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REFERENCED CONTRACT PROVISIONS

Term: July 1, ~~2013~~2015 through June 30, ~~2014~~2017

Period One means the period from July 1, 2015 through June 30, 2016

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

Maximum Obligation: Period One Maximum Obligation: \$2,733,540

Period Two Maximum Obligation: \$2,815,546

TOTAL MAXIMUM OBLIGATION: \$5,549,086

Basis for Reimbursement: Negotiated Amount

Payment Method: ~~Negotiated Amount~~ 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 ~~Development and Management~~ Services
405 West 5th Street, Suite 600
Santa Ana, CA 92701-4637

CONTRACTOR: Correctional Managed Care Medical Corporation
Attn: ~~Director of Operations~~ Linda Cardoza, Chief Operating Officer
~~4211 E. La Palma Avenue~~
1475 S. State College Blvd., Suite 202
Anaheim, CA ~~92807~~92806
Email: ~~RhobertaP~~ 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. | <u>AB 109</u> | <u>Assembly Bill 109, 2011 Public Safety Realignment</u> |
| 5 | B. | <u>ARRA</u> | <u>American Recovery and Reinvestment Act of 2009</u> |
| 6 | B. | ASRS | Alcohol and Drug Programs Reporting System |
| 7 | C. | CCC | California Civil Code |
| 8 | D. | CCR | California Code of Regulations |
| 9 | E. | CEO | County Executive Office |
| 10 | F. | CFR | Code of Federal Regulations |
| 11 | G. | CHPP | COUNTY HIPAA Policies and Procedures |
| 12 | H. | CHS | <u>Correctional Health Services</u> |
| 13 | I. | COI | Certificate of Insurance |
| 14 | J. | D/MC CPA | <u>Certified Public Accountant</u> |
| 15 | K. | DEA | <u>Drug Medi-Cal Enforcement Agency</u> |
| 16 | K. | DHCS | Department of Health Care Services |
| 17 | L. | DPFS | <u>Drug Program Fiscal Systems</u> |
| 18 | M. | DRS | <u>Designated Record Set</u> |
| 19 | N. | ePHI | <u>Electronic Protected Health Information</u> |
| 20 | O. | GAAP | <u>Generally Accepted Accounting Principles</u> |
| 21 | P. | HCA | <u>County of Orange Health Care Agency</u> |
| 22 | Q. | HHS | <u>Federal Health and Human Services Agency</u> |
| 23 | R. | HIPAA | Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 |
| 24 | | | |
| 25 | S. | S HITECH | <u>Health Information Technology for Economic and Clinical Health Act, Public Law 111-005</u> |
| 26 | | | |
| 27 | T. | HSC | California Health and Safety Code |
| 28 | T. | <u>U.</u> | <u>ISO Insurance Services Office</u> |
| 29 | U. | MHP | Mental Health Plan |
| 30 | V. | OCJS | <u>Orange County Jail System</u> |
| 31 | W. | OCPD | Orange County Probation Department |
| 32 | X. | OCR | <u>Federal Office for Civil Rights</u> |
| 33 | Y. | OCSD | <u>Orange County Sheriff's Department</u> |
| 34 | Z. | OIG | <u>Federal Office of Inspector General</u> |
| 35 | AA. | OMB | <u>Federal Office of Management and Budget</u> |
| 36 | AB. | OPM | <u>Federal Office of Personnel Management</u> |
| 37 | AC. | PA-DSS | Payment Application Data Security Standard |

| | | |
|----|--|---|
| 1 | AD. PC | State of California Penal Code |
| 2 | AE. PCI DSS | Payment Card Industry Data Security Standard |
| 3 | AFAD. PHI | Protected Health Information |
| 4 | AGAE. PII | Personally Identifiable Information |
| 5 | AF. AH. PRA | California Public Record Records Act |
| 6 | AI. AG. SIR | Self-Insured Retention |
| 7 | AJ. The HITECH Act | The Health Information Technology for Economic and Clinical Health |
| 8 | Act, | Public Law 111-005 |
| 9 | AK. AH. TB | Tuberculosis |
| 10 | AL. USC | United States Code |
| 11 | ALAJ. WIC | State of California Welfare Women, Infants and Institutions Code Children |

II. ALTERATION OF TERMS

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

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

III. ASSIGNMENT OF DEBTS

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

IV. COMPLIANCE

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

1. ADMINISTRATOR shall provide CONTRACTOR with a copy of the relevant HCA policies and procedures relating to HCA's Compliance Program, HCA's Code of Conduct and General Compliance Trainings.

//

1 2. CONTRACTOR has the option to adhere to HCA's Compliance Program and Code of
2 Conduct or establish its own, provided CONTRACTOR's Compliance Program and Code of Conduct
3 have been verified to include all required elements by ADMINISTRATOR's Compliance Officer as
4 described in ~~Subparagraphs~~subparagraphs below.

5 3. If CONTRACTOR elects to adhere to HCA's Compliance Program and Code of Conduct;
6 the CONTRACTOR shall submit to the ADMINISTRATOR within thirty (30) calendar days of award
7 of this Agreement a signed acknowledgement that CONTRACTOR shall comply with HCA's
8 Compliance Program and Code of Conduct.

9 4. If CONTRACTOR elects to have its own Compliance Program and Code of Conduct then
10 it shall submit a copy of its Compliance Program, Code of Conduct and relevant policies and
11 procedures to ADMINISTRATOR within thirty (30) calendar days of award of this Agreement.
12 ADMINISTRATOR's Compliance Officer shall determine if ~~CONTRACTOR~~CONTRACTOR's
13 Compliance Program and Code of Conduct contains all required elements. CONTRACTOR shall take
14 necessary action to meet said standards or shall be asked to acknowledge and agree to ~~the~~-HCA's
15 Compliance Program and Code of Conduct if the CONTRACTOR's Compliance Program and Code of
16 Conduct does not contain all required elements.

