

1                                   AGREEMENT FOR PROVISION OF  
2                                   HOSPITAL SERVICES  
3                                   FOR  
4                                   CORRECTIONAL HEALTH SERVICES  
5                                   BETWEEN  
6                                   COUNTY OF ORANGE  
7                                   AND  
8                                   ANAHEIM GLOBAL MEDICAL CENTER, INC.  
9                                   JULY 1, 2020 THROUGH JUNE 30, 2021

10  
11       THIS AGREEMENT entered into this 1st day of July 2020, (effective date), is by and between the  
12   COUNTY OF ORANGE, a political subdivision of State of California (COUNTY), and ANAHEIM  
13   GLOBAL MEDICAL CENTER, INC., a professional corporation (CONTRACTOR). COUNTY and  
14   CONTRACTOR may sometimes be referred to herein individually as "Party" or collectively as  
15   "Parties." This Agreement shall be administered by the Director of the COUNTY's Health Care Agency  
16   or authorized designee ("ADMINISTRATOR").

17  
18                                   **W I T N E S S E T H:**

19  
20       WHEREAS, the COUNTY published a Request for Application (RFA) for Inpatient Hospital  
21   Services for Correctional Health Services and,

22       WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of Inpatient  
23   Hospital Services for Correctional Health Services described herein to the residents of Orange County;  
24   and

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

27       WHEREAS, COUNTY has entered into a separate agreement with a physician group for provision  
28   of physician services for Correctional Health Services Program (Physician Group):

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

31   //

32   //

33   //

34   //

35   //

36   //

37   //

**TABLE OF CONTENTS**

| <b><u>PARAGRAPH</u></b>                                | <b><u>PAGE</u></b> |
|--|--------------------|
| Title Page.....  | 1                  |
| Table of Contents .....                                | 2                  |
| Referenced Contract Provisions .....                   | 4                  |
| I. Acronyms .....                                      | 5                  |
| II. Alteration of Terms .....                          | 6                  |
| III. Assignment of Debts .....                         | 6                  |
| IV. Compliance .....                                   | 6                  |
| V. Confidentiality.....                                | 10                 |
| VI. Conflict of Interest .....                         | 11                 |
| VII. Delegation, Assignment and Subcontracts.....      | 11                 |
| VIII. Dispute Resolution .....                         | 13                 |
| IX. Employee Eligibility Verification .....            | 14                 |
| X. Expenditure and Revenue Report.....                 | 14                 |
| XI. Facilities, Payments and Services.....             | 14                 |
| XII. Indemnification and Insurance .....               | 14                 |
| XIII. Inspections and Audits .....                     | 19                 |
| XIV. Licenses and Laws .....                           | 20                 |
| XV. Literature, Advertisements, and Social Media ..... | 21                 |
| XVI. Maximum Obligation.....                           | 21                 |
| XVII. Minimum Wage Laws .....                          | 21                 |
| XVIII. Nondiscrimination.....                          | 22                 |
| XIX. Notices.....                                      | 24                 |
| XX. Notification of Death .....                        | 25                 |
| XXI. Notification of Public Events and Meetings .....  | 25                 |
| XXII. Records Management and Maintenance .....         | 25                 |
| XXIII. Research and Publication.....                   | 28                 |
| XXIV. Severability.....                                | 28                 |
| XXV. Special Provisions .....                          | 28                 |
| XXVI. Status of Contractor .....                       | 29                 |
| XXVII. Term .....                                      | 29                 |
| XXVIII. Termination .....                              | 29                 |
| XXIX. Third Party Beneficiary .....                    | 31                 |
| XXX. Waiver of Default or Breach.....                  | 31                 |
| Signature Page.....                                    | 32                 |

//

**TABLE OF CONTENTS**

|  | <b><u>EXHIBIT A</u></b> | <b><u>PAGE</u></b> |
|--|-------------------------|--------------------|
| I. Definitions .....                       |                         | 1                  |
| II. Payments and Billings .....            |                         | 3                  |
| III. Unit Services .....                   |                         | 6                  |
| IV. Off Unit and Other Services .....      |                         | 9                  |
| V. Utilization Review/Quality Review ..... |                         | 13                 |
| VI. Data Reporting Requirements .....      |                         | 14                 |
| VII. Records .....                         |                         | 15                 |
| VIII. Interruption of Services.....        |                         | 17                 |

**EXHIBIT B**

|   |   |
|---|---|
| I. Externally Reviewed Annual Profit and Loss Statement Methodology ..... | 1 |
|---|---|

**EXHIBIT C**

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

**EXHIBIT D**

|  |   |
|--|---|
| I. Personal Information Privacy and Security Contract..... | 1 |
|--|---|

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

**REFERENCED CONTRACT PROVISIONS**

**Term:** July 1, 2020 through June 30, 2021

**Maximum Obligation:** \$6,161,880

**Basis for Reimbursement:** Negotiated Amount

Fee-for-Service

**Payment Method(s):** Monthly in arrears

**CONTRACTOR DUNS Number:** 80-981-6668

**CONTRACTOR TAX ID Number:** 55-0883859

**Notices to COUNTY and CONTRACTOR:**

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

**CONTRACTOR:** Anaheim Global Medical Center, Inc.  
1025 S. Anaheim Blvd  
Anaheim, CA 92805  
Jamie Yoo, CEO  
[Jamie.Yoo@kpchealth.com](mailto:Jamie.Yoo@kpchealth.com)

//

//

//

//

//

//

//

//

## I. ACRONYMS

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

|     |         |   |
|-----|---------|---|
| A.  | ARRA    | American Recovery and Reinvestment Act  |
| B.  | ASRS    | Alcohol and Drug Programs Reporting System                                      |
| C.  | CCC     | California Civil Code   |
| D.  | CCR     | California Code of Regulations  |
| E.  | CEO     | County Executive Office   |
| F.  | CFR     | Code of Federal Regulations   |
| G.  | CHPP    | COUNTY HIPAA Policies and Procedures  |
| H.  | CHS     | Correctional Health Services  |
| I.  | COI     | Certificate of Insurance  |
| J.  | D/MC    | Drug/Medi-Cal   |
| K.  | DHCS    | Department of Health Care Services  |
| L.  | DPFS    | Drug Program Fiscal Systems   |
| M.  | DRS     | Designated Record Set   |
| N.  | ePHI    | Electronic Protected Health Information   |
| O.  | GAAP    | Generally Accepted Accounting Principles  |
| P.  | HCA     | Health Care Agency  |
| Q.  | HHS     | Health and Human Services   |
| R.  | HIPAA   | Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 |
| S.  | HSC     | California Health and Safety Code   |
| T.  | ISO     | Insurance Services Office   |
| U.  | MHP     | Mental Health Plan  |
| V.  | OCJS    | Orange County Jail System   |
| W.  | OCPD    | Orange County Probation Department  |
| X.  | OCR     | Office for Civil Rights   |
| Y.  | OCSD    | Orange County Sheriff's Department  |
| Z.  | OIG     | Office of Inspector General   |
| AA. | OMB     | Office of Management and Budget   |
| AB. | OPM     | Federal Office of Personnel Management  |
| AC. | PA DSS  | Payment Application Data Security Standard                                      |
| AD. | PC      | State of California Penal Code  |
| AE. | PCI DSS | Payment Card Industry Data Security Standard                                    |
| AF. | PHI     | Protected Health Information  |
| AG. | PII     | Personally Identifiable Information   |

|   |                |  |
|---|----------------|--|
| 1 | AH. PRA        | Public Record Act  |
| 2 | AI. RBRVS      | Resource-Based Relative Value Scale                            |
| 3 | AJ. SIR        | Self-Insured Retention   |
| 4 | AK. HITECH Act | Health Information Technology for Economic and Clinical Health |
| 5 |                | Act, Public Law 111-005  |
| 6 | AL. USC        | United States Code   |
| 7 | AM. WIC        | State of California Welfare and Institutions Code              |

## 8

## 9 **II. ALTERATION OF TERMS**

10 A. This Agreement, together with Exhibits A, B, C, D attached hereto and incorporated herein,  
 11 fully expresses the complete understanding of COUNTY and CONTRACTOR with respect to the  
 12 subject matter of this Agreement.

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

## 17

## 18 **III. ASSIGNMENT OF DEBTS**

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

## 26

## 27 **IV. COMPLIANCE**

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

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

34 2. CONTRACTOR has the option to provide ADMINISTRATOR with proof of its own  
 35 Compliance Program, Code of Conduct and any Compliance related policies and procedures.  
 36 CONTRACTOR's Compliance Program, Code of Conduct and any related policies and procedures shall  
 37 be verified by ADMINISTRATOR's Compliance Department to ensure they include all required

elements by ADMINISTRATOR's Compliance Officer as described in this Compliance Paragraph to this Agreement. These elements include:

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

3. If CONTRACTOR does not provide proof of its own compliance program to ADMINISTRATOR, CONTRACTOR shall internally comply with ADMINISTRATOR's Compliance Program and Code of Conduct, the CONTRACTOR shall submit to the ADMINISTRATOR within thirty (30) calendar days of execution of this Agreement a signed acknowledgement that CONTRACTOR will internally comply with ADMINISTRATOR's Compliance Program and Code of Conduct. CONTRACTOR shall have as many Covered Individuals it determines necessary complete ADMINISTRATOR's annual compliance training to ensure proper compliance.

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

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

B. SANCTION SCREENING – CONTRACTOR shall screen all Covered Individuals employed or retained to provide services related to this Agreement semi-annually to ensure that they are not designated as Ineligible Persons, as pursuant to this Agreement. Screening shall be conducted against



1 the General Services Administration's Excluded Parties List System or System for Award Management,  
2 the Health and Human Services/Office of Inspector General List of Excluded Individuals/Entities, and  
3 the California Medi-Cal Suspended and Ineligible Provider List and/or any other list or system as  
4 identified by the ADMINISTRATOR.

