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REFERENCED CONTRACT PROVISIONS

Term: July 1, 2018 through June 30, 2020

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

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

Maximum Obligation:

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

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

TOTAL MAXIMUM OBLIGATION: \$5,631,114

Basis for Reimbursement: Negotiated Amount

Payment Method: Monthly in Arrears

CONTRACTOR DUNS Number: 85-972-7898

CONTRACTOR TAX ID Number: 33-0795028

Notices to COUNTY and CONTRACTOR:

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

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

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I. ACRONYMS

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

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

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

5
6 **II. ALTERATION OF TERMS**

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

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

14
15 **III. ASSIGNMENT OF DEBTS**

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

23
24 **IV. COMPLIANCE**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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E. MEDICAL BILLING, CODING, AND DOCUMENTATION COMPLIANCE STANDARDS

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

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

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

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

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

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

V. CONFIDENTIALITY

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

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

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VI. DELEGATION, ASSIGNMENT AND SUBCONTRACTS

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.

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

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

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

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

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

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

9 4. This provision shall not be applicable to service agreements usually and customarily
10 entered into by CONTRACTOR to obtain or arrange for supplies, technical support, professional
11 services provided by consultants, and medical services not provided directly by CONTRACTOR,
12 including but not limited to dialysis.

13
14 **VII. EMPLOYEE ELIGIBILITY VERIFICATION**

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

24
25 **VIII. EXPENDITURE AND REVENUE REPORT**

26 A. No later than sixty (60) calendar days following termination of each period or fiscal year of this
27 Agreement, CONTRACTOR shall submit to ADMINISTRATOR, for informational purposes only, an
28 Expenditure Report for the preceding fiscal year, or portion thereof. Such report shall be prepared in
29 accordance with the procedure that is provided by ADMINISTRATOR and GAAP.

30 B. CONTRACTOR may be required to submit periodic Expenditure Reports throughout the term
31 of this Agreement.

32
33 **IX. FACILITIES, PAYMENTS AND SERVICES**

34 A. CONTRACTOR agrees to provide the services, staffing, facilities, and supplies in accordance
35 with Exhibit A and B, to this Agreement. COUNTY shall compensate, and authorize, when applicable,
36 said services. CONTRACTOR shall operate continuously throughout the term of this Agreement with
37 //

1 at least the minimum number and type of staff which meet applicable federal and state requirements,
2 and which are necessary for the provision of the services hereunder.

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

9
10 **X. INDEMNIFICATION AND INSURANCE**

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

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

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

33 D. Prior to the provision of services under this Agreement, CONTRACTOR agrees to purchase all
34 required insurance at CONTRACTOR’s expense, including all endorsements required herein, necessary
35 to satisfy COUNTY that the insurance provisions of this Agreement have been complied with.
36 CONTRACTOR agrees to keep such insurance coverage, Certificates of Insurance, and endorsements
37 on deposit with COUNTY during the entire term of this Agreement. In addition, all subcontractors

1 performing work on behalf of CONTRACTOR pursuant to this Agreement shall obtain insurance
2 subject to the same terms and conditions as set forth herein for CONTRACTOR.

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

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

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

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

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

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

30 H. QUALIFIED INSURER

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

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

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

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

J. REQUIRED COVERAGE FORMS

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

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

K. REQUIRED ENDORSEMENTS

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

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

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

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

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

8 b. A primary and non-contributing endorsement evidencing that the Contractor’s
9 insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be
10 excess and non-contributing.

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

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

18 N. CONTRACTOR shall notify COUNTY in writing within thirty (30) days of any policy
19 cancellation and within ten (10) days for non-payment of premium and provide a copy of the
20 cancellation notice to COUNTY. Failure to provide written notice of cancellation shall constitute a
21 breach of CONTRACTOR’s obligation hereunder and ground for COUNTY to terminate this
22 Agreement.

23 O. If CONTRACTOR’s Professional Liability or Network Security & Privacy Liability are
24 “Claims Made” policies, CONTRACTOR shall agree to maintain coverage for two (2) years following
25 the completion of the Agreement.