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

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

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

33 1. Covered Individuals includes all contractors, subcontractors, agents, and other persons who
34 provide health care items or services or who perform billing or coding functions on behalf of
35 ~~HCA~~ADMINISTRATOR. Notwithstanding the above, this term does not include part-time or per-
36 diem employees, contractors, subcontractors, agents, and other persons who are not reasonably expected
37 to work more than one hundred sixty (160) hours per year; except that any such individuals shall

1 become Covered Individuals at the point when they work more than one hundred sixty (160) hours
2 during the calendar year. CONTRACTOR shall ensure that all Covered Individuals relative to this
3 Agreement are made aware of ADMINISTRATOR's Compliance Program, Code of Conduct and
4 related policies and procedures.

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

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

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

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

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

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

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

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

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

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

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

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

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

12 ~~D. MEDICAL BILLING, CODING, AND DOCUMENTATION COMPLIANCE STANDARDS~~

13 ~~1. CONTRACTOR shall take reasonable precaution to ensure that the coding of health care~~
14 ~~claims, billings and/or invoices for same are prepared and submitted in an accurate and timely manner~~
15 ~~and are consistent with federal, state and county laws and regulations.~~

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

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

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

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

26
27 V. ~~Confidentiality~~ **CONFIDENTIALITY**

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

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

1 ~~VI. Delegation, Assignment and Subcontracts.~~ **DELEGATION, ASSIGNMENT AND**
 2 **SUBCONTRACTS**

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

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

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

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

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

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

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

36 C. CONTRACTOR's obligations undertaken pursuant to this Agreement may be carried out by
 37 means of subcontracts, provided such subcontracts are approved in advance, in writing by

1 ADMINISTRATOR, meet the requirements of this Agreement as they relate to the service or activity
2 under subcontract, and include any provisions that ADMINISTRATOR may require.

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

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

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

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

15
16 **VII. ~~EMPLOYEE ELIGIBILITY VERIFICATION~~**
17 **EMPLOYEE ELIGIBILITY VERIFICATION**

18 CONTRACTOR warrants that it shall fully comply with all federal and state statutes and
19 regulations regarding the employment of aliens and others and to ensure that employees, subcontractors,
20 and consultants performing work under this Agreement meet the citizenship or alien status
21 ~~requirement~~requirements set forth in federal statutes and regulations. CONTRACTOR shall obtain,
22 from all employees, subcontractors, and consultants performing work hereunder, all verification and
23 other documentation of employment eligibility status required by federal or state statutes and
24 regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 USC
25 §1324 et seq., as they currently exist and as they may be hereafter amended. CONTRACTOR shall
26 retain all such documentation for all covered employees, subcontractors, and consultants for the period
27 prescribed by the law.

28
29 **VIII. EXPENDITURE AND REVENUE REPORT**

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

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

36 //

37 //

~~IX. Facilities, Payments and Services.~~ **FACILITIES, PAYMENTS AND SERVICES**

A. CONTRACTOR agrees to provide the services, staffing, facilities, and supplies in accordance with Exhibit A and B, to this Agreement. COUNTY shall compensate, and authorize, when applicable, said services. CONTRACTOR shall operate continuously throughout the term of this Agreement with at least the minimum number and type of staff which meet applicable federal and state requirements, and which are necessary for the provision of the services hereunder.

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

~~X. INDEMNIFICATION AND INSURANCE~~
. INDEMNIFICATION AND INSURANCE

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

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

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

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

E. All SIRs and deductibles shall be clearly stated on the COI. If no SIRs or deductibles apply, indicate this on the COI with a 0 by the appropriate line of coverage. Any SIR or deductible in an amount in excess of \$25,000 (\$5,000 for automobile liability), shall specifically be approved by the CEO/Office of Risk Management.

F. If ~~CONTRATOR~~CONTRACTOR fails to maintain insurance acceptable to COUNTY for the full term of this Agreement, COUNTY may terminate this Agreement.

G. QUALIFIED INSURER

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

2. If the insurance carrier is not an admitted carrier in the state of California and 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.

H. 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 | \$2,000,000 per occurrence |
| | \$2,000,000 aggregate |
| Automobile Liability including coverage for owned, non-owned and hired vehicles | \$1,000,000 per occurrence |
| Workers' Compensation | Statutory |
| Employers' Liability Insurance | \$1,000,000 per occurrence |

1 — Professional Liability Insurance \$3,000,000 per claims made
 2 or per occurrence \$3,000,000 aggregate

3
 4 — Sexual Misconduct Liability \$1,000,000 per occurrence

5
 6 * Limits of insurance can be satisfied with a combination of self-insurance, primary and
 7 excess/umbrella insurance.

8 I. REQUIRED COVERAGE FORMS

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

11 2. The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05,
 12 CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

13 J. REQUIRED ENDORSEMENTS – The Commercial General Liability policy shall contain the
 14 following endorsements, which shall accompany the COI:

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

18 2. A primary non-contributing endorsement evidencing that the CONTRACTOR's insurance
 19 is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and
 20 non-contributing.

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

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

27 M. All insurance policies required by this Agreement shall give COUNTY thirty (30) calendar
 28 ~~days~~days' notice in the event of cancellation and ten (10) calendar ~~days~~days' notice for non-payment of
 29 premium. This shall be evidenced by policy provisions or an endorsement separate from the COI.

30 N. If CONTRACTOR's Professional Liability policy is a "claims made" policy, CONTRACTOR
 31 shall agree to maintain professional liability coverage for two years following completion of
 32 Agreement.

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

35 P. COUNTY expressly retains the right to require CONTRACTOR to increase or decrease
 36 insurance of any of the above insurance types throughout the term of this Agreement. Any increase or
 37

1 decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to
2 adequately protect COUNTY.

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

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

11 S. SUBMISSION OF INSURANCE DOCUMENTS

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

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

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

15 c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding
16 changes to any of the insurance types as set forth in Subparagraph F. of this Agreement.

17 2. The COI and endorsements shall be provided to the COUNTY at the address as referenced
18 in the Referenced Contract Provisions of this Agreement.

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

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

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

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

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

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

XI. ~~Inspections and Audits~~ **INSPECTIONS AND AUDITS**

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

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

C. AUDIT RESPONSE

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

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

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

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

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XII. ~~Licenses and Laws~~ LICENSES AND LAWS

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

B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

1. 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;

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

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

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

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.