5 1. For purposes of this Compliance Paragraph, Covered Individuals includes all employees,  
6 interns, volunteers, contractors, subcontractors, agents, and other persons who provide health care items  
7 or services or who perform billing or coding functions on behalf of ADMINISTRATOR.  
8 CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of  
9 ADMINISTRATOR's Compliance Program, Code of Conduct and related policies and procedures (or  
10 CONTRACTOR's own compliance program, code of conduct and related policies and procedures if  
11 CONTRACTOR has elected to use its own).

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

1. CONTRACTOR shall ensure completion of Specialized Provider Training by all Covered Individuals relative to this Agreement. This includes compliance with federal and state healthcare program regulations and procedures or instructions otherwise communicated by regulatory agencies; including the Centers for Medicare and Medicaid Services or their agents.

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

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

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

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

1 E. MEDICAL BILLING, CODING, AND DOCUMENTATION COMPLIANCE STANDARDS

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

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

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

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

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

18 6. CONTRACTOR shall meet the HCA MHP Quality Management Program Standards and  
19 participate in the quality improvement activities developed in the implementation of the Quality  
20 Management Program.

21 7. CONTRACTOR shall comply with the provisions of the ADMINISTRATOR's Cultural  
22 Competency Plan submitted and approved by the state. ADMINISTRATOR shall update the Cultural  
23 Competency Plan and submit the updates to the State for review and approval annually. (CCR, Title 9,  
24 §1810.410.subds.(c)-(d).

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

31  
32 **V. CONFIDENTIALITY**

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

36 B. Prior to providing any services pursuant to this Agreement, all members of the Board of  
37 Directors or its designee or authorized agent, employees, consultants, subcontractors, volunteers and

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

## **VI. CONFLICT OF INTEREST**

CONTRACTOR shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with COUNTY interests. In addition to CONTRACTOR, this obligation shall apply to CONTRACTOR's employees, agents, and subcontractors associated with the provision of goods and services provided under this Agreement. CONTRACTOR's efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence COUNTY staff or elected officers in the performance of their duties.

## **VII. DELEGATION, ASSIGNMENT AND SUBCONTRACTS**

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

B. CONTRACTOR agrees that if there is a change or transfer in ownership of CONTRACTOR's business prior to completion of this Agreement, and COUNTY agrees to an assignment of the Agreement, the new owners shall be required under the terms of sale or other instruments of transfer to assume CONTRACTOR's duties and obligations contained in this Agreement and complete them to the satisfaction of COUNTY. CONTRACTOR may not assign the rights hereunder, either in whole or in part, without the prior written consent of COUNTY.

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

2. If CONTRACTOR is a for-profit organization, any change in the business structure, including but not limited to, the sale or transfer of more than ten percent (10%) of the assets or stocks of CONTRACTOR, change to another corporate structure, including a change to a sole proprietorship, or a

1 change in fifty percent (50%) or more of Board of Directors or any governing body of CONTRACTOR  
 2 at one time shall be deemed an assignment pursuant to this paragraph. Any attempted assignment or  
 3 delegation in derogation of this subparagraph shall be void.

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

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

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

17 6. COUNTY reserves the right to immediately terminate the Agreement in the event  
 18 COUNTY determines, in its sole discretion, that the assignee is not qualified or is otherwise  
 19 unacceptable to COUNTY for the provision of services under the Agreement.

20 C. CONTRACTOR's obligations undertaken pursuant to this Agreement may be carried out by  
 21 means of subcontracts, provided such subcontractors are approved in advance by ADMINISTRATOR,  
 22 meet the requirements of this Agreement as they relate to the service or activity under subcontract,  
 23 include any provisions that ADMINISTRATOR may require, and are authorized in writing by  
 24 ADMINISTRATOR prior to the beginning of service delivery.

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

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

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

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

37 //

D. CONTRACTOR shall notify COUNTY in writing of any change in the CONTRACTOR's status with respect to name changes that do not require an assignment of the Agreement. CONTRACTOR is also obligated to notify COUNTY in writing if the CONTRACTOR becomes a party to any litigation against COUNTY, or a party to litigation that may reasonably affect the CONTRACTOR's performance under the Contract, as well as any potential conflicts of interest between CONTRACTOR and County that may arise prior to or during the period of Agreement performance. While CONTRACTOR will be required to provide this information without prompting from COUNTY any time there is a change in CONTRACTOR's name, conflict of interest or litigation status, CONTRACTOR must also provide an update to COUNTY of its status in these areas whenever requested by COUNTY.

### **VIII. DISPUTE RESOLUTION**

A. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Agreement is not disposed of in a reasonable period of time by the CONTRACTOR and the ADMINISTRATOR, such matter shall be brought to the attention of the COUNTY Purchasing Agency by way of the following process:

1. CONTRACTOR shall submit to the COUNTY Purchasing Agency a written demand for a final decision regarding the disposition of any dispute between the Parties arising under, related to, or involving this Agreement, unless COUNTY, on its own initiative, has already rendered such a final decision.

2. CONTRACTOR's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Agreement, CONTRACTOR shall include with the demand a written statement signed by an authorized representative indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Agreement adjustment for which CONTRACTOR believes COUNTY is liable.

B. Pending the final resolution of any dispute arising under, related to, or involving this Agreement, CONTRACTOR agrees to proceed diligently with the performance of services secured via this Agreement, including the delivery of goods and/or provision of services. CONTRACTOR's failure to proceed diligently shall be considered a material breach of this Agreement.

C. Any final decision of COUNTY shall be expressly identified as such, shall be in writing, and shall be signed by a COUNTY Deputy Purchasing Agent or designee. If COUNTY fails to render a decision within ninety (90) calendar days after receipt of CONTRACTOR's demand, it shall be deemed a final decision adverse to CONTRACTOR's contentions.

D. This Agreement has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit



1 to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the  
 2 Parties specifically agree to waive any and all rights to request that an action be transferred for  
 3 adjudication to another county.

#### 4 5 **IX. EMPLOYEE ELIGIBILITY VERIFICATION**

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

#### 15 16 **X. EXPENDITURE AND REVENUE REPORT**

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

21 B. CONTRACTOR may be required by ADMINISTRATOR to submit periodic Expenditure  
 22 Reports throughout the term of this Agreement.

#### 23 24 **XI. FACILITIES, PAYMENTS AND SERVICES**

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

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

#### 34 35 **XII. INDEMNIFICATION AND INSURANCE**

36 A. CONTRACTOR agrees to indemnify, defend with counsel approved in writing by COUNTY,  
 37 and hold COUNTY, its elected and appointed officials, officers, employees, agents and those special

1 districts and agencies for which COUNTY's Board of Supervisors acts as the governing Board  
 2 ("COUNTY INDEMNITEES") harmless from any claims, demands or liability of any kind or nature,  
 3 including but not limited to personal injury or property damage, arising from or related to the services,  
 4 products or other performance provided by CONTRACTOR pursuant to this Agreement. If judgment is  
 5 entered against CONTRACTOR and COUNTY by a court of competent jurisdiction because of the  
 6 concurrent active negligence of COUNTY or COUNTY INDEMNITEES, CONTRACTOR and  
 7 COUNTY agree that liability will be apportioned as determined by the court. Neither party shall request  
 8 a jury apportionment.

9 B. Prior to the provision of services under this Agreement, CONTRACTOR agrees to purchase all  
 10 required insurance at CONTRACTOR's expense, including all endorsements required herein, necessary  
 11 to satisfy COUNTY that the insurance provisions of this Agreement have been complied with.  
 12 CONTRACTOR agrees to keep such insurance coverage, Certificates of Insurance, and endorsements  
 13 on deposit with COUNTY during the entire term of this Agreement. In addition, all subcontractors  
 14 performing work on behalf of CONTRACTOR pursuant to this Agreement shall obtain insurance  
 15 subject to the same terms and conditions as set forth herein for CONTRACTOR.

16 C. CONTRACTOR shall ensure that all subcontractors performing work on behalf of  
 17 CONTRACTOR pursuant to this Agreement shall be covered under CONTRACTOR's insurance as an  
 18 Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for  
 19 CONTRACTOR. CONTRACTOR shall not allow subcontractors to work if subcontractors have less  
 20 than the level of coverage required by COUNTY from CONTRACTOR under this Agreement. It is the  
 21 obligation of CONTRACTOR to provide notice of the insurance requirements to every subcontractor  
 22 and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of  
 23 insurance must be maintained by CONTRACTOR through the entirety of this Agreement for inspection  
 24 by COUNTY representative(s) at any reasonable time.

25 D. All SIRs shall be clearly stated on the COI. Any SIR in an amount in excess of fifty thousand  
 26 dollars (\$50,000) shall specifically be approved by the CEO/Office of Risk Management upon review of  
 27 CONTRACTOR's current audited financial report. If CONTRACTOR's SIR is approved,  
 28 CONTRACTOR, in addition to, and without limitation of, any other indemnity provision(s) in this  
 29 Agreement, agrees to all of the following:

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

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

36 //

37 //



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

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

#### F. QUALIFIED INSURER

1. The policy or policies of insurance must be issued by an insurer 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 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.

G. 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   | \$5,000,000 per occurrence<br>\$5,000,000 aggregate  |
| Automobile Liability including coverage<br>for owned, non-owned and hired vehicles | \$1,000,000 per occurrence                           |
| Workers' Compensation  | Statutory  |
| Employers' Liability Insurance   | \$1,000,000 per occurrence                           |
| Professional Liability Insurance   | \$5,000,000 per claims made<br>\$5,000,000 aggregate |
| Sexual Misconduct Liability  | \$1,000,000 per occurrence                           |
| Network Security & Privacy Liability   | \$1,000,000 per claims made                          |

#### H. REQUIRED COVERAGE FORMS

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

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

#### I. REQUIRED ENDORSEMENTS

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

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

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

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

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

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

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

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

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

M. The County of Orange shall be the loss payee on the Employee Dishonesty coverage. A Loss Payee endorsement evidencing that the County of Orange is a Loss Payee shall accompany the Certificate of Insurance.