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

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

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

37 //

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

4 T. SUBMISSION OF INSURANCE DOCUMENTS

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

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

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

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

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

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

25 4. In no cases shall assurances by CONTRACTOR, its employees, agents, including any
26 insurance agent, be construed as adequate evidence of insurance. COUNTY will only accept valid COIs
27 and endorsements, or in the interim, an insurance binder as adequate evidence of insurance coverage.
28

29 **XI. INSPECTIONS AND AUDITS**

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

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

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

7 C. AUDIT RESPONSE

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

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

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

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

27
28 **XII. LICENSES AND LAWS**

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

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B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

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

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

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

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

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

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

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

XIII. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA

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

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

C. If CONTRACTOR uses social media (such as Facebook, Twitter, YouTube or other publicly available social media sites) in support of the services described within this Agreement,

1 CONTRACTOR shall develop social media policies and procedures and have them available to
2 ADMINISTRATOR upon reasonable notice. CONTRACTOR shall inform ADMINISTRATOR of all
3 forms of social media used to either directly or indirectly support the services described within this
4 Agreement. CONTRACTOR shall comply with COUNTY Social Media Use Policy and Procedures as
5 they pertain to any social media developed in support of the services described within this Agreement.
6 CONTRACTOR shall also include any required funding statement information on social media when
7 required by ADMINISTRATOR.

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

10
11 **XIV. MAXIMUM OBLIGATION**

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

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

18
19 **XV. MINIMUM WAGE LAWS**

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

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

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

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XVI. NONDISCRIMINATION

A. EMPLOYMENT

1
2
3 1. During the term of this Agreement, CONTRACTOR and its Covered Individuals shall not
4 unlawfully discriminate against any employee or applicant for employment because of his/her race,
5 religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition,
6 genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual
7 orientation, or military and veteran status. Additionally, during the term of this Agreement,
8 CONTRACTOR and its Covered Individuals shall require in its subcontracts that subcontractors shall
9 not unlawfully discriminate against any employee or applicant for employment because of his/her race,
10 religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition,
11 genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual
12 orientation, or military and veteran status.

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

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

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

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

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

34 **B. SERVICES, BENEFITS AND FACILITIES** – CONTRACTOR and/or subcontractor shall not
35 discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities
36 on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental
37 disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender

1 expression, age, sexual orientation, or military and veteran status in accordance with Title IX of the
2 Education Amendments of 1972 as they relate to 20 USC §1681 - §1688; Title VI of the Civil Rights
3 Act of 1964 (42 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); Title 9, Division
4 4, Chapter 6, Article 1 (§10800, et seq.) of the California Code of Regulations; and Title II of the
5 Genetic Information Nondiscrimination Act of 2008, 42 USC 2000ff, et seq. as applicable, and all other
6 pertinent rules and regulations promulgated pursuant thereto, and as otherwise provided by state law
7 and regulations, as all may now exist or be hereafter amended or changed. For the purpose of this
8 Nondiscrimination paragraph, Discrimination includes, but is not limited to the following based on one
9 or more of the factors identified above:

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

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

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

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

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

34 E. RETALIATION – Neither CONTRACTOR nor subcontractor, nor its employees or agents
35 shall intimidate, coerce or take adverse action against any person for the purpose of interfering with
36 rights secured by federal or state laws, or because such person has filed a complaint, certified, assisted
37 //

1 or otherwise participated in an investigation, proceeding, hearing or any other activity undertaken to
2 enforce rights secured by federal or state law.

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

7
8 **XVII. NOTICES**

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

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

14 2. When faxed, transmission confirmed;

15 3. When sent by Email; or

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

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

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

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

28
29 **XVIII. NOTIFICATION OF DEATH**

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

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

35 1. TELEPHONE NOTIFICATION – CONTRACTOR shall notify ADMINISTRATOR by
36 telephone immediately upon becoming aware of the death due to non-terminal illness of any person
37 served pursuant to this Agreement; provided, however, weekends and holidays shall not be included for

1 | purposes of computing the time within which to give telephone notice and, notwithstanding the time
2 | limit herein specified, notice need only be given during normal business hours.