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

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

XIV. MAXIMUM OBLIGATION

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

XV. ~~Nondiscrimination~~ NONDISCRIMINATION**A. EMPLOYMENT**

1. During the term of this Agreement, CONTRACTOR and its Covered Individuals shall not unlawfully discriminate against any employee or applicant for employment because of his/her ~~ethnic group identification~~, race, ~~religion, ancestry,~~ religious creed, color, ~~creed, sex, marital status,~~ national origin, ~~age (40 and over), sexual orientation, medical condition, or~~ ancestry, physical or disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Additionally, during the term of this Agreement, CONTRACTOR and its Covered Individuals shall require in its subcontracts that subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of his/her ~~ethnic group identification~~, race, ~~religion, ancestry,~~ religious creed, color, ~~creed, sex,~~

1 ~~marital status~~, national origin, ~~age (40 and over)~~, ~~sexual orientation~~, ~~medical condition~~, or ~~ancestry~~,
 2 ~~physical or disability~~, mental disability, ~~medical condition~~, genetic information, marital status, sex,
 3 ~~gender~~, ~~gender identity~~, ~~gender expression~~, age, sexual orientation, or military and veteran status.

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

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

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

14 5. All solicitations or advertisements for employees placed by or on behalf of
 15 CONTRACTOR and/or subcontractor shall state that all qualified applicants will receive consideration
 16 for employment without regard to ~~ethnic group identification~~, race, ~~religion~~, ~~ancestry~~, ~~religious creed~~,
 17 color, ~~creed~~, ~~sex~~, ~~marital status~~, national origin, ~~age (40 and over)~~, ~~sexual orientation~~, ~~medical~~
 18 ~~condition~~, or ~~ancestry~~, ~~physical or disability~~, mental disability, ~~medical condition~~, genetic information,
 19 ~~marital status~~, sex, ~~gender~~, ~~gender identity~~, ~~gender expression~~, age, sexual orientation, or military and
 20 ~~veteran status~~. Such requirements shall be deemed fulfilled by use of the term EOE.

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

26 B. SERVICES, BENEFITS AND FACILITIES – CONTRACTOR and/or subcontractor shall not
 27 discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities
 28 on the basis of ~~ethnic group identification~~, race, ~~religion~~, ~~ancestry~~, ~~religious creed~~, color, ~~creed~~, ~~sex~~,
 29 ~~marital status~~, national origin, ~~age (40 and over)~~, ~~sexual orientation~~, ~~medical condition~~, or ~~ancestry~~,
 30 ~~physical or disability~~, mental disability, ~~medical condition~~, genetic information, marital status, sex,
 31 ~~gender~~, ~~gender identity~~, ~~gender expression~~, age, sexual orientation, or military and veteran status in
 32 accordance with Title IX of the Education Amendments of 1972 as they relate to 20 USC §1681 -
 33 §1688; Title VI of the Civil Rights Act of 1964 (42 USC §2000d); the Age Discrimination Act of 1975
 34 (42 USC §6101); ~~and~~ Title 9, Division 4, Chapter 6, Article 1 (§10800, et seq.) of the California Code
 35 of Regulations; ~~and~~ Title II of the Genetic Information Nondiscrimination Act of 2008, 42 USC
 36 ~~2000ff, et seq.~~ as applicable, and all other pertinent rules and regulations promulgated pursuant thereto,
 37 and as otherwise provided by state law and regulations, as all may now exist or be hereafter amended or

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

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

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

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

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

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

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

35 ~~—F //~~

36 //

37

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

6 **XVI. ~~Notices~~ NOTICES**

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

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

12 2. When faxed, transmission confirmed;

13 3. When sent by Email; or

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

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

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

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

27 **XVII. NOTIFICATION OF DEATH**

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

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

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

1 2. WRITTEN NOTIFICATION

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

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

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

13
14 ~~XVIII. Records Management and Maintenance.~~ **RECORDS MANAGEMENT AND**
15 **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 ensure appropriate financial records related to cost reporting,~~
20 ~~expenditure, revenue, billings, etc., are prepared and maintained accurately and appropriately.~~

21 ~~— C. CONTRACTOR shall ensure all appropriate state and federal standards of documentation,~~
22 ~~preparation, and confidentiality of records related to~~

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

29 C. CONTRACTOR's participant, client, and/or patient records are met at all times shall be
30 maintained in a secure manner. CONTRACTOR shall maintain participant, client, and/or patient
31 records and must establish and implement written record management procedures.

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

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

37 F. CONTRACTOR shall ensure all HIPAA (DRS) requirements are met. HIPAA requires that
clients, participants and/or patients be provided the right to access or receive a copy of their DRS and/or

request addendum to their records. Title 45 CFR §164.501, defines DRS as a group of records maintained by or for a covered entity that is:

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

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

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

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

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

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

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

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

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

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

~~H. CONTRACTOR shall notify ADMINISTRATOR of pay any PRA requests related to, or costs associated with a Breach of privacy and/or security of PII and/or PHI, including but not limited to the costs of notification. CONTRACTOR shall pay any and all such costs arising out of, this Agreement, within forty eight (48) hours. CONTRACTOR shall provide ADMINISTRATOR all information that is requested by the PRA request a Breach of privacy and/or security of PII and/or PHI.~~

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

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XIX. RESEARCH AND PUBLICATION

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

~~XX. RIGHT TO WORK AND.~~ **MINIMUM WAGE LAWS**

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

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

~~—C—~~

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

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

XXI. Severability SEVERABILITY

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

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1 **XXII. Special Provisions SPECIAL PROVISIONS**

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

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

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

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

31
32 **XXIII. Status of Contractor STATUS OF CONTRACTOR**

33 CONTRACTOR is, and shall at all times be deemed to be, an independent contractor and shall be
34 wholly responsible for the manner in which it performs the services required of it by the terms of this
35 Agreement. CONTRACTOR is entirely responsible for compensating staff, subcontractors, and
36 consultants employed by CONTRACTOR. This Agreement shall not be construed as creating the
37 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.

8 **XXIV. ~~Term~~ TERM**

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

18 **XXV. ~~Termination~~ TERMINATION**

19 A. Either party may terminate this Agreement, without cause, upon one hundred eighty (180)
 20 calendar ~~days~~ 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~~ 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.