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

O. If CONTRACTOR's Professional Liability, Technology Errors & Omissions and/or Network Security & Privacy Liability are "Claims -Made" policies, CONTRACTOR shall agree to maintain coverage for two (2) years following the completion of the Agreement.

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

Q. Insurance certificates should be forwarded to the agency/department address listed on the solicitation.

R. If the Contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

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

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

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

#### V. SUBMISSION OF INSURANCE DOCUMENTS

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

- a. Prior to the start date of this Agreement.
- b. No later than the expiration date for each policy.
- c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding changes to any of the insurance requirements as set forth in the Coverage Subparagraph above.

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

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

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

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

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

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

### **XIII. 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 shall retain a licensed certified public accountant, who 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.

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

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

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

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

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

//



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

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

#### 7 8 **XV. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA**

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

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

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

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

#### 29 30 **XVI. MAXIMUM OBLIGATION**

31 The Total Maximum Obligation of COUNTY for services provided in accordance with this  
32 Agreement is as specified in the Referenced Contract Provisions of this Agreement.

#### 33 34 **XVII. MINIMUM WAGE LAWS**

35 A. Pursuant to the United States of America Fair Labor Standards Act of 1938, as amended, and  
36 State of California Labor Code, §1178.5, CONTRACTOR shall pay no less than the greater of the  
37 federal or California Minimum Wage to all its employees that directly or indirectly provide services

pursuant to this Agreement, in any manner whatsoever. CONTRACTOR shall require and verify that all its contractors or other persons providing services pursuant to this Agreement on behalf of CONTRACTOR also pay their employees no less than the greater of the federal or California Minimum Wage.

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

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

## **XVIII. NONDISCRIMINATION**

### **A. EMPLOYMENT**

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

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

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

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

5. All solicitations or advertisements for employees placed by or on behalf of CONTRACTOR and/or subcontractor shall state that all qualified applicants will receive consideration for employment without regard to race, religious creed, color, national origin, ancestry, physical



disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Such requirements shall be deemed fulfilled by use of the term EOE.

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

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

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

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

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

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

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

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

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

## **XIX. NOTICES**

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

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

2. When faxed, transmission confirmed;

3. When sent by Email; or

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

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

C. Within sixteen (16) hours of initial notification, CONTRACTOR shall provide ADMINISTRATOR, CHS Medical Director, and Orange County Sheriff or designee, written notification of the Special Incident.

//

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

## **XX. NOTIFICATION OF DEATH**

A. Upon becoming aware of the death of any person served pursuant to this Agreement, CONTRACTOR shall immediately notify on-premises Sheriff's Deputy, CHS Director and ADMINISTRATOR.

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

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

### **2. WRITTEN NOTIFICATION**

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

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

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

## **XXI. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

A. CONTRACTOR shall notify ADMINISTRATOR of any public event or meeting funded in whole or in part by the COUNTY, except for those events or meetings that are intended solely to serve Clients or occur in the normal course of business.

B. CONTRACTOR shall notify ADMINISTRATOR at least thirty (30) business days in advance of any applicable public event or meeting. The notification must include the date, time, duration, location and purpose of the public event or meeting. Any promotional materials or event related flyers must be approved by ADMINISTRATOR prior to distribution.

//

## **XXII. RECORDS MANAGEMENT AND MAINTENANCE**

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

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

2. CONTRACTOR shall keep and maintain records of each service rendered to each MSN Patient, the identity of the MSN Patient to whom the service was rendered, the date the service was rendered, and such additional information as ADMINISTRATOR or DHCS may require.

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

4. CONTRACTOR shall ensure the maintenance of medical records required by §70747 through and including §70751 of the CCR, as they exist now or may hereafter be amended, the medical necessity of the service, and the quality of care provided. Records shall be maintained in accordance with §51476 of Title 22 of the CCR, as it exists now or may hereafter be amended.

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

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

D. CONTRACTOR shall retain all financial records for a minimum of ten (10) years from the termination of the contract, unless a longer period is required due to legal proceedings such as litigations and/or settlement of claims.

E. CONTRACTOR shall retain all client and/or patient medical records for ten (10) years following discharge of the participant, client and/or patient.

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

//

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

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

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

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

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

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

16 1. Have documents readily available within twenty-four (24) hour notice of a scheduled audit  
17 or site visit.

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

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

22 J. CONTRACTOR shall ensure compliance with requirements pertaining to the privacy and  
23 security of PII and/or PHI. CONTRACTOR shall, upon discovery of a Breach of privacy and/or  
24 security of PII and/or PHI by CONTRACTOR, notify federal and/or state authorities as required by law  
25 or regulation, and copy ADMINISTRATOR on such notifications.

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

29 L. CONTRACTOR shall retain all client and/or patient medical records for ten (10) years  
30 following discharge of the client and/or patient, with the exception of non-emancipated minors for  
31 whom records must be kept until such minors have reached the age of twenty-five (25) years, or for  
32 minors that deliver babies while in custody, records will be retained until the child reaches the age of  
33 twenty-five (25) years.

34 //

35 //

36 //

37 //



**XXIII. 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.

**XXIV. 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.

**XXV. SPECIAL PROVISIONS**

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

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

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

1. Funding travel or training (excluding mileage or parking).

//

2. Making phone calls outside of the local area unless documented to be directly for the purpose of client care.

3. Payment for grant writing, consultants, certified public accounting, or legal services.

4. Purchase of artwork or other items that are for decorative purposes and do not directly contribute to the quality of services to be provided pursuant to this Agreement.

## **XXVI. STATUS OF CONTRACTOR**

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

## **XXVII. TERM**

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

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

## **XXVIII. TERMINATION**

A. CONTRACTOR shall be responsible for meeting all programmatic and administrative contracted objectives and requirements as indicated in this Agreement. CONTRACTOR shall be subject to the issuance of a CAP for the failure to perform to the level of contracted objectives, continuing to not meet goals and expectations, and/or for non-compliance. If CAPs are not completed within timeframe as determined by ADMINISTRATOR notice, payments may be reduced or withheld until CAP is resolved and/or the Agreement could be terminated.

//



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

- 3 1. The loss by CONTRACTOR of legal capacity.
- 4 2. Cessation of services.
- 5 3. The delegation or assignment of CONTRACTOR's services, operation or administration to  
6 another entity without the prior written consent of COUNTY.
- 7 4. The neglect by any physician or licensed person employed by CONTRACTOR of any duty  
8 required pursuant to this Agreement.
- 9 5. The loss of accreditation or any license required by the Licenses and Laws Paragraph of  
10 this Agreement.
- 11 6. The continued incapacity of any physician or licensed person to perform duties required  
12 pursuant to this Agreement.
- 13 7. Unethical conduct or malpractice by any physician or licensed person providing services  
14 pursuant to this Agreement; provided, however, COUNTY may waive this option if CONTRACTOR  
15 removes such physician or licensed person from serving persons treated or assisted pursuant to this  
16 Agreement.

17 C. CONTINGENT FUNDING

- 18 1. Any obligation of COUNTY under this Agreement is contingent upon the following:
  - 19 a. The continued availability of federal, state and county funds for reimbursement of  
20 COUNTY's expenditures, and
  - 21 b. Inclusion of sufficient funding for the services hereunder in the applicable budget(s)  
22 approved by the Board of Supervisors.
- 23 2. In the event such funding is subsequently reduced or terminated, COUNTY may suspend,  
24 terminate or renegotiate this Agreement upon thirty (30) calendar days' written notice given  
25 CONTRACTOR. If COUNTY elects to renegotiate this Agreement due to reduced or terminated  
26 funding, CONTRACTOR shall not be obligated to accept the renegotiated terms.

27 D. In the event this Agreement is suspended or terminated prior to the completion of the term as  
28 specified in the Referenced Contract Provisions of this Agreement, ADMINISTRATOR may, at its  
29 sole discretion, reduce the Not To Exceed Amount of this Agreement to be consistent with the reduced  
30 term of the Agreement.

31 E. In the event this Agreement is terminated CONTRACTOR shall do the following:

- 32 1. Comply with termination instructions provided by ADMINISTRATOR in a manner which  
33 is consistent with recognized standards of quality care and prudent business practice.
- 34 2. Obtain immediate clarification from ADMINISTRATOR of any unsettled issues of contract  
35 performance during the remaining contract term.
- 36 3. Until the date of termination, continue to provide the same level of service required by this  
37 Agreement.

4. If Clients are to be transferred to another facility for services, furnish ADMINISTRATOR, upon request, all Client information and records deemed necessary by ADMINISTRATOR to effect an orderly transfer.

5. Assist ADMINISTRATOR in effecting the transfer of Clients in a manner consistent with Client's best interests.

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

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

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

9. Provide written notice of termination of services to each Client being served under this Agreement, within fifteen (15) calendar days of receipt of termination notice. A copy of the notice of termination of services must also be provided to ADMINISTRATOR within the fifteen (15) calendars day period.

F. COUNTY may terminate this Agreement, without cause, upon thirty (30) calendar days' written notice. The rights and remedies of COUNTY provided in this Termination Paragraph shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this Agreement.

#### **XXIX. THIRD PARTY BENEFICIARY**

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

#### **XXX. WAIVER OF DEFAULT OR BREACH**

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

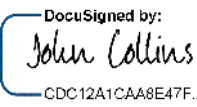
//

//

//

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

3  
4 ANAHEIM GLOBAL MEDICAL CENTER, INC.

5  
6 BY:  \_\_\_\_\_ DATED: 4/24/2020  
7  
8 CDC12A1CAA8E47F...  
9 TITLE: CFO  
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 BY:  \_\_\_\_\_ DATED: 4/26/2020  
30  
31 9713A4061D4343D...  
32 DEPUTY  
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  
HOSPITAL SERVICES  
FOR  
CORRECTIONAL HEALTH SERVICES  
BETWEEN  
COUNTY OF ORANGE  
AND  
ANAHEIM GLOBAL MEDICAL CENTER, INC.  
JULY 1, 2020 THROUGH JUNE 30, 2021

**I. DEFINITIONS**

The parties agree to the following terms and definitions, and to those terms and definitions which, for convenience, are set forth elsewhere in this 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, but are not limited to, such services as laboratory and other diagnostic services, 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. "Bed Day" means one (1) calendar day during which CONTRACTOR provides Medical Services described hereunder, which day shall begin at twelve o'clock midnight. A bed day shall include the day of admission and exclude the day of discharge, unless admission and discharge occur on the same day.

