

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

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

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

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

25 C. COMPLIANCE TRAINING – ADMINISTRATOR shall make General Compliance Training
 26 and Provider Compliance Training, where appropriate, available to Covered Individuals.

27 1. CONTRACTOR shall use its best efforts to encourage completion by Covered Individuals;
 28 provided, however, that at a minimum CONTRACTOR shall assign at least one (1) designated
 29 representative to complete all Compliance Trainings when offered.

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

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

33 4. Each Covered Individual attending training shall certify, in writing, attendance at
 34 compliance training. CONTRACTOR shall retain the certifications. Upon written request by
 35 ADMINISTRATOR, CONTRACTOR shall provide copies of the certifications.

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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 CONTRACTORS's governing body or its designee or authorized agent, employees, consultants, subcontractors, volunteers and interns.

VI. DELEGATION, ASSIGNMENT AND SUBCONTRACTS

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

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

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

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

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

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

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

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

13 1. After approval of a subcontract, ADMINISTRATOR may revoke the approval of a
14 subcontract upon five (5) calendar days’ written notice to CONTRACTOR if the subcontract
15 subsequently fails to meet the requirements of this Agreement or any provisions that
16 ADMINISTRATOR has required.

17 2. No subcontract shall terminate or alter the responsibilities of CONTRACTOR to COUNTY
18 pursuant to this Agreement.

19 3. ADMINISTRATOR may disallow, from payments otherwise due CONTRACTOR,
20 amounts claimed for subcontracts not approved in accordance with this paragraph.

21 4. This provision shall not be applicable to service agreements usually and customarily
22 entered into by CONTRACTOR to obtain or arrange for supplies, technical support, and professional
23 services provided by consultants.

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25 **VII. EMPLOYEE ELIGIBILITY VERIFICATION**

26 CONTRACTOR warrants that it shall fully comply with all federal and state statutes and
27 regulations regarding the employment of aliens and others and to ensure that employees, subcontractors,
28 and consultants performing work under this Agreement meet the citizenship or alien status requirements
29 set forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees,
30 subcontractors, and consultants performing work hereunder, all verification and other documentation of
31 employment eligibility status required by federal or state statutes and regulations including, but not
32 limited to, the Immigration Reform and Control Act of 1986, 8 USC §1324 et seq., as they currently
33 exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all
34 covered employees, subcontractors, and consultants for the period prescribed by the law.

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1 and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of
 2 insurance must be maintained by CONTRACTOR through the entirety of this Agreement for inspection
 3 by COUNTY representative(s) at any reasonable time.

4 D. All SIRs and deductibles shall be clearly stated on the COI. If no SIRs or deductibles apply,
 5 indicate this on the COI with a zero (0) by the appropriate line of coverage. Any SIR or deductible in an
 6 amount in excess of \$25,000 (\$5,000 for automobile liability), shall specifically be approved by the
 7 CEO/Office of Risk Management upon review of CONTRACTOR's current audited financial report.

8 E. If CONTRACTOR fails to maintain insurance acceptable to COUNTY for the full term of this
 9 Agreement, COUNTY may terminate this Agreement.

10 F. QUALIFIED INSURER

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

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

19 G. The policy or policies of insurance maintained by CONTRACTOR shall provide the minimum
 20 limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 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
Employee Dishonesty	\$1,000,000 per occurrence
Professional Liability Insurance	\$5,000,000 per claims made \$5,000,000 aggregate

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1 Sexual Misconduct Liability \$1,000,000 per occurrence

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3 H. REQUIRED COVERAGE FORMS

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

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

8 I. REQUIRED ENDORSEMENTS – The Commercial General Liability policy shall contain the
9 following endorsements, which shall accompany the COI:

10 1. An Additional Insured endorsement using ISO form CG 2010 or CG 2033 or a form at least
11 as broad naming the County of Orange, its elected and appointed officials, officers, employees, and
12 agents as Additional Insureds.

13 2. A primary non-contributing endorsement evidencing that the CONTRACTOR’s insurance
14 is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and
15 non-contributing.

16 3. If Contractor’s Professional Liability, Technology Errors & Omissions and/or Network
17 Security & Privacy Liability are “Claims Made” policy(ies), Contractor shall agree to maintain coverage
18 for two (2) years following the completion of the Contract.

19 J. All insurance policies required by this Agreement shall waive all rights of subrogation against
20 the County of Orange and members of the Board of Supervisors, its elected and appointed officials,
21 officers, agents and employees when acting within the scope of their appointment or employment.

22 K. The Workers’ Compensation policy shall contain a waiver of subrogation endorsement waiving
23 all rights of subrogation against the County of Orange, and members of the Board of Supervisors, its
24 elected and appointed officials, officers, agents and employees.

25 L. CONTRACTOR shall notify COUNTY in writing within thirty (30) days of any policy
26 cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation
27 notice to COUNTY. Failure to provide written notice of cancellation may constitute a material breach
28 of the Agreement, upon which the COUNTY may suspend or terminate this Agreement.

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

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

33 2. A primary and non-contributing endorsement evidencing that the Contractor’s insurance
34 is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and
35 non-contributing.

36 N. The Commercial General Liability policy shall contain a “severability of interests” clause also
37 known as a “separation of insureds” clause (standard in the ISO CG 0001 policy).

1 O. COUNTY expressly retains the right to require CONTRACTOR to increase or decrease
 2 insurance of any of the above insurance types throughout the term of this Agreement. Any increase or
 3 decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to
 4 adequately protect COUNTY.

5 P. COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If
 6 CONTRACTOR does not deposit copies of acceptable COIs and endorsements with COUNTY
 7 incorporating such changes within thirty (30) calendar days
 8 of receipt of such notice, this Agreement may be in breach without further notice to CONTRACTOR,
 9 and COUNTY shall be entitled to all legal remedies.

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

13 R. SUBMISSION OF INSURANCE DOCUMENTS

14 1. The COI and endorsements shall be provided to COUNTY as follows:
 15 a. Prior to the start date of this Agreement.
 16 b. No later than the expiration date for each policy.
 17 c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding
 18 changes to any of the insurance types as set forth in Subparagraph G. of this Agreement.

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

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

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

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

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

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

37 //

X. INSPECTIONS AND AUDITS

1
2 A. ADMINISTRATOR, any authorized representative of COUNTY, any authorized representative
3 of the State of California, the Secretary of the United States Department of Health and Human Services,
4 the Comptroller General of the United States, or any other of their authorized representatives, shall have
5 access to any books, documents, and records, including but not limited to, financial statements, general
6 ledgers, relevant accounting systems, medical and client records, of CONTRACTOR that are directly
7 pertinent to this Agreement, for the purpose of responding to a beneficiary complaint or conducting an
8 audit, review, evaluation, or examination, or making transcripts during the periods of retention set forth
9 in the Records Management and Maintenance Paragraph of this Agreement. Such persons may at all
10 reasonable times inspect or otherwise evaluate the services provided pursuant to this Agreement, and the
11 premises in which they are provided.