37 //

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~~ 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~~ 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 OF DEFAULT OR BREACH**

16 Waiver by COUNTY of any default by CONTRACTOR shall not be considered a waiver of any
17 subsequent default. Waiver by COUNTY of any breach by CONTRACTOR of any provision of this
18 Agreement shall not be considered a waiver of any subsequent breach. Waiver by COUNTY of any
19 default or any breach by CONTRACTOR shall not be considered a modification of the terms of this
20 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

5
6
7 BY: _____ DATED: _____

8
9 TITLE: _____

10
11
12 BY: _____ DATED: _____

13
14 TITLE: _____

15
16
17
18 COUNTY OF ORANGE

19
20
21 BY: _____ DATED: _____

22 -HEALTH CARE AGENCY

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

28
29
30 BY: _____ DATED: _____

31 DEPUTY

32
33
34
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.

EXHIBIT A
 TO AGREEMENT FOR PROVISION OF
 PHYSICIAN SERVICES
 FOR
~~CORECTIONAL~~ CORRECTIONAL HEALTH SERVICES PROGRAMS
 JULY 1, ~~2013~~ 2015 THROUGH JUNE 30, ~~2014~~ 2017

I. ~~DEFINITIONS~~ 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. “~~CMS~~” means the Health Care Agency’s Correctional Medical Services Program.

~~E. “CMH” means the Health Care Agency’s Correctional Mental Health Program.~~

~~F. “CMSCHS Medical Director” means the Health Care Agency’s Correctional Medical Health Services Medical Director.~~

~~G. “Contracting Hospital” means a hospital that has executed a an Agreement for Hospital Services for the with Correctional Health Services Programs ~~Agreement with COUNTY, which hospital, The Contracting Hospital~~ at the execution of ~~the this~~ Agreement, is Western Anaheim Global Medical Center – Anaheim.~~

H. “Contract Officers” means ADMINISTRATOR’s and CONTRACTOR’s designees, who shall administer the Agreement for the respective parties.

I. “Correctional Health Services” or “CHS” means the Health Care Agency’s Correctional Health Services which is the division which encompasses and oversees ~~the CMS, CMH and JHS Programs~~ adult and juvenile correctional healthcare.

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

1 **KI.** “Custody Patient” means any of the following:

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

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

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

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

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

16 ~~6. Custody Patients shall exclude those held solely pursuant to Section 5150 of the Welfare
17 and Institutions Code.~~

18 ~~7. 6. It is understood by the parties that Custody Patients excludes those persons, who,
19 at the time of service, are escorted by local law enforcement and/or housed or subsequently booked into
20 a city jail.~~

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

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

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

31 **OM.** “Fiscal Year” means the period from July 1 through the following June 30.

32 **PN.** “Hospital Services” means all ~~means all~~ Medical Services provided by Contracting Hospital
33 excluding Physician Services.

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

36 **RP.** “JHS” means the Health Care Agency’s Juvenile Health Services Program.

~~Q. “Medi-Cal Program” means that program of medical assistance established by the Medi-Cal Act as contained in Chapter 7, Part 3, Division 9 of the Welfare and Institutions Code (commencing with Section 14000) including applicable regulations promulgated under and pursuant to said law, as now in existence or as hereafter amended or changed.~~

~~T. “Medical Services” means any diagnostic, treatment, or supportive services, excluding TB screenings, which are determined by ADMINISTRATOR to be medically necessary to protect life or prevent significant disability, and/or to diagnose and treat illness or injuries which require treatment to prevent serious deterioration of health. Medical Services include any service or examination authorized in accordance with the Agreement.~~

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

~~V.~~

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

WT. “Physician Services” means all Medical Services provided by CONTRACTOR to Custody Patients within the Contracting Hospital, and other local hospital facilities as specified herein, including those Physician Services provided by Contracting Hospital’s “hospital-based” physicians.

~~XU. “Physician Services – Jail” means those services provided by physicians and specialty physicians, through a separate Agreement with COUNTY, by County employed physicians to Custody Patients within the COUNTY’s jail facilities, which at the execution of the Agreement shall be provided by American Correctional Services.~~

~~Y. V. “TAR” means Treatment Authorization Request.~~

~~ZW. “Unit” means a secure separate patient care area, which is dedicated for the treatment of Type II Maximum Security Outpatient and Inpatient Custody Patients referred by COUNTY.~~

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

II. ~~PAYMENTS AND BILLINGS~~ PAYMENTS AND BILLINGS

A. As compensation for Medical Services provided in accordance with Paragraph III of this Exhibit A to the Agreement, COUNTY shall reimburse CONTRACTOR \$227,795 per month, in arrears for Period One; and \$234,628 (July 2016-May 2017) and \$234,638 (June 2017) per month, in arrears for Period Two; provided, however, that the total of all such monthly payments shall not exceed the COUNTY’s Total Maximum Obligation, as specified in the Referenced Contract Provision section of the Agreement.

1. The monthly payment shall be calculated as one-twelfth (1/12th) of the maximum obligation adjusted in accordance with Paragraph ~~XI.A.3~~ XIV, of the Agreement.

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 ~~in accordance with Paragraph A.4. below:~~

| | | |
|-----------------------------------|--|--|
| a. | Management Fees <u>Period One</u> | \$ 688,988 <u>Period Two</u> |
| <u>Management Fee</u> | Medical Director Fees \$ <u>665,000</u> | 36 \$ <u>685,000</u> |
| <u>Medical Director Fee</u> | Negotiated Amount Services (H-OP Clinic) \$ <u>36,000</u> | 1,492 \$ <u>42,000</u> |
| <u>Emergency Services</u> | \$ 150,000 <u>Emergency Services</u> | 160 \$ <u>150,000</u> |
| <u>Negotiated Amount Services</u> | \$1,633,790 <u>Subtotal:</u> | \$ 2,376,988 <u>1,682,600</u> |
| <u>Subtotal</u> | Profit limited to 15% <u>\$2,484,790</u> | 356,552 <u>\$2,559,600</u> |
| <u>Profit (Limited to 10%)</u> | Total: \$ <u>248,750</u> | \$ 2,733,540 <u>255,946</u> |
| <u>Total</u> | <u>\$2,733,540</u> | <u>\$2,815,546</u> |