3 | 2. WRITTEN NOTIFICATION

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

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

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

15 | **XIX. RECORDS MANAGEMENT AND MAINTENANCE**

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

19 | B. CONTRACTOR shall implement and maintain administrative, technical and physical
20 | safeguards to ensure the privacy of PHI and prevent the intentional or unintentional use or disclosure of
21 | PHI in violation of the HIPAA, federal and state regulations and/or CHPP. CONTRACTOR shall
22 | mitigate to the extent practicable, the known harmful effect of any use or disclosure of PHI made in
23 | violation of federal or state regulations and/or COUNTY policies.

24 | C. CONTRACTOR’s participant, client, and/or patient records shall be maintained in a secure
25 | manner. CONTRACTOR shall maintain participant, client, and/or patient records and must establish
26 | and implement written record management procedures.

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

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

32 | F. CONTRACTOR shall ensure all HIPAA (DRS) requirements are met. HIPAA requires that
33 | clients, participants and/or patients be provided the right to access or receive a copy of their DRS and/or
34 | request addendum to their records. Title 45 CFR §164.501, defines DRS as a group of records
35 | maintained by or for a covered entity that is:
36 |

37 | //

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

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

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

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

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

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

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

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

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

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

25
26 **XX. RESEARCH AND PUBLICATION**

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

30
31 **XXI. SEVERABILITY**

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

37 //

XXII. 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 unless they are directly related to the Agreement.
- 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.

XXIII. 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

1 CONTRACTOR or any of CONTRACTOR’s employees, agents, consultants, or subcontractors.
2 CONTRACTOR assumes exclusively the responsibility for the acts of its employees, agents,
3 consultants, or subcontractors as they relate to the services to be provided during the course and scope
4 of their employment. CONTRACTOR, its agents, employees, consultants, or subcontractors, shall not
5 be entitled to any rights or privileges of COUNTY’s employees and shall not be considered in any
6 manner to be COUNTY’s employees.

7
8 **XXIV. TERM**

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

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

17
18 **XXV. TERMINATION**

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

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

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

- 27 1. The loss by CONTRACTOR of legal capacity.
- 28 2. Cessation of services.
- 29 3. The delegation or assignment of CONTRACTOR’s services, operation or administration to
30 another entity without the prior written consent of COUNTY.
- 31 4. The neglect by any physician or licensed person employed by CONTRACTOR of any duty
32 required pursuant to this Agreement.
- 33 5. The loss of accreditation or any license required by the Licenses and Laws Paragraph of
34 this Agreement.
- 35 6. The continued incapacity of any physician or licensed person to perform duties required
36 pursuant to this Agreement.

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

5 D. CONTINGENT FUNDING

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

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

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

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

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

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

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

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

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

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

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

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

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

36 8. To the extent services are terminated, cancel outstanding commitments covering the
37 procurement of materials, supplies, equipment, and miscellaneous items, as well as outstanding

1 commitments which relate to personal services. With respect to these canceled commitments,
2 CONTRACTOR shall submit a written plan for settlement of all outstanding liabilities and all claims
3 arising out of such cancellation of commitment which shall be subject to written approval of
4 ADMINISTRATOR.

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

8
9 **XXVI. THIRD PARTY BENEFICIARY**

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

13
14 **XXVII. WAIVER OF DEFAULT OR BREACH**

15 Waiver by COUNTY of any default by CONTRACTOR shall not be considered a waiver of any
16 subsequent default. Waiver by COUNTY of any breach by CONTRACTOR of any provision of this
17 Agreement shall not be considered a waiver of any subsequent breach. Waiver by COUNTY of any
18 default or any breach by CONTRACTOR shall not be considered a modification of the terms of this
19 Agreement.