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

16 C. CONTRACTOR shall not be subject to disallowances as the result of audits of the cost of
17 services.

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

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

XI. LICENSES AND LAWS

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

B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

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

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

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

6 c. A certification that CONTRACTOR has fully complied with all applicable federal and
7 state reporting requirements regarding its employees;

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

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

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

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

21 1. CONTRACTOR shall comply with the applicable terms and conditions of the "Contract for
22 Low Income Health Program; Contract No. 11-15909-OR-10" between COUNTY and the California
23 Department of Health Care Services ("Department"). COUNTY shall provide CONTRACTOR with a
24 copy of any new or amended contract with Department as soon as it is available. CONTRACTOR shall
25 notify ADMINISTRATOR within thirty (30) calendar days of any inability of CONTRACTOR to
26 comply with the terms and conditions of COUNTY's contract with Department.

27 2. CONTRACTOR shall comply with all requirements of Section 114 of the Clean Air Act, as
28 amended, and Section 308 of the Federal Water Pollution Control Act respectively relating to
29 inspection, monitoring, entry, reports, and information, as well as other requirements specified in
30 Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act, and all
31 regulations and guidelines issued thereunder.

32 3. CONTRACTOR shall not perform services required by this Agreement in a facility listed
33 on the EPA List of Violating Facilities unless and until the EPA eliminates the name of such facility
34 from such listing.

35 4. CONTRACTOR shall use its best efforts to comply with clean air standards and clean
36 water standards at the facility in which services required by this Agreement are being performed.

37 //

1 D. CONTRACTOR attests, to the best of its knowledge, that all hospital-based physicians
 2 providing services at CONTRACTOR, under this Agreement, are and will continue to be as long as this
 3 Agreement remains in effect, the holders of currently valid licenses to practice medicine in the State of
 4 California and are members in “good standing” of the medical staff of CONTRACTOR’s facility.

6 **XII. MAXIMUM OBLIGATION**

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

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

14 **XIII. MINIMUM WAGE LAWS**

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

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

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

30 **XIV. NONDISCRIMINATION**

31 **A. EMPLOYMENT**

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

1 not unlawfully discriminate against any employee or applicant for employment because of his/her race,
2 religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition,
3 genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual
4 orientation, or military and veteran status.

5 2. CONTRACTOR and its Covered Individuals shall not discriminate against employees or
6 applicants for employment in the areas of employment, promotion, demotion or transfer; recruitment or
7 recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection
8 for training, including apprenticeship.

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

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

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

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

26 B. SERVICES, BENEFITS AND FACILITIES – CONTRACTOR and/or subcontractor shall not
27 discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities
28 on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental
29 disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender
30 expression, age, sexual orientation, or military and veteran status in accordance with Title IX of the
31 Education Amendments of 1972 as they relate to 20 USC §1681 - §1688; Title VI of the Civil Rights
32 Act of 1964 (42 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); Title 9,
33 Division 4, Chapter 6, Article 1 (§10800, et seq.) of the California Code of Regulations; and Title II of
34 the Genetic Information Nondiscrimination Act of 2008, 42 USC 2000ff, et seq. as applicable, and all
35 other pertinent rules and regulations promulgated pursuant thereto, and as otherwise provided by state
36 law and regulations, as all may now exist or be hereafter amended or changed. For the purpose of this
37 //

1 Nondiscrimination paragraph, Discrimination includes, but is not limited to the following based on one
2 or more of the factors identified above:

- 3 1. Denying a client or potential client any service, benefit, or accommodation.
- 4 2. Providing any service or benefit to a client which is different or is provided in a different
5 manner or at a different time from that provided to other clients.
- 6 3. Restricting a client in any way in the enjoyment of any advantage or privilege enjoyed by
7 others receiving any service or benefit.
- 8 4. Treating a client differently from others in satisfying any admission requirement or
9 condition, or eligibility requirement or condition, which individuals must meet in order to be provided
10 any service or benefit.
- 11 5. Assignment of times or places for the provision of services.

12 C. COMPLAINT PROCESS – CONTRACTOR shall establish procedures for advising all clients
13 through a written statement that CONTRACTOR’s and/or subcontractor’s clients may file all
14 complaints alleging discrimination in the delivery of services with CONTRACTOR, subcontractor, and
15 ADMINISTRATOR.

16 1. Whenever possible, problems shall be resolved informally and at the point of service.
17 CONTRACTOR shall establish an internal informal problem resolution process for clients not able to
18 resolve such problems at the point of service. Clients may initiate a grievance or complaint directly with
19 CONTRACTOR either orally or in writing.

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

22 D. PERSONS WITH DISABILITIES – CONTRACTOR and/or subcontractor agree to comply
23 with the provisions of §504 of the Rehabilitation Act of 1973, as amended, (29 USC 794 et seq., as
24 implemented in 45 CFR 84.1 et seq.), and the Americans with Disabilities Act of 1990 as amended
25 (42 USC 12101 et seq.; as implemented in 29 CFR 1630), as applicable, pertaining to the prohibition of
26 discrimination against qualified persons with disabilities in all programs or activities; and if applicable,
27 as implemented in Title 45, CFR, §84.1 et seq., as they exist now or may be hereafter amended together
28 with succeeding legislation.

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

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

XV. NOTICES

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

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

2. When faxed, transmission confirmed;

3. When sent by Email; or

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

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

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

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

XVI. RECORDS MANAGEMENT AND MAINTENANCE

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

B. CONTRACTOR shall ensure appropriate financial records related to cost reporting, expenditure, revenue, billings, etc., are prepared and maintained accurately and appropriately.

C. CONTRACTOR shall ensure all appropriate state and federal standards of documentation, preparation, and confidentiality of records related to participant, client and/or patient records are met at all times.

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

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

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1 F. If CONTRACTOR is unable to meet the record location criteria above, ADMINISTRATOR
2 may provide written approval to CONTRACTOR to maintain records in a single location, identified by
3 CONTRACTOR.

4 G. CONTRACTOR may be required to retain all records involving litigation proceedings and
5 settlement of claims for a longer term which will be directed by the ADMINISTRATOR.

6 H. CONTRACTOR shall notify ADMINISTRATOR of any PRA requests related to, or arising out
7 of, this Agreement, within forty-eight (48) hours. CONTRACTOR shall provide ADMINISTRATOR
8 all information that is requested by the PRA request.

9
10 **XVII. RESEARCH AND PUBLICATION**

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

14
15 **XVIII. RIGHT TO WORK AND MINIMUM WAGE LAWS**

16 A. In accordance with the United States Immigration Reform and Control Act of 1986,
17 CONTRACTOR shall require its employees directly or indirectly providing service pursuant to this
18 Agreement, in any manner whatsoever, to verify their identity and eligibility for employment in the
19 United States. CONTRACTOR shall also require and verify that its contractors, subcontractors, or any
20 other persons providing services pursuant to this Agreement, in any manner whatsoever, verify the
21 identity of their employees and their eligibility for employment in the United States.