~~b. The Negotiated Amount Services were calculated based on the following specialties and negotiated amounts, which amounts may be modified by mutual written agreement between CONTRACTOR and ADMINISTRATOR in accordance with Paragraph A.4. below:~~

| <u>Specialty</u> | <u>Negotiated Amounts</u> |
|---------------------|---------------------------|
| Anesthesiology | —\$86,000 |
| Cardiology | —\$48,000 |
| Dermatology | —\$24,000 |
| Endocrinology | —\$20,000 |
| ENT | —\$48,000 |
| Gastroenterology | —\$45,000 |
| General Surgery | —\$160,000 |
| Hematology/Oncology | —\$40,000 |
| Infectious Disease | —\$24,000 |
| Internal Medicine | —\$260,000 |
| Nephrology | —\$30,000 |
| Neurology | —\$25,000 |
| Obstetrics / Gyn | —\$75,000 |
| Ophthalmology | —\$60,000 |
| Oral Surgery | —\$38,000 |

| | | |
|----|------------------------|--------------------|
| 1 | Orthopedics | —\$225,000 |
| 2 | Pathology | —\$20,000 |
| 3 | Podiatry | —\$15,000 |
| 4 | Psychiatry | —\$50,000 |
| 5 | Pulmonology | —\$48,000 |
| 6 | Radiology | —\$115,000 |
| 7 | Urology | —\$36,000 |
| 8 | Sub-Total | \$1,492,000 |
| 9 | Less Risk Pool | —(\$75,000) |
| 10 | TOTAL FLAT RATE | \$1,417,000 |

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

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

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

28 ~~4. The amounts specified for each specialty above may be adjusted through one~~
 29 ~~or more of the following actions provided, however, that any adjustments to Subparagraph A.3.a do not~~
 30 ~~exceed the COUNTY's Total Maximum Obligation, as specified in the Referenced Contract Provisions~~
 31 ~~section of the Agreement.~~

32 ~~a. CONTRACTOR and ADMINISTRATOR shall review on or about December 1 and~~
 33 ~~May 1, the actual utilization of specialty services provided above, for both Inpatient and Outpatient~~
 34 ~~Services. The amounts specified for each specialty in Subparagraph A.3.b above shall be adjusted to~~
 35 ~~reflect the actual trends and utilization associated with each specialty. Each adjustment shall not be~~
 36 ~~retroactive.~~

37 //

~~b. At ADMINISTRATOR's sole discretion~~ 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.

ea. 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 services are being provided at a frequency that justifies regular availability of these specialties, CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to transfer specialty categories from Subparagraph A.3.e2.b to Subparagraph B.1 and/or from Subparagraph B.1 to Subparagraph A.3.e2.b if Custody Patient trends indicate.

~~5. Risk Retention Pool Both parties acknowledge that in consideration of unanticipated expenses or increased utilization of services under the negotiated amount now and in the future, CONTRACTOR shall establish a Risk Retention Pool (Pool) to help mitigate such costs.~~

~~a. The Pool shall be equal to an annual amount not to exceed seventy five thousand dollars (\$75,000) for the term of the Agreement, and shall be funded on a monthly basis from the amount indicated in sub-paragraph A of this Section II above.~~

~~b. CONTRACTOR and ADMINITRATOR shall reconcile the Pool on an annual basis. It is agreed to by both parties that funds in this Pool shall be excluded from the annual reconciliation process to determine the actual percentage of profit achieved by CONTRACTOR.~~

~~c. CONTRACTOR agrees that should the Pool be caused to be one hundred percent (100%) depleted, all additional costs associated with said cause shall be the sole responsibility of CONTRACTOR and COUNTY shall have no obligation to advance funds or replenish the Pool until such as time as required by the Agreement.~~

~~d. Should the Pool have funds remaining at the conclusion of the Agreement, and after a final reconciliation has been completed and agreed upon by both parties, the remaining funds shall be split between the COUNTY and CONTRACTOR on a seventy percent (70%) to CONTRACTOR and thirty percent (30%) to COUNTY. Any identified funds due COUNTY shall be returned to COUNTY by CONTRACTOR within thirty (30) days of final reconciliation unless otherwise directed by ADMINISTRATOR.~~

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

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

//
//

| | <u>Service</u> | <u>Maximum Rate</u> |
|---|------------------------|---------------------|
| 2 | Cardiothoracic Surgery | 120% |
| 3 | Neurosurgery | 120% |
| 4 | Ophthalmology Retinal | 160% |
| 5 | Plastic Surgery | Pass Through |
| 6 | Pediatrics | 125% |
| 7 | Vascular Surgery | 120% |

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

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

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

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

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

~~2. CONTRACTOR may reimburse Vendor directly and submit an invoice to the Fiscal Intermediary to recover payment equal to Vendor's invoiced cost.~~

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

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

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

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

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

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

24 ~~— F. THIRD PARTY REVENUE — As of the execution of the Agreement, the parties understand~~
 25 ~~there is pending federal legislation which would provide for the ability for CONTRACTOR to bill~~
 26 ~~Medi-Cal and/or Medicare for services provided to Custody Patients in accordance with the Agreement.~~
 27 ~~If this legislation is enacted, upon the effective date:~~

28 ~~—— 1. ADMINISTRATOR shall make every reasonable effort to provide CONTRACTOR the~~
 29 ~~Custody Patient information necessary to bill such third parties.~~

30 ~~—— 2. CONTRACTOR shall make every reasonable effort to obtain all available third party~~
 31 ~~reimbursement for which persons served hereunder may be eligible. Charges to insurance carriers shall~~
 32 ~~be on the basis of CONTRACTOR'S usual and customary charges.~~

33 ~~—— 3. For services provided in accordance with Paragraph III, ADMINISTRATOR shall deduct~~
 34 ~~from CONTRACTOR'S invoice, amounts equal to the revenue collected as reported in Subparagraph 5~~
 35 ~~below.~~

36 ~~—— 4. For services provided in accordance with Paragraph IV of this Exhibit A to the Agreement,~~
 37 ~~CONTRACTOR shall also advise its Vendors of any and all third party funding available for any~~