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

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

E. "Correctional Health Services" or "CHS" means the Health Care Agency's Correctional Health Services which is the division which encompasses and oversees the adult and juvenile detention health services programs.

F. "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.

G. "Cost to Charge Ratio" means the most recent OSHPD published cost to charge ratio for CONTRACTOR's facility.

//

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

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

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

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

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

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

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

19 6. It is understood by the parties that Custody Patients excludes those persons, who, at the  
 20 time of service, are escorted by local/city law enforcement (non-county custody personnel), housed or  
 21 subsequently booked into a city jail.

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

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

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

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

32 N. "Hospital Services" means all means all Medical Services provided by CONTRACTOR  
 33 pursuant to this Agreement, excluding Physician Services.

34 O. "Inpatient" means a Custody Patient admitted to CONTRACTOR's hospital for the purpose of  
 35 receiving Medical Services, with the expectation of remaining hospitalized at least overnight.

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

37 //

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.

R. "Medical Services" means any diagnostic, treatment, or supportive services, 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 this Agreement.

S. "OSHPD" means the Office of Statewide Health and Planning Development.

T. "Outpatient Services" means any Clinic Services or Ancillary Services provided to Custody Patients which do not require an admission into CONTRACTOR's facility.

U. "Pharmacy Services" means the dispensing by CONTRACTOR of any medications prescribed by persons providing Medical Services at CONTRACTOR's facility.

V. "Physician Services" means all Medical Services provided by physicians pursuant to either one of two separate Agreements with the COUNTY:

1. For the purposes of this Agreement, Physician Services shall mean those services provided by physicians, through a separate Agreement with COUNTY, to Custody Patients within CONTRACTOR'S facility, which at the execution of this Agreement shall be Correctional Managed Care Medical Corporation. These services shall include those provided by CONTRACTOR's hospital-based physicians.

2. "In House Physician Services" means those services provided by physicians and specialty physicians, through a separate Agreement with COUNTY, to Custody Patients within the COUNTY's CHS facilities.

W. "TAR" means Treatment Authorization Request.

X. "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.

Y. "Vendor" means a provider of services which are outside of CONTRACTOR's normal scope of services offered to the general public, but are deemed medically necessary for a Custody Patient. Services outside CONTRACTOR's normal scope of services include but are not limited to: Pediatric HIV Services; Radiation Therapy; Lithotripsy; MRI; MRA; MRV; MRCP; Mammogram; Optometry; Ophthalmic Surgery; PET Scans; Nuclear PET Scans; Specialized Plastic Surgery; High Risk OB; Transplants; Specialized Radiology; Chemo Therapy, most Quaternary and Tertiary hospital services.

## **II. PAYMENT 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 \$513,490 per month;



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.

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 as follows:

1. For all other services provided directly by CONTRACTOR, CONTRACTOR shall be reimbursed at a rate equal to one hundred twenty five percent (125%) of the current Medicare Resource-Based Relative Value Scale (RBRVS), Area 26.

2. For Vendor services secured by CONTRACTOR on behalf of Custody Patients, Vendors shall be reimbursed at the rate(s) as negotiated by CONTRACTOR and approved in advance by ADMINISTRATOR.

a. CONTRACTOR shall make every effort to negotiate reasonable reimbursement rates with the Vendors. The ADMINISTRATOR reserves the right to negotiate directly and contract with the Vendors.

b. ADMINISTRATOR and CONTRACTOR shall agree on the following reimbursement process for each Vendor specified on CONTRACTOR's schedule. 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 shall request Vendors submit invoices directly to the Fiscal Intermediary for processing and payment.

2) CONTRACTOR and Vendor(s) shall submit invoices in accordance with Medicare billing guidelines and requirements.

C. CONTRACTOR shall arrange for staffing privileges at its hospital facility for up to three (3) COUNTY medical staff as designated by ADMINISTRATOR so as to allow them to coordinate the care of Custody Patients. ADMINISTRATOR shall reimburse CONTRACTOR for the fees associated with securing staffing privileges through COUNTY's Fiscal Intermediary from the CHS Pool. COUNTY agrees that any staff member provided privileges at CONTRACTOR's hospital shall abide by all required Medical Staff privileges/bylaws as now written or may be amended.

D. For reimbursement of services for the guaranteed eleven (11) beds within the Unit as provided in accordance with Paragraph III of this Exhibit A to the Agreement, CONTRACTOR shall submit its invoices to ADMINISTRATOR. CONTRACTOR's invoice shall be on a form approved or supplied by ADMINISTRATOR and provide such information as is required by ADMINISTRATOR. Payments to CONTRACTOR should be released by COUNTY no later than twenty one (21) days after receipt of the correctly completed invoice form.

E. FINANCIAL CONTROLS



1 1. CONTRACTOR shall maintain internal financial controls which adequately ensure proper  
2 billing and collection procedures. CONTRACTOR's procedures shall specifically provide for the  
3 identification of delinquent accounts and methods for pursuing such accounts.

4 2. In consideration of payments made by COUNTY through its Intermediary for Hospital  
5 Services provided to Custody Patients pursuant to the Agreement, COUNTY's obligation to  
6 CONTRACTOR and persons for whom it may have any legal obligation to provide Hospital Services  
7 shall be satisfied.

8 3. As a condition of reimbursement through the Agreement, all claims for reimbursement of  
9 Custody Patient Services provided to Custody Patients shall be:

10 a. Claims for Hospital Services provided during the Agreement, as enumerated in the  
11 Referenced Contract Provisions,

12 b. Submitted electronically and completed in accordance with the Agreement. Paper  
13 claims shall not be accepted without prior authorization of ADMINISTRATOR,

14 c. Initially received by the Intermediary no later than three hundred sixty five (365)  
15 calendar days following the date of service;

16 4. CONTRACTOR shall be notified, in writing, of the reason for a denial of any claim(s).  
17 Notice shall be deemed effective:

18 a. Three (3) calendar days from the date written notice is deposited in the United States  
19 mail, first class certified, return receipt requested, postage prepaid; or

20 b. When accepted by U.S. Postal Service Express Mail, Federal Express, United Parcel  
21 Service, or other expedited delivery service with certified tracking capabilities.

22 5. CONTRACTOR may resubmit denied claims to the Intermediary; provided, however,  
23 CONTRACTOR shall complete any necessary corrective action, and resubmit the claim no later than  
24 one hundred eighty (180) calendar days after notification of the rejection.

25 6. CONTRACTOR may appeal claims denied by the Intermediary to the Intermediary in  
26 accordance with reasonable procedures set forth by ADMINISTRATOR. Such appeal shall be made, in  
27 writing, no later than one hundred eighty (180) calendar days after notification of denial.

28 7. If all information necessary to review the appeal is submitted as required to the  
29 Intermediary, Intermediary shall respond to the appeal within forty-five (45) calendar days.

30 8. If the appeal is subsequently denied by the Intermediary, CONTRACTOR within forty-five  
31 (45) calendar days of receipt of the denied appeal, may submit an appeal to the CHS Director.

32 9. If a denied claim is not resubmitted and/or appealed in writing to the Intermediary and/or  
33 CHS Director within one hundred eighty (180) calendar days after notification of denial, the  
34 Intermediary's determination shall be final, and CONTRACTOR shall have no right to further review of  
35 the claim.

36 //

37 F. ADMINISTRATOR may withhold or delay any payment if CONTRACTOR fails to comply

1 with any provision of this Agreement.

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

### 5 6 **III. UNIT SERVICES**

7 A. Within the Unit at CONTRACTOR's facility, CONTRACTOR shall provide Medical Services  
8 for Custody Patients as requested or required by ADMINISTRATOR or any other person authorized in  
9 accordance with this Agreement.

10 1. Within the Unit, CONTRACTOR shall provide, at a minimum, the following for Custody  
11 Patients:

- 12 a. Eleven (11) Licensed acute hospital inpatient beds in five (5) rooms, and shall be
- 13 capable of being used as an isolation room for one (1) Custody Patient who requires Inpatient Services;
- 14 b. Two (2) Licensed Outpatient examination and treatment rooms, and
- 15 c. Four (4) Telemetry beds.

16 2. Unless otherwise specified in this Agreement, the cost of all Medical Services provided in  
17 accordance with this Paragraph III shall be deemed included in COUNTY's Maximum Obligation to  
18 CONTRACTOR.

19 3. Services to be provided by CONTRACTOR on the Unit shall include, but not be limited to  
20 Inpatient Non-Critical Care, Inpatient Psychiatry, Gynecology, I.V., Rehabilitation Services, or patients  
21 deemed necessary to be housed in the Unit for medical or security reasons as deemed by County.  
22 Services shall include all nursing, ancillary, diagnostic, routine, and other Medical Services. The parties  
23 agree that all ancillary services are included, whether or not those services are provided on the Unit.

24 4. CONTRACTOR shall accept transfers of Custody Patients who have been hospitalized at  
25 another facility for emergency and scope of service purposes when the medical condition of the patient  
26 allows for transfer to CONTRACTOR.

27 5. Custody Patients may be admitted to the Unit directly from CONTRACTOR's emergency  
28 department. For these admissions, the emergency department visit and charges shall be deemed to be  
29 included with the Medical Services and charges of the first Bed Day on the Unit.

30 6. The parties agree that Custody Patients admitted to the Unit who require surgery, other than  
31 Open Heart Surgery, outside the Unit, are still deemed to be on the Unit during the course of that care.

32 a. If a Custody Patient requires admission to another area in CONTRACTOR's facility  
33 after surgery, such as the Intensive Care Unit, that admission shall be deemed part of the Unit stay if the  
34 Custody Patient is discharged back to the Unit prior to midnight.