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

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

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

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XIX. SEVERABILITY

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

XX. SPECIAL PROVISIONS

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

1. Making cash payments to intended recipients of services through this Agreement.
2. Lobbying any governmental agency or official. CONTRACTOR shall file all certifications and reports in compliance with this requirement pursuant to Title 31, USC, §1352 (e.g., limitation on use of appropriated funds to influence certain federal contracting and financial transactions).
3. Fundraising.
4. Purchase of gifts, meals, entertainment, awards, or other personal expenses for CONTRACTOR's staff, volunteers, or members of the Board of Directors or governing body.
5. Reimbursement of CONTRACTOR's members of the Board of Directors or governing body for expenses or services.
6. Making personal loans to CONTRACTOR's staff, volunteers, interns, consultants, subcontractors, and members of the Board of Directors or governing body, or its designee or authorized agent, or making salary advances or giving bonuses to CONTRACTOR's staff.
7. Paying an individual salary or compensation for services at a rate in excess of the current Level I of the Executive Salary Schedule as published by the OPM. The OPM Executive Salary Schedule may be found at www.opm.gov.
8. Severance pay for separating employees.
9. Paying rent and/or lease costs for a facility prior to the facility meeting all required building codes and obtaining all necessary building permits for any associated construction.

B. Unless otherwise specified in advance and in writing by ADMINISTRATOR, CONTRACTOR shall not use the funds provided by means of this Agreement for the following purposes:

1. Funding travel or training (excluding mileage or parking).
2. Making phone calls outside of the local area unless documented to be directly for the purpose of client care.
3. Payment for grant writing, consultants, certified public accounting, or legal services.
4. Purchase of artwork or other items that are for decorative purposes and do not directly contribute to the quality of services to be provided pursuant to this Agreement.

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XXI. STATUS OF CONTRACTOR

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

XXII. TERM

A. The term of this Agreement shall commence as specified in the Referenced Contract Provisions of this Agreement or the execution date, whichever is later. This Agreement shall terminate as specified in the Referenced Contract Provisions of this Agreement unless otherwise sooner terminated as provided in this Agreement; provided, however, CONTRACTOR shall be obligated to perform such duties as would normally extend beyond this term, including but not limited to, obligations with respect to confidentiality, indemnification, audits, reporting and accounting.

B. Any administrative duty or obligation to be performed pursuant to this Agreement on a weekend or holiday may be performed on the next regular business day.

XXIII. TERMINATION

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

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

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

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

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

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

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

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

11 D. CONTINGENT FUNDING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13
14 **XXIV. THIRD PARTY BENEFICIARY**

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

18
19 **XXV. WAIVER OF DEFAULT OR BREACH**

20 Waiver by COUNTY of any default by CONTRACTOR shall not be considered a waiver of any
21 subsequent default. Waiver by COUNTY of any breach by CONTRACTOR of any provision of this
22 Agreement shall not be considered a waiver of any subsequent breach. Waiver by COUNTY of any
23 default or any breach by CONTRACTOR shall not be considered a modification of the terms of this
24 Agreement.

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

3
4 OCCUPATIONAL HEALTH CENTERS OF CALIFORNIA, A MEDICAL CORPORATION
5 DBA CONCENTRA MEDICAL CENTERS
6

7 BY: _____ DATED: _____

8
9 TITLE: _____
10

11
12 BY: _____ DATED: _____

13
14 TITLE: _____
15

16
17
18
19 COUNTY OF ORANGE
20

21
22 BY: _____ DATED: _____

23 HEALTH CARE AGENCY
24

25
26 APPROVED AS TO FORM
27 OFFICE OF THE COUNTY COUNSEL
28 ORANGE COUNTY, CALIFORNIA
29

30
31 BY: _____ DATED: _____

32 DEPUTY
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.

EXHIBIT A
 TO AGREEMENT FOR PROVISION OF
 PHYSICAL EXAMINATION SERVICES
 WITH
 OCCUPATIONAL HEALTH CENTERS OF CALIFORNIA, A MEDICAL CORPORATION
 DBA CONCENTRA MEDICAL CENTERS
 JULY 1, 2016 THROUGH JUNE 30, 2019

I. DEFINITIONS

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

A. 'B' Reader is a person who is qualified to read x-rays, as defined by the National Institute of Occupational Safety and Health (NIOSH) standards.

B. Electronic Transmittal Form (ETF) is a summary of services provided on a daily basis.

C. Encounter Form (EF) is an electronic form provided to CONTRACTOR, by ADMINISTRATOR, authorizing Physical Examination Services to be provided for persons referred to CONTRACTOR by ADMINISTRATOR. The Encounter Form is used by CONTRACTOR to record in detail the services provided, and total costs for each person referred for Physical Examination Services.

D. Physical Examination Services are professional services that may include but not limited to Pre-Placement Physical Examination, Periodic Physical Examination and other services as defined in the Agreement.

E. Pre-Placement Physical Examination is a medical examination provided to applicants for COUNTY employment, and to other COUNTY employees requiring a physical examination as a pre-condition to promotion or transfer.

F. Periodic Physical Examination is a medical examination provided at variable time intervals to COUNTY management employees, and to COUNTY employees as required by law or special circumstances.

G. Remote Secure Access (RSA) Token is a security device which allows an individual user to access the HCA computer network.

II. MEDICAL RECORDS

A. For each new patient receiving a Pre-Placement Physical Examination, CONTRACTOR shall create a medical record, which shall include, but not be limited to, summary of medical examination, medical history, physical examination findings, laboratory and other tests results, physician notes, and when applicable, recommendations of appropriate work restrictions. The chart, all tests reviewed, and recommendations for work restrictions shall be signed by the examining physician.

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1 1. Medical records shall be stored in reinforced end 8" tab fastener manila folders, 3/4 inch
2 capacity with 2-hole punch centered on top of page. Number labels (last 2 digits of social security
3 number) shall be placed on lower mid-to-left side of folder tab.

4 2. Documents shall be placed in the medical record on the right side of the folder in the
5 following order:

6 a. Summary of medical examination (completed and signed by occupational health
7 physician).

8 b. Physical Examination (completed and signed by examining physician).

9 c. Medical history questionnaire (completed by examining physician and signed by
10 applicant/employee).

11 d. Tuberculosis (TB), vaccine, lab, treadmill, test results.

12 e. California Department of Motor Vehicles (DMV) forms, if any.

13 f. Copy of applicant/employee's verified picture identification.

14 3. A blank Summary Sheet, to be used by ADMINISTRATOR, shall be placed in the medical
15 record on the left side of the folder.

16 B. For each patient receiving a Periodic Physical Examination, or procedures and other services,
17 CONTRACTOR shall create a medical record and shall place the documents in the same order as the
18 Pre-Placement Physical Examination medical record, but shall not place the documents in a folder.

19 C. CONTRACTOR shall assign an identification (I.D.) number for each patient which shall be the
20 last four (4) digits of the social security number. The I.D. number shall be included on all tests results
21 and medical record documents including x-rays.

22 D. All records of services performed by CONTRACTOR and maintained at its premises will be
23 available only on a need-to-know basis to CONTRACTOR's authorized personnel and physicians who
24 performed services pursuant to the Agreement. CONTRACTOR shall maintain security of all medical
25 data and medical records to ensure that unauthorized individuals do not have access to such medical
26 records.