~~Custody Patient and shall require its Vendors to bill for such reimbursement prior to seeking reimbursement from CONTRACTOR and/or COUNTY. If third party funding is available for a Custody Patient, COUNTY shall instruct Intermediary to only reimburse CONTRACTOR and/or Vendor for those claims for services to said Custody Patients if CONTRACTOR and/or Vendor have received a denial of payment from the third party payor.~~

~~5. CONTRACTOR shall maintain internal financial controls which adequately ensure proper billing and collection procedures. CONTRACTOR's procedures shall specifically provide for the identification of delinquent accounts and methods for pursuing such accounts. CONTRACTOR shall provide ADMINISTRATOR, monthly, a written report specifying the current status of fees which are billed, collected, transferred to a collection agency or deemed by CONTRACTOR to be uncollectible.~~

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

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

~~III. PHYSICIAN SERVICES~~ 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 ~~is modifying~~ has modified the Unit to accommodate Telemetry Services for up to four (4) Custody Patients.

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

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

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

10 f. Unit Census - ~~The parties agree that at any time should the census on the Unit reach~~
11 ~~eight (8) or more Custody Patients, Utilization Review (UR) personnel for both COUNTY and~~
12 ~~Contracting Hospital shall evaluate each Custody Patient's medical necessity to remain on the Unit~~
13 ~~based on InterQual acute care criteria, and determine if any patient(s) no longer meet said requirements~~
14 ~~for acute care level services.~~ CONTRACTOR shall use its best efforts to assist COUNTY in
15 discharging any patient(s) from within the Unit to a lower level of care based on the availability of such
16 services either within the Jail system or at another facility providing the required service(s).

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

25 ~~on the Unit. CONTRACTOR shall provide all Off Unit Physician Services, including, but not limited~~
26 ~~to, the following:~~

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

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

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

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

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

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

~~2) DOU/Telemetry, pending completion of the Contracting Hospital's modifications to accommodate Custody Patients on the Unit.~~

~~3) ICU/CCU and Post-Partum Obstetrics~~

~~4) 23 Hour Stay in the emergency department~~

3. Outpatient Services – On the Unit

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

CLINIC

Orthopedics

~~2~~ times per ~~week~~ month

~~Plastic Surgery~~

~~PRN~~

Neurology

~~2~~ times 1 time per month and

PRN

General Surgery

~~2~~ times per month PRN

ENT

~~1~~ time 2 times per ~~week~~ month

Oral Surgery

2 times per month and PRN

~~Internal Medicine~~ Gastroenterology

2 times per month and PRN

Pulmonary Medicine

PRN

Cardiology

PRN

Obstetrics/Gynecology

2 times per month and PRN

Ophthalmology

~~1~~ time 4 times per month and

PRN

Dermatology

PRN

Nephrology

1 time per month and PRN

Urology

1 time per month and PRN

Endocrinology

2 times per month and PRN

Podiatry

PRN

//

//

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

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

8 1) CONTRACTOR shall require its physicians to arrive at scheduled Clinic times. If
9 Custody Patients have not appeared for the Outpatient Visit, CONTRACTOR's physicians shall
10 coordinate with either Contracting Hospital's or ADMINISTRATOR's ~~Utilization-Review~~ Case
11 Management Nurse as to status of the Custody Patients. For Custody Patients that are expected to
12 arrive within thirty (30) minutes, CONTRACTOR's physicians shall be required to wait until they
13 arrive to provide the requested care.

14 2) If Custody Patients have been scheduled for Outpatient Services and are
15 transported to Contracting Hospital, and CONTRACTOR's physician either does not arrive or leaves
16 prior to waiting thirty (30) minutes for Custody Patients to arrive, ADMINISTRATOR shall deduct
17 \$125 per patient requiring a rescheduled Outpatient Visit as a result of CONTRACTOR's physician
18 failure to provide services.

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

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

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

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

- 33 1) Accompanied by ~~an~~ Orange County Deputy; and
34 2) Taken first to the COUNTY's Intake and Release Center and required by
35 ADMINISTRATOR's staff to seek medical clearance before booking; and
36 3) Are subsequently booked into the Orange County Jail System.

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

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

e. Outpatient Surgery

5. Outpatient Services – On site jail clinics

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

| CLINIC | |
|-----------------|---------------------|
| Cardiology | 1-2 times per month |
| General Surgery | 3 times per month |
| Orthopedics | 2 times per month |
| Dermatology | 1 time per month |

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

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

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

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

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

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

1. CONTRACTOR’s physicians or designees shall write legibly in Custody Patient charts ~~and input information as may be requested by ADMINISTRATOR into the CMS automated medical record system. The completed input form shall be reviewed and approved by CONTRACTOR’s physician, and a copy~~. A copy of the Custody Patient’s chart, notes and orders shall accompany the Custody

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1 Patient back to the Jail. It is understood by both parties that said recommendations shall not be
2 implemented or relied upon until and unless approved by the CMS~~CHS~~ Medical Director or designee.

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

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

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

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

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

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

28 ~~— I. — Contracting Hospital shall provide staff located within the Unit whose duties include, but are~~
29 ~~not limited to, the following:~~

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

37 //

3. Establishing, providing, inputting, and maintaining medical records, ~~including components in the CMS automated medical record~~ as may be required by the ADMINISTRATOR; ~~provided, however, that Contracting Hospital shall not be obligated by this Agreement to input Physician Service data requested or required by ADMINISTRATOR, including discharge planning, into the CMS Automated Records. ADMINISTRATOR may provide appropriate access to CONTRACTOR's physicians and/or CONTRACTOR's designee for the purpose of entering such data.~~

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

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

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

IV. ~~OTHER VENDOR SERVICES~~ OTHER VENDOR SERVICES

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

B. CONTRACTOR acknowledges that some Custody Patients admitted to the Unit may also have a concurrent mental illness. ADMINISTRATOR expects that necessary psychiatric care shall be provided by the ~~CMH~~ CHS Medical Director or designee. CONTRACTOR shall only be responsible for the medical services required or requested for the Custody Patient unless specifically requested and authorized by ADMINISTRATOR to also provide psychiatric services. COUNTY shall reimburse CONTRACTOR or CONTRACTOR's Vendor for Psychiatric services in accordance with Subparagraph II.E. of the Exhibit A to the Agreement.