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

3
4 CORRECTIONAL MANAGED CARE MEDICAL CORPORATION

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6 DocuSigned by:
7 BY: Harmon Linder S. Gogja, MD DATED: 4/18/2018
8 7BB7DD5327F548D...
9 TITLE: president

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12 BY: _____ DATED: _____
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14 TITLE: _____
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18 COUNTY OF ORANGE

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21 BY: _____ DATED: _____
22 HEALTH CARE AGENCY

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

28
29 DocuSigned by:
30 BY: Eric Divine DATED: 4/18/2018
31 4E388071E6D4FD...
32 DEPUTY

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35 If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the
36 President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer
37 or any Assistant Treasurer. If the contract is signed by one (1) authorized individual only, a copy of the corporate resolution
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.

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

I. DEFINITIONS

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

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

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

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

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

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

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

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

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

4 I. “Custody Patient” means any of the following:

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

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

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

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

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

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

21 J. “Deputy” means a sworn officer of the Orange County Sheriff’s Department.

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

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

30 M. “Fiscal Year” means the period from July 1 through the following June 30.

31 N. “Hospital Services” means all Medical Services provided by Contracting Hospital excluding
32 Physician Services.

33 O. “Inpatient” means a Custody Patient admitted to Contracting Hospital for the purpose of
34 receiving Medical Services, with the expectation of remaining hospitalized at least overnight.

35 P. “JHS” means the Health Care Agency’s Juvenile Health Services Program.

36 Q. “Medical Services” means any diagnostic, treatment, or supportive services, which are
37 determined by ADMINISTRATOR to be medically necessary to protect life or prevent significant

1 disability, and/or to diagnose and treat illness or injuries which require treatment to prevent serious
2 deterioration of health. Medical Services include any service or examination authorized in accordance
3 with the Agreement.

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

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

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

11 U. “Physician Services – Jail” means those services provided by physicians and specialty
12 physicians, by County employed physicians to Custody Patients within the COUNTY’s jail facilities.

13 V. “TAR” means Treatment Authorization Request.

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

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

19
20 **II. PAYMENTS AND BILLINGS**

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

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

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

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

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

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

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

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

a. Evaluate the frequency of requests for specialty Outpatient Services specified in Subparagraph B.1 below. If CONTRACTOR and ADMINISTRATOR mutually agree that any of these

1 services are being provided at a frequency that justifies regular availability of these specialties,
 2 CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to transfer specialty
 3 categories from Subparagraph A.2.b to Subparagraph B.1 and/or from Subparagraph B.1 to
 4 Subparagraph A.2.b if Custody Patient trends indicate.

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

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

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

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

26 3. CONTRACTOR shall make every effort to negotiate reasonable reimbursement rates with
 27 all Vendors.

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

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

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

3 2. At ADMINISTRATOR’s sole discretion, ADMINISTRATOR will direct the Fiscal
4 Intermediary to advance an initial amount, as determined by ADMINISTRATOR, to CONTRACTOR
5 for the purpose of reimbursing Vendors. This advance shall be referred to as the “Reimbursement
6 Account” and CONTRACTOR shall maintain an accounting of Vendors paid with these funds in
7 accordance with the Report Paragraph of this Exhibit A to the Agreement and shall submit said
8 accounting to ADMINISTRATOR and Fiscal Intermediary with any request for additional funds to
9 replenish the Reimbursement Account.

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

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

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

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

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

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

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

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III. PHYSICIAN SERVICES

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

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

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

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

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

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

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

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

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

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

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

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

2. Off Unit Inpatient Services – COUNTY will make every effort to ensure that Custody Patients requiring Physician Services as specified herein remain on the Unit. However, the parties agree that certain services may be medically necessary to provide in other areas of the Contracting Hospital (Off Unit) either due to the Custody Patient’s medical condition, or due to the census and/or custody

1 classification mix. CONTRACTOR shall provide all Off Unit Physician Services at Anaheim Global
2 Medical Center. Services at Orange County Global Medical Center are limited to Chest and Critical
3 Care only. Services at Anaheim Global Medical Center include but are not limited to the following:

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

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

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

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

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

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

20 2) ICU/CCU and Post-Partum Obstetrics

21 3) 23 Hour Stay in the emergency department

22 3. Outpatient Services – On the Unit

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

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	CLINIC	Off-site Unit
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2	Orthopedics	6 times per month
3	Neurology (PRN)	1 time per month
4	General Surgery (PRN)	1 time per month
5	ENT (PRN)	2 times per month
6	Oral Surgery (PRN)	2 times per month
7	Gastroenterology (PRN)	2 times per month
8	Infectious Disease	1 time per month
9	Pulmonary Medicine (PRN)	As needed
10	Cardiology (PRN)	3 times per month
11	Obstetrics/Gynecology (PRN)	4 times per month
12	Ophthalmology (PRN)	4 times per month
13	Dermatology (PRN)	1 time per month
14	Nephrology (PRN)	1 time per month
15	Urology (PRN)	2 times per month
16	Endocrinology (PRN)	2 times per month
17	Podiatry (PRN)	2 times per month
18	Telemedicine	As needed
19		

20 b. ADMINISTRATOR and CONTRACTOR may mutually agree, in writing, to adjust the
 21 number of clinics to be provided per week or per month based on patient utilization trends to more
 22 effectively and efficiently utilize CONTRACTOR’s physicians, Contracting Hospital’s facility and
 23 Contracting Hospital’s services.

24 c. CONTRACTOR acknowledges the transportation and security challenges associated
 25 with scheduling Custody Patients for Outpatient Services. CONTRACTOR shall require its physicians
 26 to make every effort to accommodate COUNTY’s request for clinic times.

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

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

36 f. If Custody Patients have been scheduled for Outpatient Services and are transported to
 37 Contracting Hospital, and CONTRACTOR’s physician either does not arrive or leaves prior to waiting

1 thirty (30) minutes for Custody Patients to arrive, ADMINISTRATOR shall deduct \$125 per patient
2 requiring a rescheduled Outpatient Visit as a result of CONTRACTOR's physician failure to provide
3 services.

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

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

10 2) Administrator reserves the right to delay or withhold monthly payment for missed
11 or cancelled clinics that are not rescheduled or have not been approved by CHS Medical Director or
12 Designee.

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

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

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

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

27 1) Accompanied by an Orange County Deputy; and

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

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

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

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

34 e. Outpatient Surgery

35 5. Outpatient Services – On site jail clinics

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

	CLINIC	On-site Jail
1		
2	Orthopedics	2 times per month
3	Neurology (PRN)	1 time per month
4	General Surgery (PRN)	2 times per month
5	Gastroenterology (PRN)	1 time per month
6	Cardiology (PRN)	1 time per month
7	Occupational Hand Therapist	4 times per month
8	Dermatology (PRN)	1 time per month
9	Nephrology (PRN)	1 time per month
10	Urology (PRN)	1 time per month
11	Endocrinology (PRN)	1 time per month
12	Podiatry (PRN)	1 time per month
13	Telemedicine	As needed

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

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

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

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

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

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

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

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

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

8 G. CONTRACTOR shall coordinate with the HOSPITAL to provide those medical reports
9 required by COUNTY for Custody Patients provided services pursuant to the Agreement. At a
10 minimum, CONTRACTOR shall provide a physician's discharge summary for all Outpatient and
11 Inpatient services provided hereunder. The summary shall include, but not be limited to, the patient
12 complaint(s), diagnosis, basis for and nature of treatment provided, physician orders, patient condition
13 on discharge, and recommended follow-up treatment. The summary shall be submitted to the CHS
14 Medical Director, or designee, the same day as the date of discharge.

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

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

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

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

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

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

35 4. Receiving and forwarding telephonic, computerized, and written communications between
36 hospital and CONTRACTOR staff, and COUNTY personnel, including ADMINISTRATOR's Case
37 //

1 Management Nurse, Deputies, and ADMINISTRATOR’s other off-site medical and administrative
2 staff.

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

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

8
9 **IV. OTHER VENDOR SERVICES**

10 A. Unless otherwise specified herein, the cost of all following Physician Services provided in
11 accordance with this Paragraph IV shall not be deemed to be included in COUNTY’s Maximum
12 Obligation to CONTRACTOR and shall be reimbursed on a per services basis in accordance with
13 Subparagraph II.B. of this Exhibit A to the Agreement.