27 E. CONTRACTOR agrees that if and when a individual should ever request their medical records,
28 CONTRACTOR will be responsible for obtaining and providing the requested medical records to the
29 requesting party.

30 F. CONTRACTOR shall forward original medical records, except annual management, senior aide
31 participant, and behavioral health client medical records to ADMINISTRATOR within the timeframe
32 specified in subparagraph V.A.12. of this Exhibit A to the Agreement. CONTRACTOR shall maintain
33 all annual management, senior aide participant, and behavioral health client medical records, and shall
34 send a summary of findings and recommendations for the Annual Management and Senior Aide
35 Participant examinations directly to the employee. CONTRACTOR shall send the Behavioral Health
36 Client physician's report, by facsimile, as directed by ADMINISTRATOR.

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1 G. CONTRACTOR shall retain one (1) complete copy of said medical records as specified above,
2 in accordance with the Records Management and Maintenance paragraph in the Agreement.

3
4 **III. PAYMENTS**

5 A. COUNTY shall pay CONTRACTOR, monthly in arrears, for only those Physical Examination
6 Services provided pursuant to the Agreement. CONTRACTOR shall invoice COUNTY on a monthly
7 basis. Invoices are due the tenth (10th) day of the month following the month in which services were
8 performed under the Agreement. Invoices received after the due date may not be paid within the same
9 month. Payments to CONTRACTOR should be released by COUNTY no later than twenty-one (21)
10 calendar days after receipt of a correctly completed billing form from CONTRACTOR.

11 B. CONTRACTOR's invoices for Physical Examination Services shall be documented in
12 accordance with procedures approved by ADMINISTRATOR.

13 C. COUNTY shall pay CONTRACTOR, monthly in arrears, fifty percent (50%) of courier
14 expenses, for courier services provided pursuant to the Agreement. CONTRACTOR shall invoice
15 COUNTY on a monthly basis. Invoices are due the tenth (10th) day of the month following the month
16 in which services were performed under the Agreement. Invoices received after the due date may not be
17 paid within the same month. CONTRACTOR shall include with the invoice, a monthly statement from
18 the courier service identifying expenditures pursuant to the Agreement. Payment to CONTRACTOR
19 should be released by COUNTY no later than twenty-one (21) calendar days after receipt of a correctly
20 completed billing form and supporting documentation from CONTRACTOR.

21 D. At ADMINISTRATOR's sole discretion, ADMINISTRATOR may withhold or delay any
22 payment, either in whole or in part, if CONTRACTOR fails to comply with any provision of the
23 Agreement, including, but not limited to, CONTRACTOR's obligations with respect to reporting,
24 correcting deficiencies, or delays in progressing satisfactorily in achieving all the terms of the
25 Agreement. CONTRACTOR agrees that release of any payment withheld or delayed by
26 ADMINISTRATOR shall be contingent upon satisfactory implementation and timeliness of
27 CONTRACTOR's corrective action; provided, however, that any issue not satisfactorily resolved after
28 sixty (60) calendar days may result in CONTRACTOR's loss of such withheld or delayed funds.

29 E. CONTRACTOR may not claim reimbursement for Physical Examination Services provided
30 beyond the expiration and/or termination of the Agreement.

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1 F. As compensation to CONTRACTOR for services provided hereunder, COUNTY shall pay
 2 CONTRACTOR at the rates listed below for Physical Examination Services. Rates are subject to
 3 change and/or be modified with approval by ADMINISTRATOR.

4		
5	1. <u>PRE-PLACEMENT PHYSICAL EXAMINATIONS</u>	<u>Rate</u>
6	a. Class 1 Limited Examination	\$ 22.00
7	b. Class 1+ Qualifier(s) Examination	27.00
8	c. Class 2 Examination	70.00
9	d. Class 3 Examination	101.00
10	e. Class 4 Examination	126.00
11		
12	2. <u>PERIODIC PHYSICAL EXAMINATIONS</u>	
13	a. Annual Management Examination	\$ 85.00
14	b. Surveillance Examinations	
15	1) Asbestos	46.00
16	2) California Department of Motor Vehicles (DMV), Class B	36.00
17	3) Crane Operator	91.00
18	4) Federal Aviation Administration (FAA)	90.00
19	5) Hazardous Device (Bomb Squad)	128.00
20	6) Hazardous Material (Initial)	128.00
21	7) Lead	101.00
22	8) Public Health Clinic (Title 22)	22.00
23	9) Respirator	46.00
24	10) SCUBA	116.00
25	11) Senior Aide Participant	26.00
26		
27	3. <u>MISCELLANEOUS SERVICES</u>	
28	a. ALT Liver Enzyme	\$10.00
29	b. Audiometry (Audio)	10.00
30	c. Blood and Body Fluid Post Exposure Evaluation	49.00
31	d. Blood Lead Test	30.00
32	e. Blood Draw	12.00
33	f. Blood Type Test	12.00
34	g. Body Fat Analysis by Caliper Method (4 Sites)	15.00
35	h. Breath Alcohol Test	27.00
36	i. California DMV Class B Certification (Forms Only)	15.00
37	j. Complete Blood Count (CBC) with Differential	8.00

	<u>MISCELLANEOUS SERVICES - Continued</u>	<u>Rate</u>
1		
2	k. Colonoscopy (Local Anesthesia)	\$1,360.00
3	l. Color Vision Test (Dvorine or Farnsworth)	15.00
4	m. Consent and Collection of Urine Drug/Alcohol Testing Samples	13.00
5	n. Electrocardiogram (EKG)	22.00
6	o. Fitness for Duty Evaluation	114.00
7	p. Gamma Globulin Injection	16.00
8	q. Health Risk Appraisal Form	15.00
9	r. Hepatitis B Antibody Test	40.00
10	s. Hepatitis B Antigen Test	30.00
11	t. Hepatitis B Immune Globulin Injection	95.00
12	u. Hepatitis B Vaccine (1 dose)	65.00
13	v. Hepatitis C Antibody Test	35.00
14	w. HIV Antibody Test	85.00
15	x. Liver Enzyme Panel	12.00
16	y. Mammography	193.00
17	z. Mammography with Implants	303.00
18	aa. Measles, Mumps, Rubella (MMR) Titer	106.00
19	bb. Medical Restrictions Evaluation	140.00
20	cc. Medical History Questionnaires	15.00
21	dd. MMR Vaccine	60.00
22	ee. Non-National Institute on Drug Abuse (NIDA) Drug Screen (5 Panel)	28.00
23	ff. Physical Examinations for Behavioral Health Clients	126.00
24	gg. Pregnancy Test (Urine)	21.00
25	hh. Pulmonary Function Test (PFT)	20.00
26	ii. PFT, Pre and Post Treadmill	40.00
27	jj. Prostate Specific Antigen (PSA)	28.00
28	kk. Rectal Examination and Occult Blood, Prostate for Males	7.00
29	ll. Sigmoidoscopy	207.00
30	mm. SMA 24 Panel with HDL (Fasting)	22.00
31	nn. Stool for Occult Blood Test	5.00
32	oo. Tetanus, Diphtheria, Pertussis (Tdap) Vaccine	50.00
33	pp. Tetanus, Diphtheria (Td) Vaccine Booster	20.00
34	qq. Treadmill/Cardiac Stress Test (Bruce Protocol)	195.00
35	rr. Tuberculin (TB) Purified Protein Derivative (PPD) Skin Test Reading	7.00
36	ss. TB PPD Skin Test and Reading (1-Step)	7.00
37	tt. TB PPD Skin Test and Reading (2-Step)	7.00