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

D. ~~All Physician Services~~ Care provided to all Custody Patients at ~~Western~~ Orange County Global Medical Center ~~Santa Ana, including Emergency Department Services; provided, however, that this for Chest and Critical Care~~ shall ~~not apply to any pre-booking medical clearance visits presenting be included in the emergency department of Western Medical Center Santa Ana~~ capitated rate structure and should not result in an additional charge.

E. Other Vendor Services

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

6 2. It is expected by the parties that most Physician Services required by Custody Patients, as
 7 defined in Subparagraph I.H.4 of this Exhibit A to the Agreement, will not require a pediatric specialty.
 8 In the event CONTRACTOR is unable to provide a requested specialty pediatric service,
 9 CONTRACTOR shall arrange for Physician Services to be provided by appropriate Vendors, with
 10 ~~ADMINISTRATOR's prior approval. COUNTY shall reimburse the Vendors in accordance with~~
 11 ~~Subparagraph II.C of this Exhibit A.~~
 12 ADMINISTRATOR's prior approval. COUNTY shall reimburse the Vendors in accordance with
 13 Subparagraph II.C of this Exhibit A.

14
 15 **V. UTILIZATION REVIEW/QUALITY ASSURANCE** **UTILIZATION REVIEW/QUALITY**
 16 **ASSURANCE**

17 A. CONTRACTOR, the ~~CMS~~ CHS Medical Director and/or ~~CMS Assistant Medical Director,~~ CHS
 18 Administrative Nurse Practitioner (or designees) and ~~a representative of Contracting~~
 19 ~~Hospital~~ Administrators Case Management Team shall ~~develop written~~ collaborate regarding Utilization
 20 Review ~~(UR)~~ (UR)
 21 and ~~Quality Assurance (QA) procedures~~ Case Management issues which are specific to Custody Patients,
 22 both ~~on hospitalized and off/or in the outpatient setting.~~ on hospitalized and off/or in the outpatient setting.

23 ~~B. Unit, and which recognized the challenges of discharging a Custody Patient to a correctional~~
 24 ~~environment vs. home or lower level of care as may be the case for patients not in custody. Such~~
 25 ~~programs~~ CONTRACTOR'S Case Management personnel shall ~~meet the requirements of all appropriate~~
 26 ~~Federal and State laws and regulations, including standards of the Joint Commission on the~~
 27 ~~Accreditation of Healthcare Organizations, and such other guidelines as may be~~
 28 ~~developed by CONTRACTOR with the CMS Medical Director. These written UR and QA procedures~~
 29 ~~shall be reviewed annually and updated as needed and appropriate.~~ perform utilization review for both
 30 Hospital/Inpatient Physician Services and Out Patient Clinic Services provided to Custody Patients
 31 receiving Medical Services in conjunction with COUNTY'S Case Management staff and/or the CHS
 32 Medical Director (or designee).

33 ~~1. B. CONTRACTOR shall participate in Contracting Hospital's Inpatient UR program~~
 34 ~~and QA program for the review of all services provided pursuant to the Agreement.~~

35 ~~1. Contracting Hospital's and ADMINISTRATOR's Utilization Review~~
 36 ~~(UR)~~ ADMINISTRATOR'S Case Management staff shall ~~meet~~ discuss hospitalized and/or clinic
 37 UR

1 patients weekly and shall evaluate as necessary for continuity and appropriateness of care issues.

2 Communication will include the following:

3 a. Each Custody Patient's medical necessity to remain on the Unit ~~based on InterQual~~
4 ~~acute care criteria to determine if any patient(s) no longer meet said requirements for acute care level~~
5 ~~services.~~

6 ~~_____ b. A weekly summary report shall be submitted to the following: Contract Officers, CMS~~
7 ~~Medical Director, CMS Assistant Medical Director, CHS Director of Nursing, Contracting Hospital's~~
8 ~~Chief Nursing Officer, CONTRACTOR's Medical Director, IHS Division Manager, the MIHS Deputy~~
9 ~~Agency Director, and the Fiscal Intermediary.~~

10 ~~_____ e. versus return to the jail setting.~~ COUNTY shall use its best efforts to discharge any
11 patient(s) from within the Unit to ~~a lower level of~~ the Jail based on the availability of such services
12 ~~either~~ within the Jail system.

13 ~~_____ 2. or at another facility providing the required service(s).~~

14 ~~_____ 2. The weekly outpatient clinic schedule and services including, but not limited to, a review~~
15 ~~of appointments kept; appointments missed, including reasons; requested follow-up visits are consistent~~
16 ~~with diagnosis/services, and trends in Clinic and Outpatient Visit volume.~~

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

21 a. A monthly ~~summary statistical utilization~~ report shall be produced by the
22 CONTRACTOR regarding Clinic appointments shall be submitted to the following: ~~Contract Officers,~~
23 ~~CMS CHS Medical Director, CMS Assistant Medical Director, CHS Director of Nursing, Contracting~~
24 ~~Hospital's Chief Nursing Officer, CONTRACTOR's Medical Director, CHS Division Manager, CMS~~
25 ~~and Administrative Manager, Team and the MIHS Deputy Agency Director, and the COUNTY's~~
26 ~~Assistant Sheriff of Custody Operations.~~ Administrator's Case Management Supervisor.

27 b. The monthly ~~summary statistical utilization~~ report shall include, when appropriate,
28 recommendations regarding reducing missed clinic appointments and analysis regarding volume trends
29 for Clinic and Outpatient Visits.

30 ~~_____ 3. CONTRACTOR's representative shall be available to meet on a regular basis with the~~
31 ~~ADMINISTRATOR's UR Nurse, CMS Medical Director, Contracting Hospital's UR Director, and~~
32 ~~other representative's of ADMINISTRATOR and/or Contracting hospital as appropriate. Such persons,~~
33 ~~acting for the respective parties, shall have the authority to resolve UR, QA, or other issues related to~~
34 ~~the treatment of Custody Patients.~~

35 ~~_____ C. During the term of the Agreement, representatives of CONTRACTOR and~~
36 ~~ADMINISTRATOR, which shall include the Contract Officers, shall meet at least quarterly to discuss~~
37 ~~CONTRACTOR'S and COUNTY'S administrative and programmatic progress and performance.~~

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

VI. ~~DATA REPORTING REQUIREMENTS~~ DATA FISCAL REPORTING REQUIREMENTS

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

including, but not limited to: confirming custody verification, ensuring there are no duplicate claims, verifying use of valid diagnosis and procedure codes.