35 b. If a Custody Patient requires admission to another area in CONTRACTOR's facility  
36 after surgery, such as the Intensive Care Unit, and the Custody Patient is not discharged back to the Unit  
37 before midnight, then CONTRACTOR may bill Intermediary for each Bed Day the Custody Patient is

1 off the Unit in accordance with Subparagraph II.B.1 of this Exhibit A to the Agreement.

2 7. If a person brought into CONTRACTOR's emergency department and is admitted and then  
3 becomes a Custody Patient after the admission, CONTRACTOR shall transfer such persons to the Unit  
4 as soon as medically appropriate. In Custody Bed Days provided prior to the transfer to the Unit may be  
5 billed by CONTRACTOR to the Intermediary in accordance with Subparagraph II.B.1. of this Exhibit A  
6 to the Agreement. For these admissions, the emergency department visit and charges shall be deemed to  
7 be included with the Medical Services and charges of the first Bed Day.

8 8. While it is expected that most services required by Custody Patients shall be provided  
9 directly by CONTRACTOR. When CONTRACTOR is unable to provide any requested specialty  
10 services required, CONTRACTOR shall refer such Custody Patients and coordinate the transfer of such  
11 Patients to appropriate Vendors, upon the order of a physician providing Physician Services.  
12 Reimbursement will come through the Fiscal Intermediary.

13 9. It is expected by the parties that most Medical Services required by Custody Patients, as  
14 defined in Subparagraph II.4 of this Exhibit A to the Agreement, will not require a pediatric specialty.  
15 In the event CONTRACTOR is unable to provide any requested specialty services required,  
16 CONTRACTOR shall refer such Custody Patients to appropriate Vendors, with ADMINISTRATOR'S  
17 prior approval. COUNTY shall reimburse the Vendors in accordance with Subparagraph II.B.2 of this  
18 Exhibit A.

19 B. CONTRACTOR agrees to work with COUNTY's contracted provider for CHS Physician  
20 Services, hereafter referred to as "Physician Group," with respect to patient care, obtaining hospital  
21 privileges, and in resolving any other issues and/or barriers that relate to the ensuring the provision of  
22 Medical Services in accordance with this Agreement.

23 C. CONTRACTOR shall provide regular maintenance and upkeep to the Unit, including but not  
24 limited to painting and ensuring reasonable and routine replacement of all equipment, including  
25 computers used by CONTRACTOR staff.

26 D. CONTRACTOR shall lock and secure the Unit in accordance with requirements established by  
27 the Orange County Sheriff's Department.

28 E. CONTRACTOR shall provide staff located within the Unit whose duties may include, but are  
29 not limited to, the following:

30 1. Appointment and admission scheduling and cancellations.

31 2. Receiving and routing of treatment authorizations. As of the execution of this Agreement,  
32 Treatment Authorizations are currently provided in a manual paper format. CONTRACTOR agrees to  
33 use best efforts to collaborate with ADMINISTRATOR in the implementation of an electronic  
34 Treatment Authorization system for better coordination and monitoring of service utilization.  
35 CONTRACTOR also agrees to use best efforts to collaborate with ADMINISTRATOR to streamline

36 //

37 and automate any and all processes as they related to scheduling Custody Patients for services at

1 CONTRACTOR'S facility or elsewhere as appropriate.

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

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

8 5. Requesting tests and procedures ordered by outpatient physicians, and routing of test results  
9 to appropriate medical staff.

10 6. Providing inpatient nursing. The nurse responsible for supporting physicians during  
11 Outpatient Clinics and other outpatient services shall not be required to provide nursing support to the  
12 inpatients on the Unit.

13 F. CONTRACTOR shall provide parking for three (3) COUNTY vans or automobiles,  
14 immediately adjacent to the Unit, marked specifically for COUNTY use.

15 G. CONTRACTOR shall provide phones within the Unit including phones and phone lines capable  
16 of making calls both within and outside of the hospital. One (1) phone shall be located at the security  
17 desk, and two (2) at the nursing station. In addition, provision shall be made for one (1) pay phone to be  
18 located within the Unit where inpatient services are provided to Custody Patients. The pay phone, with  
19 the Orange County Sheriff's concurrence, may be equipped for calling card usage only.

20 H. CONTRACTOR shall provide support services within the Unit including space, a telephone,  
21 COUNTY network capabilities to support tele-medicine services, and access to equipment for  
22 COUNTY's Case Management Nurse, for hospital support staff, and for physicians who may record  
23 charting, dictate medical transcripts, prepare orders, and make necessary phone calls.

24 1. For transmission and updating of clinic appointment schedules, treatment authorizations,  
25 medical reports and other time-critical documentation between the referring and receiving medical units,  
26 such equipment shall include a facsimile machine within the Unit, available to COUNTY and  
27 CONTRACTOR staff working within the Unit.

28 2. CONTRACTOR staff shall have a computer and shall cooperate with ADMINISTRATOR  
29 in the development of electronic processes to replace facsimile forms, including training of  
30 CONTRACTOR staff on new procedures.

31 I. CONTRACTOR shall provide or cause to be provided any authorized Medical Services,  
32 required by JHS Custody Patients.

33 J. Unit visitors shall follow procedures established by the Orange County Sheriff who is  
34 responsible for security and access to the Unit.

35 //

36 //

37 K. A minimum of one (1) Deputy will be on duty in the Unit at all times during which Custody

1 Patients are present in the Unit. A Deputy will accompany Custody Patients while such patients are  
2 receiving care or diagnostic services outside the Unit.

3 L. CONTRACTOR shall provide, at its sole expense, all repair, maintenance, and janitorial  
4 supplies and services to the Unit and adjacent parking lot. Janitorial supplies and services shall be  
5 provided on a seven (7) day per week basis and shall include, but not be limited to, the supplying of  
6 liners for waste and rubbish containers, replacement light bulbs and fluorescent tubes, and rest room  
7 expendables (i.e., toilet tissue, paper towels, toilet seat covers, and hand soap). Janitorial service shall  
8 be provided at a level at least equal to that provided in CONTRACTOR's contiguous inpatient facility.

9 M. Scheduling by CONTRACTOR of all repair, maintenance and painting, including janitorial  
10 service, shall be made in conjunction with COUNTY staff, including the designee of the Orange County  
11 Sheriff.

12 N. CONTRACTOR shall be responsible for all charges for utilities supplied to the Unit.

13 O. CONTRACTOR shall designate a person or persons to be the main point of contact for  
14 coordination of admissions, discharges, and transfers, answering CHS clinical team inquiries, and  
15 addressing CONTRACTOR's personnel issues associated with the contract. CONTRACTOR shall  
16 provide a back-up for point of contact for both business hours and after hours. Response times shall be  
17 one (1) hour for urgent issues and four (4) hours for routine inquiries. CONTRACTOR shall notify the  
18 COUNTY immediately of any changes to designated persons and back-up point of contact.

#### 19 20 **IV. OFF UNIT AND OTHER SERVICES**

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

25 B. Off Unit Medical Services – CONTRACTOR will make every effort to ensure that Custody  
26 Patients requiring Medical Services as specified herein remain on the Unit. However, the parties agree  
27 that certain services may be medically necessary to provide in other areas of CONTRACTOR's hospital  
28 (Off Unit) either due to the Custody Patient's medical condition, or due to the census, census mix,  
29 and/or custody classification mix on the Unit.

30 1. For any services that should be provided on the Unit, but are provided Off Unit due to  
31 census count, census mix, and/or custody classification mix, unless otherwise specified herein,  
32 COUNTY shall reimburse CONTRACTOR per Bed Day that a Custody Patient is Off Unit in  
33 accordance with Subparagraph II.B.1 of this Exhibit A to the Agreement.

34 a. These services shall include Off Unit Bed Days for accepted transfers of Custody  
35 Patients who have been hospitalized at another facility for emergency or scope of service purposes when  
36 the medical condition of the patient allows for transfer to CONTRACTOR. It is not the intent of  
37 ADMINISTRATOR to require CONTRACTOR to accept transfers from other hospitals if the Custody



1 Patient is medically appropriate to be admitted to the Unit, but the Unit has no available beds.

2 b. Persons admitted Off Unit who become Custody Patients following their admission.

3 c. Inpatient Services as specified in Subparagraphs III.A.6.b and III.A.7.

4 d. If a Custody Patient needs to be moved off Unit due to maintenance, facility, equipment  
5 or staffing issues, costs incurred will still be considered On Unit and no additional charges will apply.

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

8 a. Inpatient Newborn including all nursing, ancillary, diagnostic, routine, and other  
9 Medical Services. COUNTY anticipates CONTRACTOR shall bill appropriate third-party payors for  
10 these Bed Days, therefore, COUNTY shall not provide reimbursement for Inpatient Newborn Bed Days.

11 b. ICU/CCU including all routine Medical Services required for Bed Days Off Unit  
12 including but not limited to all medical supplies, central service items, and nursing support or care.

13 c. 23 Hour Stay in the emergency department, including all routine Medical Services  
14 required including, but not limited to medical supplies, central service items, and nursing support or  
15 care.

16 d. Open Heart Surgery including all routine Medical Services required during the Surgery  
17 including but not limited to all medical supplies, central service items, and nursing support or care  
18 during the course of the Surgery.

19 e. Labor, Delivery, and Post Partum including all nursing, ancillary, diagnostic, routine,  
20 and other Medical Services.

21 C. Other Off Unit Services - COUNTY shall reimburse CONTRACTOR for the following Off  
22 Unit Services provided to Custody Patients in accordance with Subparagraph II.B.1 of this Exhibit A to  
23 the Agreement.

24 1. Emergency Department Visit Services including all routine, general, laboratory, diagnostic  
25 including Radiology, C.T. Scan, and M.R.I. Scan services, and other Medical Services required by a  
26 Custody Patient during the visit including, but not limited to all medical and pharmaceutical supplies,  
27 central service items, and nursing support or care during the Visit.