	<u>MISCELLANEOUS SERVICES - Continued</u>	<u>Rate</u>
1		
2	uu. Urinalysis (Dip Stick)	\$ 6.00
3	vv. Urinalysis (Microscopic)	8.00
4	ww. Varicella Titer	65.00
5	xx. Varicella Vaccine	115.00
6	yy. VDRL or RPR for Syphilis	65.50
7	zz. X-Ray, Any Single Chest	19.00
8	aaa. X-Ray, Ankle (3 Views: AP, Lateral, Oblique)	30.00
9	bbb. X-Ray, Cervical Spine (3 Views: AP, Lateral, Odontoid)	30.00
10	ccc. X-Ray, Chest (Left and Right Oblique)	27.00
11	ddd. X-Ray, Chest (PA)	18.00
12	eee. X-Ray, Chest (PA and Lateral)	26.00
13	fff. X-Ray, Chest, (Reading by "B" Reader)	53.00
14	ggg. X-Ray, Elbow (3 Views: Lateral, Oblique)	30.00
15	hhh. X-Ray, Knee (Weight Bearing) (3 Views: AP, Lateral, Oblique)	30.00
16	iii. X-Ray, Lumbo-Sacral Spine (3 Views: Lateral, PA, L5-SI Spot)	30.00
17	jjj. X-Ray, Shoulder (3 Views: AP Interior, AP Exterior Rotator)	30.00
18	kkk. X-Ray, Wrist (3 Views: AP, Lateral, Oblique)	30.00
19	lll. Zinc Protoporphyrin	30.00
20		

21 4. ADDITIONAL PROCEDURES/SERVICES – CONTRACTOR shall perform additional
 22 procedures/services not specified above, as requested by ADMINISTRATOR. CONTRACTOR shall
 23 bill COUNTY the usual and customary charges for such services, and COUNTY shall reimburse
 24 CONTRACTOR.

25 5. CONTRACTOR shall staff County clinics, to provide services, as requested by
 26 ADMINISTRATOR, at the hourly rates listed below. Rates are subject to change and/or be modified
 27 with approval by ADMINISTRATOR.

<u>SERVICE</u>	<u>RATE</u>	
29		
30	Physician	\$200.00 per hour
31	Registered Nurse	50.00 per hour, minimum 4 hours
32	Licensed Vocational Nurse	50.00 per hour, minimum 4 hours
33	Medical Assistant	35.00 per hour
34		

35 G. If CONTRACTOR subcontracts with a Professional Temporary Staffing Agency to provide
 36 staffing for physical examination services or other services included above, as approved by
 37 ADMINISTRATOR in writing, CONTRACTOR shall document that its subcontracted medical

1 professionals, including but not limited to, Physicians, Registered Nurses, Licensed Vocational Nurses,
 2 and Medical Assistants maintain all necessary licenses, certificates and accreditations necessary for the
 3 provision of services hereunder and required by the laws, regulations, or requirements of the United
 4 States, the State of California, COUNTY, and any other applicable governmental agencies.
 5 Additionally, CONTRACTOR shall ensure that stated insurance coverage, consistent with
 6 Subparagraph VIII.F. of the Agreement, and that the sanction screening process, in accordance with
 7 Subparagraph III.B.3 of the Agreement, are completed and documented for all its subcontracted medical
 8 professionals providing services hereunder. CONTRACTOR shall maintain the aforementioned
 9 documentation at its facility and provide any documentation requested by ADMINISTRATOR within
 10 ten (10) business days of ADMINISTRATOR's written request. CONTRACTOR shall be required to
 11 maintain the aforementioned documentation for a period of seven (7) years.

12 H. SPECIALTY SERVICES – If specialty services are requested, CONTRACTOR shall pay
 13 the specialty services within forty-five (45) calendar days of receipt of the invoice from the specialty
 14 services, then bill the COUNTY for the amount paid.

15 I. Pre-Placement Physical Examination and Periodic Physical Examination rates as referenced in
 16 subparagraph III.F.1. and III.F.2. of this Exhibit A to the Agreement are inclusive of said physical
 17 examinations and the associated required procedures specified in Attachment V-1 and V-2 to the
 18 Agreement.

19 J. CONTRACTOR shall not bill the employee/applicant for any Physical Examination Services
 20 CONTRACTOR provides, and will ensure the employee/applicant is not billed for any services
 21 provided by physician specialists.

22 K. COUNTY shall not compensate CONTRACTOR for Physical Examination Services not
 23 performed in accordance with the Services paragraph of this Exhibit A to the Agreement.

24 L. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify
 25 subparagraph III.F. of this Exhibit A to the Agreement.

26 27 **IV. REPORTS**

28 A. CONTRACTOR shall submit, daily to ADMINISTRATOR, completed EFs, and a ETF. For
 29 purposes of the Agreement, daily means Monday through Friday, except legal holidays of COUNTY.
 30 CONTRACTOR shall ensure that each corresponding EF is listed on the ETF. CONTRACTOR shall
 31 submit EFs for Behavioral Health Client physical examinations on a separate ETF.

32 B. CONTRACTOR shall submit on forms provided or approved by ADMINISTRATOR, financial
 33 and/or programmatic reports as required by ADMINISTRATOR concerning CONTRACTOR's
 34 activities as they affect the services provided hereunder. ADMINISTRATOR shall be specific as to the
 35 nature of the information requested and allow thirty (30) calendar days for CONTRACTOR to respond.

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V. SERVICES**A. GENERAL REQUIREMENTS – CONTRACTOR shall:**

1. Provide Physical Examination Services at location(s) approved in writing by ADMINISTRATOR. Facility shall include at minimum a waiting room, four (4) patient examination rooms, office space for confidential patient interviews, and adequate parking to include eight (8) clearly marked parking spaces to be available during normal business hours to persons receiving services under the Agreement. All Physical Examination Services locations shall be accessible to the physically handicapped.

2. Be capable of handling up to two thousand four hundred eighty (2,480) physical examinations per year, up to thirty (30) physical examinations on any given day, and have appointment times available for each class of examination each day proportionate to the number of estimated examinations.

3. Provide Physical Examination Services between normal business hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, except legal holidays of COUNTY. Within twenty-four (24) hours notice, be available to provide extended hours for Pre-Placement Physical Examination Services as requested, including evenings and Saturdays. The parties agree that such requests shall be infrequent.