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

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

19 D. Other Vendor Services

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

25 2. It is expected by the parties that most Physician Services required by Custody Patients, as
26 defined in Subparagraph II.4 of this Exhibit A to the Agreement, will not require a pediatric specialty.
27 In the event CONTRACTOR is unable to provide a requested specialty pediatric service,
28 CONTRACTOR shall arrange for Physician Services to be provided by appropriate Vendors, with
29 ADMINISTRATOR’s prior approval. COUNTY shall reimburse the Vendors in accordance with
30 Subparagraph II.C of this Exhibit A.

31
32 **V. UTILIZATION REVIEW/QUALITY ASSURANCE**

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

37 //

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

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

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

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

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

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

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

23
24 **VI. DATA FISCAL REPORTING REQUIREMENTS**

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

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

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

35 3. A report of claims that do not pass the audit process shall be submitted to
36 ADMINISTRATOR and CONTRACTOR for review/correction by CONTRACTOR. CONTRACTOR

37 //

1 shall have thirty (30) calendar days to provide such corrections so that the data may be appended to the
2 CHS Custody Database.

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

5 B. For services provided in accordance with Paragraph IV of this Exhibit A to the Agreement,
6 CONTRACTOR shall ensure that regardless of the choice(s) of reimbursement mechanism(s) for
7 Vendors as detailed in Subparagraph II.C., CONTRACTOR shall ensure that either CONTRACTOR
8 submits data consistent with that specified in Subparagraph A above or require that Vendor submit the
9 claims and data consistent with that specified in Subparagraph A above to COUNTY's Intermediary.
10 CONTRACTOR shall require, when possible, for Vendors claiming to the Intermediary directly to
11 submit their claims and data electronically. Claims and claims data not received within ninety (90)
12 calendar days of the date of service are not guaranteed to be paid by the Intermediary.

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

15 D. Fiscal Reporting

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

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

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

25
26 **VII. INTERRUPTIONS IN SERVICE**

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

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

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

36 B. If CONTRACTOR is unable to provide or arrange for the provision of a substantial portion of
37 the services hereunder for twenty (20) consecutive calendar days, COUNTY may terminate all or a

1 portion of the Agreement upon ten (10) calendar days prior written notice given at any time during or
2 after such period to CONTRACTOR.

3
4 **VIII. RECORDS**

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

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

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

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

21 **B. Records Retention**

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

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

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

32 **C. Report Distribution**

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

37 //

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

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

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

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

11
12 **I. BUSINESS ASSOCIATE CONTRACT**

13 **A. GENERAL PROVISIONS AND RECITALS**

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

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

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

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

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

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

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

5 B. DEFINITIONS

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

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

12 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 15. “Subcontractor” shall have the meaning given to such term under the HIPAA regulations in
27 45 CFR § 160.103.

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

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

34 18. “Use” shall have the meaning given to such term under the HIPAA regulations in 45 CFR §
35 160.103.

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C. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE:

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

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

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

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

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

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

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

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

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

10. CONTRACTOR agrees to document any Disclosures of PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY, and to make information related to such Disclosures available as would be required for COUNTY to

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

3 11. CONTRACTOR agrees to provide COUNTY or an Individual, as directed by COUNTY, in
4 a time and manner to be determined by COUNTY, that information collected in accordance with the
5 Agreement, in order to permit COUNTY to respond to a request by an Individual for an accounting of
6 Disclosures of PHI in accordance with 45 CFR § 164.528.