28 2. Pre-Booking Medical Clearance Visits – Only those patients presenting in  
29 CONTRACTOR's emergency department meeting all of the following criteria:

30 a. Accompanied by an Orange County Sheriff's Deputy; and

31 b. taken first to the COUNTY's Intake and Release Center and required by  
32 ADMINISTRATOR'S staff to seek medical clearance before booking; c.

33 3. Radiology Visit Services including any C.T. Scan and M.R.I Scan services and including  
34 technical component services.

35 //

36 //

37 4. ED/Radiology Visit Services including services stipulated for Emergency Department



1 Visits and Radiology Visits, above, including any C.T. Scan and M.R.I Scan services which may be  
2 provided during an Emergency Department Visit as identified in C.1 and C.3 above.

3 5. Dialysis including all routine Medical Services required during the Outpatient Visit  
4 including but not limited to all medical supplies and central service items. If CONTRACTOR  
5 subcontracts for dialysis services, charges will not exceed the lowest negotiated rate for  
6 CONTRACTOR. CONTRACTOR will pass subcontractor charges directly to CHS for reimbursement  
7 without additional surcharges.

8 6. Outpatient Surgery/Procedures including all routine Medical Services required during the  
9 Outpatient Visit including but not limited to all medical supplies, central service items, and nursing  
10 support or care.

11 7. Cardiac Catheterization, Cardiology, and other invasive and non-invasive cardiac out-  
12 patient procedures including all routine Medical Services required during the Visit including but not  
13 limited to all medical supplies, central service items, and nursing support or care.

14 8. Endoscopy/GI Lab Services including all routine Medical Services required during the  
15 Outpatient Visit including but not limited to all medical supplies, central service items, and nursing  
16 support or care.

17 9. NeuroDiagnostics/EEG including all routine Medical Services required during the  
18 Outpatient Visit including but not limited to all medical supplies, central service items, and nursing  
19 support or care.

20 10. Other Diagnostic and Therapeutic Services including all routine Medical Services required  
21 during the Outpatient Visit including but not limited to all medical supplies, central service items, and  
22 nursing support or care.

23 D. In Unit Clinic Services – CONTRACTOR shall be reimbursed for In Unit Clinic Services in  
24 accordance with Subparagraph II.B.1 of this Exhibit A to the Agreement.

25 1. Outpatient Clinic, Outpatient Physical, Occupational, or Rehabilitation Therapy including  
26 all ancillary, diagnostic, routine, general, and other Medical Services required by a Custody Patient  
27 during the Outpatient Visit, including all medical supplies, central service items, and nursing support or  
28 care during the course of the Outpatient Visit.

29 2. Outpatient Specialty Services Clinics CONTRACTOR shall provide the following  
30 Outpatient Specialty Services Clinics, with nursing support, within the Unit. “PRN” means the Clinic  
31 should be provided within seventy-two (72) hours of request by ADMINISTRATOR or Physician  
32 Group, unless precluded by Sheriff’s transportation issues.

33 a. Outpatient Services may be provided within COUNTY’s CHS facilities at the sole  
34 discretion of ADMINISTRATOR. As Outpatient Services are transitioned to the CHS facilities, the  
35 parties agree to monitor the volume of Outpatient Visits and review support services provided by  
36 CONTRACTOR to identify any cost saving opportunities for CONTRACTOR and maintain the level of  
37 clinic support required by ADMINISTRATOR in a manner consistent with the declining Outpatient

1 Visit volume.

2 b.

|    |                       |                           |
|----|-----------------------|---------------------------|
| 3  |                       |                           |
| 4  | Orthopedics           | 6 times per month         |
| 5  | Neurology             | 1 time per month and PRN  |
| 6  | General Surgery       | PRN                       |
| 7  | ENT                   | 2 times per month         |
| 8  | Oral Surgery          | 2 times per month and PRN |
| 9  | Gastroenterology      | 2 times per month and PRN |
| 10 | Pulmonary Medicine    | PRN                       |
| 11 | Cardiology            | PRN                       |
| 12 | Obstetrics/Gynecology | 2 times per month and PRN |
| 13 | Ophthalmology         | 4 times per month and PRN |
| 14 | Dermatology           | PRN                       |
| 15 | Nephrology            | 1 time per month and PRN  |
| 16 | Urology               | 1 time per month & PRN    |
| 17 | Endocrinology         | 2 times per month and PRN |
| 18 | Podiatry              | PRN                       |

19  
20 c. ADMINISTRATOR and CONTRACTOR may mutually agree, in writing, to adjust the  
21 number of clinics to be provided per week or per month based on patient utilization trends to more  
22 effectively and efficiently utilize CONTRACTOR'S facility and services.

23 d. Any facilities costs incurred by the CONTRACTOR as part of Outpatient Specialty  
24 Services Clinics shall be considered part of the Maximum Obligation of the Agreement and will not be  
25 charged separately to the COUNTY.

26 3. CONTRACTOR shall receive prior written approval before providing any non-emergency  
27 elective medical procedures to Custody Patients referred by COUNTY, unless explicitly authorized by  
28 the CHS Medical Director or designee, which authorization shall be followed with appropriate  
29 documentation.

#### 30 E. Vendor Services

31 1. It is expected that most services required by Custody Patients shall be provided directly by  
32 CONTRACTOR. In the event that CONTRACTOR is unable to provide any requested specialty  
33 services as required by this Paragraph IV, CONTRACTOR shall refer such Custody Patients to  
34 appropriate Vendors, with ADMINISTRATOR's prior approval. COUNTY shall reimburse the  
35 Vendors in accordance with Subparagraph II.B.2 of this Exhibit A to the Agreement.

36 //

37 2. If Services for Custody Patients could be provided at other CONTRACTOR owned

1 facilities, the Parties agree to mutually identify such Service with reimbursement not to exceed one  
 2 hundred twenty five percent (125%) of current RBRVS, Area 26 rates. CONTRACTOR shall bill for  
 3 these Service through the Intermediary in accordance with Paragraph II.E of this Exhibit A to the  
 4 Agreement.

5 3. It is expected by the parties that most Medical Services required by Custody Patients, as  
 6 defined in Subparagraph I.I.4 of this Exhibit A to the Agreement, will not require a pediatric specialty.  
 7 In the event CONTRACTOR is unable to provide any requested specialty services as required by this  
 8 Paragraph IV, CONTRACTOR shall refer such Custody Patients to appropriate Vendors, with  
 9 ADMINISTRATOR's prior approval. COUNTY shall reimburse the Vendors in accordance with  
 10 Subparagraph II.B.2 of this Exhibit A.

11 F. CONTRACTOR shall attend meetings as requested by ADMINISTRATOR including but not  
 12 limited to:

13 1. Monthly management meetings with ADMINISTRATOR to discuss contract performance  
 14 and clinical issues including, but not limited to, whether the program is or is not progressing  
 15 satisfactorily in achieving all the terms of the Agreement and, if not, what steps will be taken to achieve  
 16 satisfactory progress, compliance with P&Ps, reports as defined in subparagraph VI. C, and review of  
 17 statistics and program services.

## 18 **V. UTILIZATION REVIEW/QUALITY REVIEW**

19 A. CONTRACTOR, the CHS Medical Director and/or CHS Administrative Nurse Practitioner,  
 20 and/or other CHS designee, and a representative of the Physician Group shall collaborate regarding  
 21 hospital utilization and Quality Assurance (QA) procedures which are specific to Custody Patients, both  
 22 on and off the Unit, and which recognized the challenges of discharging a Custody Patient to a  
 23 correctional environment vs. home or lower level of care as may be the case for patients not in custody.  
 24 Such programs shall meet the requirements of all appropriate Federal and State laws and regulations,  
 25 including standards of the Joint Commission, and various Correctional state and federal authorities and  
 26 such other guidelines as may be developed by CHS in conjunction with the CONTRACTOR. These  
 27 utilization procedures shall be reviewed quarterly and updated as needed and appropriate.

28 B. CONTRACTOR'S Case Management personnel shall perform concurrent UR for both Hospital  
 29 and Inpatient Physician Services provided to Custody Patients receiving Medical Services in  
 30 conjunction with COUNTY's Case Management Nurse.

31 1. CONTRACTOR and ADMINISTRATOR'S Case Management staff shall discuss  
 32 hospitalized patients weekly and shall evaluate the following:

- 33 a. Each Custody Patient's medical necessity to remain on the Unit versus return to the jail.
- 34 b. A daily summary report created by the CONTRACTOR staff shall be submitted to the
- 35 following: CHS Medical Director, CHS Administrative Nurse Practitioner, CHS Director of Nursing,
- 36 CHS Chief of Operations, CHS Director, CONTRACTOR's Chief Executive Officer,
- 37

1 CONTRACTOR's Chief Nursing Officer, Physician Group Medical Director.

2 c. COUNTY shall use its best efforts to discharge any patient(s) from within the Unit to a  
3 lower level of care based on the availability of such services either within the Jail system or at another  
4 facility providing the required service(s).

5 2. CONTRACTOR and ADMINISTRATOR's Management and Case Management staff shall  
6 meet at a minimum, quarterly and shall evaluate the inpatient admissions/status, outpatient clinic  
7 schedule and services including, but not limited to, a review of appointments kept; appointments missed,  
8 including reasons; requested follow-up visits are consistent with diagnosis/services, and trends in Clinic  
9 and Outpatient Visit volume.

10 a. A monthly summary statistical report created by the CONTRACTOR staff shall be  
11 submitted to the following: CHS Medical Director, CHS Administrative Nurse Practitioner, CHS  
12 Director of Nursing, CHS Chief of Operations, CHS Director, CONTRACTOR's Chief Executive  
13 Officer, CONTRACTOR's Chief Nursing Officer, Physician Group Medical Director.

14 b. The monthly summary statistical report shall include, when appropriate,  
15 recommendations regarding reducing missed clinic appointments and analysis regarding volume trends  
16 for Clinic and Outpatient Visits.