4. Verify the identification of all persons referred by ADMINISTRATOR for physical examination services by using a picture identification card. A copy of such identification card shall be placed in the person's medical record.

5. Perform all Physical Examination Services in a period of not more than four (4) hours on the same day, except where such performance is beyond the reasonable control of CONTRACTOR. Waiting room time before examination shall be no more than twenty (20) minutes from the time examinee checks in and completes all appropriate paperwork. Any change in such performance shall require the prior authorization of ADMINISTRATOR.

6. Perform audiograms in an American National Standards Institute (ANSI)-approved sound booth.

7. Ensure electrocardiograms (EKGs) are reviewed and signed by a licensed physician, and that abnormal EKGs are reviewed, interpreted and signed by a board certified or board eligible cardiologist or internist. CONTRACTOR shall deliver EKGs to ADMINISTRATOR by the fifth (5th) business day following date of the examination, except for EKGs for Annual Management Examinations, which shall be forwarded to the employee.

8. Ensure examining physicians review and sign all medical records, tests, and recommendations for work restrictions, and that an occupational health physician reviews the examining physician's examination results and completes a summary of medical examination form, which shall include physical findings, laboratory reports, normal and borderline EKG reports, and recommendations for appropriate work restrictions.

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1 9. Ensure examining physician discusses with the employee/applicant, only such matters
2 uncovered during the examination that are deemed medically significant and urgent, e.g., extremely
3 elevated blood pressure, significant abnormality in EKG, and recommend follow-up accordingly.

4 10. Compare Periodic Physical Examination findings and results with previous Periodic
5 Physical Examination findings, and make follow-up recommendations to ADMINISTRATOR if there is
6 a significant change, e.g., extremely elevated blood pressure, significant abnormality in EKG.

7 11. Ensure physical examinations and medical history questionnaire reviews are made by a
8 licensed physician experienced in occupational medicine, with the exception of Class I examinations,
9 which may be performed by a Registered Nurse Practitioner (RNP) under the supervision of a licensed
10 physician. Routine measurements and laboratory samples may be taken by nurses and technicians.

11 12. Deliver physical examination medical records, as specified in subparagraph II.A. and II.B.
12 of this Exhibit A to the Agreement, to ADMINISTRATOR on or before 3:00 p.m. on the fourth (4th)
13 business day following the date of the examination, except for physical examination medical records for
14 annual management examinations, senior aide participant examinations, and behavioral health
15 examinations which shall be retained by CONTRACTOR. If a physical examination includes a two-
16 step TB and immunization test, final results shall be delivered to ADMINISTRATOR within one (1)
17 business day of the final read. The parties understand that CONTRACTOR intends to carry out this
18 responsibility by means of subcontract with a courier service of their choice.

19 13. Ensure staff that perform TB tests attend training as required by ADMINISTRATOR.

20 14. Ensure spirometry examinations are performed by a certified pulmonary technician or a
21 person who has completed a NIOSH-approved course, and x-rays are read by a licensed physician
22 certified in radiology or a B Reader.

23 15. Ensure treadmill/cardiac stress tests follow the full, unabbreviated Bruce Protocol and are
24 performed by a board certified or board eligible cardiologist or internist. Results shall include reason
25 for test, minutes and Metadata Encoding and Transmission Standard (METS), and a copy of the baseline
26 EKG. Employees shall be allowed to exercise until fatigued. Symptoms and reason for stopping shall be
27 documented. Tests shall be available a minimum of four (4) business days per week. CONTRACTOR
28 shall give employee/applicant two (2) calendar days notice of scheduled test date and time.

29 16. Provide necessary test equipment during regular business hours, including alternate
30 equipment when existing equipment is not operational. Equipment shall be accessible to the physically
31 handicapped. All equipment shall be calibrated and serviced annually or as required, with evidence of
32 such service available for inspection by ADMINISTRATOR.

33 17. Operate with at least the minimum number and type of staff required for the provision of
34 Physical Examination Services as described in this paragraph. Submit a Curriculum Vitae for each new
35 professional staff member, for review by ADMINISTRATOR, prior to commencement of duties under

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1 the Agreement. If physician is not board certified in occupational medicine, CONTRACTOR shall
 2 provide verifiable evidence which documents a minimum of five (5) years of full-time experience,
 3 including training in occupational medicine.

4 18. Ensure all applicants identified to be at high risk for TB receive a two-step PPD skin test
 5 and reading by appropriate medical personnel. CONTRACTOR shall administer a booster test if
 6 required by protocol.

7 19. Designate a contact person and a backup contact person for purposes of the Agreement.

8 20. CONTRACTOR, its employees, officers, agents, and subcontractors shall not refer any
 9 COUNTY employee/applicant to a private service in which CONTRACTOR has a financial interest.

10 21. CONTRACTOR shall be responsible only for the collection procedure for the urine
 11 drug/alcohol test. COUNTY shall select and contract directly with a laboratory for testing services.
 12 CONTRACTOR shall ensure that a legally defensible chain of custody procedure is written and
 13 followed from the point the patient is instructed to give a urine sample through sample pick-up by the
 14 designated courier from the drug screening laboratory. The patient shall be asked to provide a urine
 15 sample for drug/alcohol testing during the course of the medical examination. The patient shall be in a
 16 hospital type gown and shall not have access to street clothes, purses, bags, etc. Water to the bathroom
 17 sink shall be turned off, and water in the commode shall be "colored" with blue dye.

18 22. CONTRACTOR shall not conduct any proselytizing activities, regardless of funding
 19 sources, with respect to any person who has been referred to CONTRACTOR by ADMINISTRATOR
 20 under the terms of the Agreement. Further, CONTRACTOR agrees that the funds provided hereunder
 21 shall not be used to promote, directly or indirectly, any religion, religious creed or cult, denomination or
 22 sectarian institution, or religious belief.

23 **B. FORMS, PROTOCOLS AND STANDARDS – CONTRACTOR shall provide Pre-Placement**
 24 **Physical Examination and Periodic Physical Examination Services in accordance with the EF, Physical**
 25 **Examination Forms, protocols and standards referenced below.**

26 1. CONTRACTOR shall use Physical Examination Forms to document Physical Examination
 27 Services provided to individuals pursuant to the Agreement.

28 2. ADMINISTRATOR shall refer individuals to CONTRACTOR, and CONTRACTOR shall
 29 provide the services indicated on the EF for each individual referred for Physical Examination Services.

30 3. CONTRACTOR shall adhere to appropriate protocols and standards for physical
 31 examination services to be provided pursuant to the Agreement.

32 4. EFs, Physical Examination Forms, protocols, and standards may be revised by
 33 ADMINISTRATOR, upon mutual written agreement of CONTRACTOR and ADMINISTRATOR.
 34 Additional forms, protocols, and standards necessary to carry out Physical Examination Services may be
 35 developed, upon mutual written agreement of CONTRACTOR and ADMINISTRATOR.

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1 C. QUALITY ASSURANCE

2 1. ADMINISTRATOR shall review completed physical examination records on a monthly
3 basis and provide CONTRACTOR with a quality review report identifying any issues related to the
4 performance outcomes below. CONTRACTOR shall submit a written response to ADMINISTRATOR,
5 within seven (7) business days of receipt of the quality review report, describing measures to be taken to
6 correct the issues.