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

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

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

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

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

D. Fiscal Reporting

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

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

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

VII. ~~INTERRUPTIONS IN SERVICE~~ INTERRUPTIONS IN SERVICE

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

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

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

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

VIII. ~~RECORDS~~ RECORDS

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

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

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

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

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1 Section 51476 of Title 22 of the California Code of Regulations, as it exists now or may hereafter be
2 amended.

3 B. Records Retention

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

7 2. All patient records connected with the performance of ~~the~~ this Agreement shall be retained
8 by the parties, at a location in the County of Orange unless otherwise approved in advance and in
9 writing by ADMINISTRATOR, for a period of seven (7) years after termination of the ~~as required~~
10 pursuant to Subparagraph XVIII.J. of this Agreement.

11 ~~2. All patient records connected with the performance of the Agreement shall be retained by~~
12 ~~the parties, at a location in the County of Orange unless otherwise approved in advance and in writing~~
13 ~~by ADMINISTRATOR, for a period of seven (7) years after termination of the Agreement.~~

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

18 C. Report Distribution

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

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

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

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

34 //
35 //
36 //
37 #

EXHIBIT B
 TO AGREEMENT FOR PROVISION OF
 PHYSICIAN SERVICES
 FOR
 CORRECTIONAL HEALTH SERVICES PROGRAMS
 JULY 1, ~~2013~~2015 THROUGH JUNE 30, ~~2014~~2017

EXHB I. BUSINESS ASSOCIATE CONTRACT

A. GENERAL PROVISIONS AND RECITALS

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

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

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

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

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

6. The parties understand that the HIPAA Privacy and Security rules, as defined below in Subparagraphs B.9 and B.14, apply to the CONTRACTOR in the same manner as they apply to a covered entity (COUNTY). CONTRACTOR agrees therefore to be in compliance at all times with the terms of this Business Associate Contract and the applicable standards, implementation specifications, and requirements of the Privacy and the Security rules, as they may exist now or be hereafter amended, with respect to PHI and electronic PHI created, received, maintained, transmitted, used, or disclosed pursuant to the Agreement.

1 B. DEFINITIONS

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

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

8 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

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

36 6. "Health Care Operations" shall have the meaning given to such term under the HIPAA
37 Privacy Rule in 45 CFR § 164.501.

1 7. "Individual" shall have the meaning given to such term under the HIPAA Privacy Rule in
2 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance
3 with 45 CFR § 164.502(g).

4 8. "Physical Safeguards" are physical measures, policies, and procedures to protect
5 CONTRACTOR's electronic information systems and related buildings and equipment, from natural
6 and environmental hazards, and unauthorized intrusion.

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

9 10. "Protected Health Information" or "PHI" shall have the meaning given to such term under
10 the HIPAA regulations in 45 CFR § 160.103.

11 11. "Required by Law" shall have the meaning given to such term under the HIPAA Privacy
12 Rule in 45 CFR § 164.103.

13 12. "Secretary" shall mean the Secretary of the Department of Health and Human Services or
14 his or her designee.

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

20 14. "The HIPAA Security Rule" shall mean the Security Standards for the Protection of
21 electronic PHI at 45 CFR Part 160, Part 162, and Part 164, Subparts A and C.

22 15. "Subcontractor" shall have the meaning given to such term under the HIPAA regulations in
23 45 CFR § 160.103.

24 16. "Technical safeguards" means the technology and the policy and procedures for its use that
25 protect electronic PHI and control access to it.

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

30 18. "Use" shall have the meaning given to such term under the HIPAA regulations in 45 CFR §
31 160.103.

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

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

36 2. CONTRACTOR agrees to use appropriate safeguards, as provided for in this Business
37 Associate Contract and the Agreement, to prevent use or disclosure of PHI COUNTY discloses to

1 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
2 other than as provided for by this Business Associate Contract.

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

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

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

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

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

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

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

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

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

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

4 13. CONTRACTOR shall work with COUNTY upon notification by CONTRACTOR to
5 COUNTY of a Breach to properly determine if any Breach exclusions exist as defined in Subparagraph
6 B.1.a above.

7 D. SECURITY RULE

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

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

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

21 E. BREACH DISCOVERY AND NOTIFICATION

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

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

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

31 2. CONTRACTOR shall provide the notification of the Breach immediately to the County
32 Privacy Officer at 714-834-3154.

33 3. CONTRACTOR'S notification may be oral, but shall be followed by written notification
34 within 24 hours of the oral notification.

35 4. CONTRACTOR'S notification shall include, to the extent possible:

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

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

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

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

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

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

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

16 5. COUNTY may require CONTRACTOR to provide notice to the Individual as required in
17 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the
18 COUNTY.

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

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

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

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

36 10. CONTRACTOR shall bear all expense or other costs associated with the Breach and shall
37 reimburse COUNTY for all expenses COUNTY incurs in addressing the Breach and consequences

1 thereof, including costs of investigation, notification, remediation, documentation or other costs
2 associated with addressing the Breach.

3 F. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

13 1) The Disclosure is required by law; or

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

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

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

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

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

28 G. OBLIGATIONS OF COUNTY

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

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

35 3. COUNTY shall notify CONTRACTOR of any restriction to the Use or Disclosure of PHI
36 that COUNTY has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction
37 may affect CONTRACTOR'S Use or Disclosure of PHI.

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

3 H. BUSINESS ASSOCIATE TERMINATION

4 1. Upon COUNTY'S knowledge of a material breach or violation by CONTRACTOR of the
5 requirements of this Business Associate Contract, COUNTY shall:

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

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

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

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

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

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

23 3. The obligations of this Business Associate Contract shall survive the termination of the
24 Agreement.

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