17 C. During the term of this Agreement, representatives of CONTRACTOR and  
18 ADMINISTRATOR, which shall include the Contract Officers, shall meet at least quarterly to discuss  
19 CONTRACTOR's and COUNTY's administrative and programmatic progress and performance.

## 20 **VI. DATA REPORTING REQUIREMENTS**

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

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

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

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

36 //

37 4. COUNTY shall not be responsible for consideration of any data not submitted or corrected

1 by CONTRACTOR in accordance with this Agreement.

2 B. For services provided in accordance with Paragraph IV of this Exhibit A to the Agreement,  
3 CONTRACTOR shall ensure that regardless of the choice(s) of reimbursement mechanism(s) for  
4 Vendors as detailed in Subparagraph II.B.2, CONTRACTOR shall ensure that either CONTRACTOR  
5 submits data consistent with that specified in Subparagraph A above or require that Vendor submit the  
6 claims and data consistent with that specified in Subparagraph A above to COUNTY's Intermediary.  
7 CONTRACTOR shall require, when possible, for Vendors claiming to the Intermediary directly to  
8 submit their claims and data electronically. Claims and claims data not received within three hundred  
9 sixty-five (365) days of the date of service will not be paid by the Intermediary.

10 C. Reports are to be submitted to Administrator by the tenth (10<sup>th</sup>) of each month.

11 1. Daily Census and Patient Status Report: Total claims volume by claims processed by  
12 claims status (paid, denied, pending) Processing report must include the following:

- 13 a. Hospital inpatient services, including a breakdown by type of service
- 14 b. Hospital emergency services
- 15 c. Ancillary services
- 16 d. Ambulance/Paramedic services (if applicable)
- 17 e. The number of claims received
- 18 f. The number of claims paid
- 19 g. Total amount paid
- 20 h. Total billed charges.

21 2. Average Length of Stay Report (monthly and annual):

22 3. Daily Bed Rate Report (monthly and annual): by custody patients in on and off units.

23 4. Hospital Acquired Infections Report: by custody patients in on and off units.

24 5. Hospital Incidents Report: by custody patients in on and off units

25 6. Readmission Rate Report: by custody patients in on and off units

26 7. Custody Patients Facility Transfer Report:

27 D. ADDITIONAL REPORTS – Upon ADMINISTRATOR's request, CONTRACTOR shall make  
28 such additional reports as required by ADMINISTRATOR concerning CONTRACTOR's activities as  
29 they affect the services hereunder. ADMINISTRATOR shall be specific as to the nature of information  
30 requested and allow up to thirty (30) calendar days for CONTRACTOR to respond.

31 E. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Data  
32 Reporting Requirements Paragraph of this Exhibit A to the Agreement.

33 //

34 //

35 //

36 //

## 37 VII. RECORDS



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

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

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

11 3. CONTRACTOR shall ensure the maintenance of medical records required by Sections  
 12 70747 through and including 70751 of the California Code of Regulations, as they exist now or may  
 13 hereafter be amended, and other records related to the services rendered, the medical necessity of the  
 14 service, and the quality of the care provided. Records shall be maintained in accordance with Section  
 15 51476 of Title 22 of the California Code of Regulations, as it exists now or may hereafter be amended.

#### 16 B. Records Retention

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

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

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

#### 27 C. Report Distribution

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

32 2. CONTRACTOR shall not be entitled to any patient identifying information under this  
 33 Subparagraph. Said patient identifying information shall mean for purposes of this Agreement, services  
 34 provided to any Custody Patient at any other health care facility, including COUNTY's CHS facilities.  
 35 Nothing in this Subparagraph shall affect the ability of CONTRACTOR to examine records it submits to

36 //

37 the Fiscal Intermediary or COUNTY. This section is not intended to include information needed for



continuity of Custody Patient Care.

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

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

### **VIII. 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.

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

EXHIBIT B  
TO AGREEMENT FOR PROVISION OF  
HOSPITAL SERVICES  
FOR  
CORRECTIONAL HEALTH SERVICES  
BETWEEN  
COUNTY OF ORANGE  
AND  
ANAHEIM GLOBAL MEDICAL CENTER, INC.  
JULY 1, 2020 THROUGH JUNE 30, 2021

**I. EXTERNALLY REVIEWED ANNUAL PROFIT AND LOSS STATEMENT**  
**METHODOLOGY**

A. In accordance with Paragraph X of this Agreement, the following data shall be included in, and shall be the basis of, both the annual Expenditure and Revenue Reports due from the CONTRACTOR sixty (60) days following each Period and the Externally Reviewed Annual Profit and Loss Statement due from CONTRACTOR sixty (60) days following the end of the CONTRACTOR's fiscal year. All data reported shall cover the dates in each Period of this Agreement.

B. The Revenues and Expenses shall include those associated with Custody Patients housed in the Unit.

C. Expenditure and Revenue Reports and Annual Profit and Loss Statement Reports shall be submitted in accordance with GAAP and as approved in advance by the ADMINISTRATOR

1. Patient Days are incurred in the Unit only and do not include patients transferred to other departments within CONTRACTOR's facility.

2. Revenue-County shall be the actual amount received by CONTRACTOR from COUNTY, which amount is anticipated to be COUNTY's Maximum Obligation as shown on the Reference Page of this Agreement.

3. Revenue-Medi-Cal shall be the Total Revenue received by CONTRACTOR as defined in Paragraph II.G of Exhibit A to the Agreement.

4. Salaries, Wages and Benefits shall be for those for staff assigned to the Unit only.

5. Supplies shall be for those that are administered on the Unit only. 6.

Overhead shall be calculated from the most recent Medicare/Medi-Cal Cost Report on a cost to charge ratio basis.

7. Ancillary costs shall be calculated from the most recent Medicare/Medi-Cal Cost Report on a cost to charge ratio basis.

**D. METHODOLOGY:**

1. Revenue shall consist of

1 a. The actual payments received by CONTRACTOR from COUNTY for services  
2 provided in accordance with Paragraph IV of Exhibit A of this Agreement. The external review shall  
3 verify those payments from check documentation.

4 b. The actual Total Revenue received by CONTRACTOR in accordance with Paragraph  
5 II.G of Exhibit A to this Agreement.

6 2. Expenses shall consist of the costs of operating the Unit, Overhead Expenses and Ancillary  
7 Services Expenses as follows:

8 a. Unit Expenses shall consist of the nursing salaries, supplies and other expenses charged  
9 to the Unit cost center, with the addition of hospital and corporate overhead allocation applicable to the  
10 Unit. The external review shall verify these numbers are accurately presented based on documentation  
11 of the expenses reflected on the CONTRACTOR's Unit cost center financial statements, the support of  
12 those numbers down to the level of payroll documents, journal entries and/or accounts payable  
13 documentation specifying the nature and cost of supplies and services charged to the Unit and the  
14 application of the overhead allocation form the Medicare/Medi-Cal Cost Reports. Numbers generated  
15 from the Medicare/Medi-Cal cost reports shall be inflated by the Consumer Price Index calculated here-  
16 in for years between the cost report and the end of the Period.

17 b. Ancillary Services expenses for Custody In-Patients housed on the Unit shall be based  
18 on the Medicare and Medi/Cal Cost Report Medical Surgical ancillary costs. These costs will be  
19 allocated to patients on the Unit by:

20 1) Calculating Medical Surgical Ancillary cost per day by multiplying the Cost Report  
21 ancillary services cost to charges ratios times the charges generated by CONTRACTOR'S Medical  
22 Surgical patients, aggregated to a total Medical Surgical Ancillary services cost; the aggregated Medical  
23 Surgical Ancillary costs are then divided by the number of Medical Surgical Days which generated the  
24 Ancillary costs per Medical Surgical day.

25 2) The Ancillary cost per Medical Surgical day is then multiplied by the Custody  
26 Patient Days on the Unit to determine the Ancillary costs of Custody Patients on the Unit, and  
27 multiplied by the Consumer Price Index Percent Increase here-in calculated for the years between the  
28 Cost Report and the end of the Period

29 3) The Cost Report Ancillary cost to charges ratios include allocated hospital and  
30 corporate overhead for the Ancillary services.

31 4) The external review of Ancillary costs shall include verification of the above  
32 process down to the level of data pulled from the Medicare/Medi-Cal Cost Report.

33 5) The Custody Patient days on the Unit shall be based on patient level Length of Stay  
34 data generated by CONTRACTOR, and validated by claims data submitted by CONTRACTOR to the  
35 Fiscal Intermediary.

36 3. The Net Margin or Profit, shall be the result of subtracting the Expenses from the  
37 Revenues.

1 E. The Independent Reviewer shall be Certified Public Accountant licensed to practice in the State  
2 of California.

3 1. The Independent Reviewer's report shall verify that the above methodology has been  
4 followed.

5 2. The Independent Reviewer shall have access to CONTRACTOR's proprietary information  
6 and may be required by CONTRACTOR to sign CONTRACTOR's provided Non-Disclosure  
7 Agreement. The Independent Reviewer may not leave CONTRACTOR's premises with any  
8 CONTRACTOR documents or copies thereof not authorized by CONTRACTOR, at  
9 CONTRACTOR'S sole discretion.

10 F. CONTRACTOR asserts that the financial documents or information provided by  
11 CONTRACTOR to COUNTY in accordance with the required Expenditure and Revenue Reports are  
12 proprietary and shall remain the sole property of CONTRACTOR. The information contained in such  
13 documents and any data obtained by virtue thereof are considered confidential and shall not be released  
14 by COUNTY to any third party without the written consent of CONTRACTOR. CONTRACTOR  
15 acknowledges that, pursuant to California law, all information contained in this Agreement is public  
16 record subject to disclosure to any member of the public who requests it. COUNTY will attempt to  
17 notify CONTRACTOR if disclosure is requested of information that CONTRACTOR has indicated is  
18 proprietary/trade secret information, in order to give CONTRACTOR an opportunity to seek a court  
19 order prohibiting disclosure of such information. However, due to the short statutory time period of  
20 COUNTY's responses to request for public records, COUNTY will be able to give CONTRACTOR  
21 only a short period of time in which to seek such a court order before COUNTY will be required to  
22 disclose the requested information. Further, it is entirely CONTRACTOR's responsibility to assert that  
23 information CONTRACTOR believes is proprietary/trade secret information should not be disclosed;  
24 COUNTY will not make such a claim for CONTRACTOR, but will obey a valid court order obtained by  
25 CONTRACTOR prohibiting disclosure of such information.