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

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

13 D. SECURITY RULE

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

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

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

26 E. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

4 3. CONTRACTOR's notification shall include, to the extent possible:

5 a. The identification of each Individual whose Unsecured PHI has been, or is reasonably
6 believed by CONTRACTOR to have been, accessed, acquired, used, or disclosed during the Breach;

7 b. Any other information that COUNTY is required to include in the notification to
8 Individual under 45 CFR §164.404 (c) at the time CONTRACTOR is required to notify COUNTY or
9 promptly thereafter as this information becomes available, even after the regulatory sixty (60) day period
10 set forth in 45 CFR § 164.410 (b) has elapsed, including:

11 1) A brief description of what happened, including the date of the Breach and the date
12 of the discovery of the Breach, if known;

13 2) A description of the types of Unsecured PHI that were involved in the Breach (such
14 as whether full name, social security number, date of birth, home address, account number, diagnosis,
15 disability code, or other types of information were involved);

16 3) Any steps Individuals should take to protect themselves from potential harm
17 resulting from the Breach;

18 4) A brief description of what CONTRACTOR is doing to investigate the Breach, to
19 mitigate harm to Individuals, and to protect against any future Breaches; and

20 5) Contact procedures for Individuals to ask questions or learn additional information,
21 which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

22 4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in 45
23 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the
24 COUNTY.

25 5. In the event that CONTRACTOR is responsible for a Breach of Unsecured PHI in violation
26 of the HIPAA Privacy Rule, CONTRACTOR shall have the burden of demonstrating that
27 CONTRACTOR made all notifications to COUNTY consistent with this Paragraph E and as required by
28 the Breach notification regulations, or, in the alternative, that the acquisition, access, use, or disclosure of
29 PHI did not constitute a Breach.

30 6. CONTRACTOR shall maintain documentation of all required notifications of a Breach or
31 its risk assessment under 45 CFR § 164.402 to demonstrate that a Breach did not occur.

32 7. CONTRACTOR shall provide to COUNTY all specific and pertinent information about the
33 Breach, including the information listed in Section E.3.b.(1)-(5) above, if not yet provided, to permit
34 COUNTY to meet its notification obligations under Subpart D of 45 CFR Part 164 as soon as
35 practicable, but in no event later than fifteen (15) calendar days after CONTRACTOR's initial report of
36 the Breach to COUNTY pursuant to Subparagraph E.2 above.

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1 8. CONTRACTOR shall continue to provide all additional pertinent information about the
2 Breach to COUNTY as it may become available, in reporting increments of five (5) business days after
3 the last report to COUNTY. CONTRACTOR shall also respond in good faith to any reasonable requests
4 for further information, or follow-up information after report to COUNTY, when such request is made
5 by COUNTY.

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

10 F. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

20 1) The Disclosure is required by law; or

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

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

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

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

33 4. CONTRACTOR may use or disclose PHI COUNTY discloses to CONTRACTOR as
34 required by law.

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1 G. OBLIGATIONS OF COUNTY

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

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

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

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

13 H. BUSINESS ASSOCIATE TERMINATION

14 1. Upon COUNTY's knowledge of a material breach or violation by CONTRACTOR of the
15 requirements of this Business Associate Contract, COUNTY shall:

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

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

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

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

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

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

33 3. The obligations of this Business Associate Contract shall survive the termination of the
34 Agreement.

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

I. PERSONAL INFORMATION PRIVACY AND SECURITY CONTRACT

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

A. DEFINITIONS

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

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

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

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

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

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

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

1 8. "Personal Information" (PI) shall have the meaning given to such term in California Civil
2 Code§ 1798.3(a).

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

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

14 B. TERMS OF AGREEMENT

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

20 2. Responsibilities of CONTRACTOR
21 CONTRACTOR agrees:

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

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

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

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

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

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

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

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

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

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

h. Breaches and Security Incidents. During the term of the Agreement, CONTRACTOR agrees to implement reasonable systems for the discovery of any breach of unsecured DHCS PI and PII

1 or security incident. CONTRACTOR agrees to give notification of any beach of unsecured DHCS PI
2 and PII or security incident in accordance with Paragraph F, of the Business Associate Contract,
3 Exhibit B to the Agreement.

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

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