7 2. PERFORMANCE OUTCOMES – CONTRACTOR shall ensure that:

8 a. One hundred percent (100%) of payments to subcontracted physicians for services
9 rendered are made within forty-five (45) calendar days.

10 b. Ninety-five percent (95%) of all forms and charts shall be error free.

11 3. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify
12 performance outcomes.

13 D. PHYSICAL EXAMINATIONS – Upon receipt of EF, CONTRACTOR shall provide the
14 following Physical Examination Services:

15 1. PRE-PLACEMENT PHYSICAL EXAMINATIONS

16 a. Class 1 Limited Examination: This class of examination shall be provided to
17 approximately fifty (50) job applicants per year whose job duties require light physical demand. This
18 class of examination may be performed by physician or by a RNP under the supervision of a physician.
19 ADMINISTRATOR will maintain the option to conduct some or all Class 1 Limited examinations
20 within the Health Care Agency. Lab tests are not required for this class of examinations.

21 b. Class 1+ Qualifier(s) Examination: This class of examination shall be provided to
22 approximately four hundred (400) job applicants per year whose job duties require light physical
23 demand with one or more qualifiers. This examination must be performed by a physician.

24 c. Class 2 Examination: This class of examination shall be provided to approximately
25 seven hundred (700) job applicants per year whose job duties require moderate physical demand. This
26 examination must be performed by a physician.

27 d. Class 3 Examination: This class of examination shall be provided to approximately
28 sixty (60) to eighty (80) job applicants per year whose job duties require heavy physical demand. This
29 examination must be performed by a physician.

30 e. Class 4 Examination: This class of examination shall be provided to approximately
31 three hundred (300) to four hundred (400) job applicants per year in public safety classifications. This
32 class of examination is based on Peace Officer Standards Training (POST) guidelines and will serve as a
33 base line for future periodic examinations. This examination must be performed by a physician.

34 2. PERIODIC PHYSICAL EXAMINATIONS

35 a. Annual Management Examination: This class of examination shall be provided to approximately
36 one hundred fifty (150) COUNTY employees per year, whose jobs are administrative in nature. This examination
37 must be performed by a physician. All optional services listed below must be offered to examinees.

- 1) Colonoscopy with local anesthesia, performed by certified gastroenterologist.
- 2) Sigmoidoscopy, performed by certified gastroenterologist.
- 3) Health Risk Appraisal Form.
- 4) Mammography, performed by certified mammography technician.
- 5) Prostate Specific Antigen.

b. Surveillance Examination: This class of examination shall be provided to approximately seven hundred (700) COUNTY employees per year, as required by law or special circumstances. This examination must be performed by a physician. Surveillance examinations include the following categories:

- 1) Asbestos
- 2) California DMV, Class B
- 3) Crane Operator
- 4) Federal Aviation Administration (FAA)
- 5) Hazardous Device (Bomb Squad)
- 6) Hazardous Material (Initial/Exit)
- 7) Lead
- 8) County Clinic (Title 22)
- 9) Respirator
- 10) SCUBA
- 11) Senior Aide Participant

3. PROCEDURES AND OTHER SERVICES – CONTRACTOR shall provide Procedures and Other Services as requested by ADMINISTRATOR. These services shall include, but not be limited to, the following:

- a. Audiometry (Audio)
- b. Blood and Body Fluid Post Exposure Evaluation – a physician, board certified in occupational health, shall perform medical evaluation and treatment services for employees exposed via parenteral (needlestick or cut) and/or mucous membrane (splash to eye or mouth) to potentially infected blood and bodily fluids in the course of their duties for the COUNTY.
- c. Blood Lead Test
- d. Blood Draw
- e. Blood Type Test
- f. Body Fat Analysis by Caliper Method (4 Sites)
- g. California DMV Class B Certification (Forms Only)
- h. Complete Blood Count (CBC) with Differential
- i. Colonoscopy (Local Anesthesia)
 - 1) Colonoscopy (Initial Biopsy)
 - 2) Colonoscopy (Additional Biopsy)

- 1 3) Colonoscopy (Specimen Biopsy)
- 2 j. Color Vision Test (Dvorine or Farnsworth)
- 3 k. Consent and Collection of Urine Drug/Alcohol Testing Samples
- 4 l. Electrocardiogram (EKG)
- 5 m. Fitness for Duty Evaluation – a physician, board certified in occupational health, shall
- 6 perform a comprehensive evaluation and render a recommendation and opinion, within fourteen (14)
- 7 business days of referral, on the employee's ability to perform the job.
- 8 n. Gamma Globulin Injection
- 9 o. Health Risk Appraisal Form
- 10 p. Liver Enzyme Panel
- 11 q. Mammography
- 12 r. Mammography with Implants
- 13 s. Measles, Mumps, Rubella (MMR) Titer
- 14 t. Medical History Questionnaire
- 15 u. Medical Restriction Evaluation – a physician, board certified in the appropriate
- 16 specialty, shall perform a comprehensive evaluation and render an opinion on medical restrictions
- 17 relevant to an applicant's ability to perform a specific job. Specialties may include, but not be limited to,
- 18 orthopedics, cardiology, pulmonary, and psychiatry.
- 19 v. MMR Vaccine
- 20 w. Non-National Institute on Drug Abuse (NIDA) Drug Screen (5 Panel)
- 21 x. Physical Examination for Behavioral Health Clients with TB
- 22 y. Pregnancy Test (Urine)
- 23 z. Pulmonary Function Test (PFT)
- 24 aa. PFT, Pre and Post Treadmill
- 25 bb. Prostate Specific Antigen (PSA)
- 26 cc. Rectal Examination and Occult Blood, Prostate for Males
- 27 dd. Sigmoidoscopy
- 28 ee. SMA 24 Panel with HDL (Fasting)
- 29 ff. Stool for Occult Blood Test
- 30 gg. Tetanus, Diphtheria, Pertussis (Tdap) Vaccine
- 31 hh. Tetanus, Diphtheria (Td) Vaccine Booster
- 32 ii. Treadmill/Cardiac Stress Test (Bruce Protocol)
- 33 jj. Tuberculin (TB) Purified Protein Derivative (PPD) Skin Test Reading
- 34 kk. TB PPD Skin Test and Reading (1-Step)
- 35 ll. Urinalysis (Dip Stick)
- 36 mm. Urinalysis (Microscopic)
- 37 nn. Varicella Titer

- 1 oo. Varicella Vaccine
 2 pp. X-Ray, Any Single Chest
 3 qq. X-Ray, Ankle (3 Views: AP, Lateral, Oblique)
 4 rr. X-Ray, Cervical Spine (3 Views: AP, Lateral, Odontoid)
 5 ss. X-Ray, Chest (Left and Right Oblique)
 6 tt. X-Ray, Chest (PA)
 7 uu. X-Ray, Chest (PA and Lateral)
 8 vv. X-Ray, Chest, (Reading by "B" Reader)
 9 ww. X-Ray, Elbow (3 Views: Lateral, Oblique)
 10 xx. X-Ray, Knee (Weight Bearing) (3 Views: AP, Lateral, Oblique)
 11 yy. X-Ray, Lumbo-Sacral Spine (3 Views: Lateral, PA, L5-SI Spot)
 12 zz. X-Ray, Shoulder (3 Views: AP Interior, AP Exterior Rotator)
 13 aaa. X-Ray, Wrist (3 Views: AP, Lateral, Oblique)
 14 bbb. Zinc Protoporphyrin

15 4. ADDITIONAL PROCEDURES/SERVICES – CONTRACTOR shall perform additional
 16 procedures/services not specified above as requested by ADMINISTRATOR. ADMINISTRATOR
 17 shall specify the type of test or service required, and reimbursement shall be made in accordance with
 18 subparagraph III.F.4. of this Exhibit A to the Agreement.

19 5. SPECIAL REQUESTS – Physical Examination Services or procedures by special request
 20 shall be scheduled for the next available appointment. CONTRACTOR shall fax or telephone results to
 21 ADMINISTRATOR as soon as they become available. Reimbursement shall be made in accordance
 22 with subparagraph III.F.3. of this Exhibit A to the Agreement, plus twenty percent (20%).

23 E. DATABASE AND BILLING SYSTEM – CONTRACTOR shall access and utilize the
 24 electronic database and billing system as directed by ADMINISTRATOR. ADMINISTRATOR will
 25 provide to CONTRACTOR the necessary number of RSA Tokens for appropriate CONTRACTOR staff
 26 to access said system at no cost to the CONTRACTOR.

27 1. CONTRACTOR recognizes RSA Tokens are assigned to a specific individual staff member
 28 with a unique password, and that RSA Tokens and passwords shall not be shared with anyone.

29 2. CONTRACTOR shall return RSA Tokens to ADMINISTRATOR under the following conditions:

- 30 a. When a staff member no longer performs work related to the Agreement.
 31 b. When a staff member no longer requires access to said system.
 32 c. When a staff member leaves employment of CONTRACTOR.
 33 d. When a token malfunctions.

34 3. CONTRACTOR shall reimburse the COUNTY for the actual cost of RSA Tokens lost,
 35 stolen, or damaged through acts of negligence.

36 F. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify
 37 subparagraph V.D. and V.E. of this Exhibit A to the Agreement.

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EXHIBIT B
TO AGREEMENT FOR PROVISION OF
PHYSICAL EXAMINATION SERVICES
WITH
OCCUPATIONAL HEALTH CENTERS OF CALIFORNIA, A MEDICAL CORPORATION
DBA CONCENTRA MEDICAL CENTERS
JULY 1, 2016 THROUGH JUNE 30, 2019

I. BUSINESS ASSOCIATE CONTRACT

A. GENERAL PROVISIONS AND RECITALS

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

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

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

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

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

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

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1 and requirements of the Privacy and the Security rules, as they may exist now or be hereafter amended,
2 with respect to PHI and electronic PHI created, received, maintained, transmitted, used, or disclosed
3 pursuant to the Agreement.

4 B. DEFINITIONS

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

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

11 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

36 5. "Disclosure" shall have the meaning given to such term under the HIPAA regulations in
37 45 CFR §160.103.

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

3 7. “Individual” shall have the meaning given to such term under the HIPAA Privacy Rule in
4 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance
5 with 45 CFR §164.502(g).

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

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

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

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

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

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

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

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

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

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

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

34 C. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE:

35 1. CONTRACTOR agrees not to use or further disclose PHI COUNTY discloses to
36 CONTRACTOR other than as permitted or required by this Business Associate Contract or as required
37 by law.

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

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

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

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

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

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

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

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

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

36 11. CONTRACTOR agrees to provide COUNTY or an Individual, as directed by COUNTY, in
37 a time and manner to be determined by COUNTY, that information collected in accordance with the

1 Agreement, in order to permit COUNTY to respond to a request by an Individual for an accounting of
2 Disclosures of PHI in accordance with 45 CFR §164.528.

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

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

9 D. SECURITY RULE

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

16 2. CONTRACTOR shall ensure that any subcontractors that create, receive, maintain, or
17 transmit electronic PHI on behalf of CONTRACTOR agree through a contract with CONTRACTOR to
18 the same restrictions and requirements contained in this Paragraph D of this Business Associate
19 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 Paragraph
22 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
26 law 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
29 known to CONTRACTOR.

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

33 2. CONTRACTOR shall provide the notification of the Breach immediately to the County
34 Privacy Officer. CONTRACTOR's notification may be oral, but shall be followed by written
35 notification within twenty-four (24) hours of the oral notification.

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- 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
- 7 period set 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
- 9 of the discovery of the Breach, if known;
- 10 2) A description of the types of Unsecured PHI that were involved in the Breach (such
- 11 as whether full name, social security number, date of birth, home address, account number, diagnosis,
- 12 disability code, or other types of information were involved);
- 13 3) Any steps Individuals should take to protect themselves from potential harm
- 14 resulting 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
- 20 45 CFR §164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the
- 21 COUNTY.
- 22 5. In the event that CONTRACTOR is responsible for a Breach of Unsecured PHI in violation
- 23 of the HIPAA Privacy Rule, CONTRACTOR shall have the burden of demonstrating that
- 24 CONTRACTOR made all notifications to COUNTY consistent with this Paragraph E and as required by
- 25 the Breach notification regulations, or, in the alternative, that the acquisition, access, use, or disclosure
- 26 of PHI did not constitute a Breach.
- 27 6. CONTRACTOR shall maintain documentation of all required notifications of a Breach or
- 28 its risk assessment under 45 CFR §164.402 to demonstrate that a Breach did not occur.
- 29 7. CONTRACTOR shall provide to COUNTY all specific and pertinent information about the
- 30 Breach, including the information listed in Section E.3.b.(1)-(5) above, if not yet provided, to permit
- 31 COUNTY to meet its notification obligations under Subpart D of 45 CFR Part 164 as soon as
- 32 practicable, but in no event later than fifteen (15) calendar days after CONTRACTOR's initial report of
- 33 the Breach to COUNTY pursuant to Subparagraph E.2 above.
- 34 8. CONTRACTOR shall continue to provide all additional pertinent information about the Breach
- 35 to COUNTY as it may become available, in reporting increments of five (5) business days after the last report
- 36 to COUNTY. CONTRACTOR shall also respond in good faith to any reasonable requests for further
- 37 information, or follow-up information after report to COUNTY, when such request is made by COUNTY.

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

5 F. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

15 1) The Disclosure is required by law; or

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

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

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

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

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

30 G. OBLIGATIONS OF COUNTY

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

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

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

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

6 H. BUSINESS ASSOCIATE TERMINATION

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

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

11 b. Immediately terminate the Agreement, if CONTRACTOR is unwilling or unable to
12 cure the material breach or end the violation within (30) days, provided termination of the Agreement is
13 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,
16 or 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
18 agents of 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
25 infeasible, for 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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