26 //

27 //

28 //

29 //

30 //

31 //

32 //

33 //

34 //

35 //

36 //

37 //

EXHIBIT C  
TO AGREEMENT FOR PROVISION OF  
HOSPITAL SERVICES  
FOR  
CORRECTIONAL HEALTH SERVICES  
BETWEEN  
COUNTY OF ORANGE  
AND  
ANAHEIM GLOBAL MEDICAL CENTER, INC.  
JULY 1, 2020 THROUGH JUNE 30, 2021

**I. BUSINESS ASSOCIATE CONTRACT**

**A. GENERAL PROVISIONS AND RECITALS**

1. The parties agree that the terms used, but not otherwise defined below in Subparagraph 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.

#### B. DEFINITIONS

1. “Administrative Safeguards” are administrative actions, and policies and procedures, to manage the selection, development, implementation, and maintenance of security measures to protect electronic PHI and to manage the conduct of CONTRACTOR’s workforce in relation to the protection of that information.

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

a. Breach excludes:

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37           //

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

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

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

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

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

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

21 7. CONTRACTOR agrees to provide access, within fifteen (15) calendar days of receipt of a  
22 written request by COUNTY, to PHI in a Designated Record Set, to COUNTY or, as directed by  
23 COUNTY, to an Individual in order to meet the requirements under 45 CFR § 164.524. If  
24 CONTRACTOR maintains an Electronic Health Record with PHI, and an individual requests a copy of  
25 such information in an electronic format, CONTRACTOR shall provide such information in an  
26 electronic format.

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

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

37 //

1 10. CONTRACTOR agrees to document any Disclosures of PHI COUNTY discloses to  
2 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY,  
3 and to make information related to such Disclosures available as would be required for COUNTY to  
4 respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with  
5 45 CFR § 164.528.

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

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

13 13. If CONTRACTOR receives Social Security data from COUNTY provided to COUNTY by  
14 a state agency, upon request by COUNTY, CONTRACTOR shall provide COUNTY with a list of all  
15 employees, subcontractors and agents who have access to the Social Security data, including employees,  
16 agents, subcontractors and agents of its subcontractors.

17 14. CONTRACTOR will notify COUNTY if CONTRACTOR is named as a defendant in a  
18 criminal proceeding for a violation of HIPAA. COUNTY may terminate the Agreement, if  
19 CONTRACTOR is found guilty of a criminal violation in connection with HIPAA. COUNTY may  
20 terminate the Agreement, if a finding or stipulation that CONTRACTOR has violated any standard or  
21 requirement of the privacy or security provisions of HIPAA, or other security or privacy laws are made  
22 in any administrative or civil proceeding in which CONTRACTOR is a party or has been joined.  
23 COUNTY will consider the nature and seriousness of the violation in deciding whether or not to  
24 terminate the Agreement.

25 15. CONTRACTOR shall make itself and any subcontractors, employees or agents assisting  
26 CONTRACTOR in the performance of its obligations under the Agreement, available to COUNTY at  
27 no cost to COUNTY to testify as witnesses, or otherwise, in the event of litigation or administrative  
28 proceedings being commenced against COUNTY, its directors, officers or employees based upon  
29 claimed violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy,  
30 which involves inactions or actions by CONTRACTOR, except where CONTRACTOR or its  
31 subcontractor, employee or agent is a named adverse party.

32 16. The Parties acknowledge that federal and state laws relating to electronic data security and  
33 privacy are rapidly evolving and that amendment of this Business Associate Contract may be required to  
34 provide for procedures to ensure compliance with such developments. The Parties specifically agree to  
35 take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH  
36 Act, the HIPAA regulations and other applicable laws relating to the security or privacy of PHI. Upon  
37 COUNTY's request, CONTRACTOR agrees to promptly enter into negotiations with COUNTY

1 concerning an amendment to this Business Associate Contract embodying written assurances consistent  
2 with the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations or other  
3 applicable laws. COUNTY may terminate the Agreement upon thirty (30) days written notice in the  
4 event:

5 a. CONTRACTOR does not promptly enter into negotiations to amend this Business  
6 Associate Contract when requested by COUNTY pursuant to this Paragraph C; or

7 b. CONTRACTOR does not enter into an amendment providing assurances regarding the  
8 safeguarding of PHI that COUNTY deems are necessary to satisfy the standards and requirements of  
9 HIPAA, the HITECH Act, and the HIPAA regulations.

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

#### 13 D. SECURITY RULE

14 1. CONTRACTOR shall comply with the requirements of 45 CFR § 164.306 and establish  
15 and maintain appropriate Administrative, Physical and Technical Safeguards in accordance with  
16 45 CFR § 164.308, § 164.310, and § 164.312, with respect to electronic PHI COUNTY discloses to  
17 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY.  
18 CONTRACTOR shall develop and maintain a written information privacy and security program that  
19 includes Administrative, Physical, and Technical Safeguards appropriate to the size and complexity of  
20 CONTRACTOR's operations and the nature and scope of its activities.

21 2. CONTRACTOR shall implement reasonable and appropriate policies and procedures to  
22 comply with the standards, implementation specifications and other requirements of 45 CFR Part 164,  
23 Subpart C, in compliance with 45 CFR § 164.316. CONTRACTOR will provide COUNTY with its  
24 current and updated policies upon request.

25 3. CONTRACTOR shall ensure the continuous security of all computerized data systems  
26 containing electronic PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives,  
27 maintains, or transmits on behalf of COUNTY. CONTRACTOR shall protect paper documents  
28 containing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives,  
29 maintains, or transmits on behalf of COUNTY. These steps shall include, at a minimum:

30 a. Complying with all of the data system security precautions listed under Paragraphs E,  
31 below;

32 b. Achieving and maintaining compliance with the HIPAA Security Rule, as necessary in  
33 conducting operations on behalf of COUNTY;

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

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

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

8 6. CONTRACTOR shall designate a Security Officer to oversee its data security program who  
9 shall be responsible for carrying out the requirements of this paragraph and for communicating on  
10 security matters with COUNTY.

11 E. DATA SECURITY REQUIREMENTS

12 1. Personal Controls

13 a. Employee Training. All workforce members who assist in the performance of  
14 functions or activities on behalf of COUNTY in connection with Agreement, or access or disclose PHI  
15 COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on  
16 behalf of COUNTY, must complete information privacy and security training, at least annually, at  
17 CONTRACTOR's expense. Each workforce member who receives information privacy and security  
18 training must sign a certification, indicating the member's name and the date on which the training was  
19 completed. These certifications must be retained for a period of six (6) years following the termination  
20 of Agreement.

21 b. Employee Discipline. Appropriate sanctions must be applied against workforce  
22 members who fail to comply with any provisions of CONTRACTOR's privacy policies and procedures,  
23 including termination of employment where appropriate.

24 c. Confidentiality Statement. All persons that will be working with PHI COUNTY  
25 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of  
26 COUNTY must sign a confidentiality statement that includes, at a minimum, General Use, Security and  
27 Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the  
28 workforce member prior to access to such PHI. The statement must be renewed annually. The  
29 CONTRACTOR shall retain each person's written confidentiality statement for COUNTY inspection  
30 for a period of six (6) years following the termination of the Agreement.

31 d. Background Check. Before a member of the workforce may access PHI COUNTY  
32 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of  
33 COUNTY, a background screening of that worker must be conducted. The screening should be  
34 commensurate with the risk and magnitude of harm the employee could cause, with more thorough  
35 screening being done for those employees who are authorized to bypass significant technical and  
36 operational security controls. The CONTRACTOR shall retain each workforce member's background  
37 check documentation for a period of three (3) years.



2. Technical Security Controls

a. Workstation/Laptop encryption. All workstations and laptops that store PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY either directly or temporarily must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as Advanced Encryption Standard (AES). The encryption solution must be full disk unless approved by the COUNTY.

b. Server Security. Servers containing unencrypted PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.

c. Minimum Necessary. Only the minimum necessary amount of PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY required to perform necessary business functions may be copied, downloaded, or exported.

d. Removable media devices. All electronic files that contain PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, Blackberry, backup tapes etc.). Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Such PHI shall not be considered "removed from the premises" if it is only being transported from one of CONTRACTOR's locations to another of CONTRACTOR's locations.

e. Antivirus software. All workstations, laptops and other systems that process and/or store PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must have installed and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.

f. Patch Management. All workstations, laptops and other systems that process and/or store PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within 30 days of vendor release. Applications and systems that cannot be patched due to operational reasons must have compensatory controls implemented to minimize risk, where possible.

g. User IDs and Password Controls. All users must be issued a unique user name for accessing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password, at maximum within 24 hours. Passwords are not to be shared. Passwords must be at least eight characters and must



1 be a non-dictionary word. Passwords must not be stored in readable format on the computer.  
2 Passwords must be changed every 90 days, preferably every 60 days. Passwords must be changed if  
3 revealed or compromised. Passwords must be composed of characters from at least three of the  
4 following four groups from the standard keyboard:

- 5 1) Upper case letters (A-Z)
- 6 2) Lower case letters (a-z)
- 7 3) Arabic numerals (0-9)
- 8 4) Non-alphanumeric characters (punctuation symbols)

9 h. Data Destruction. When no longer needed, all PHI COUNTY discloses to  
10 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY  
11 must be wiped using the Gutmann or US Department of Defense (DoD) 5220.22-M (7 Pass) standard, or  
12 by degaussing. Media may also be physically destroyed in accordance with NIST Special Publication  
13 800-88. Other methods require prior written permission by COUNTY.

14 i. System Timeout. The system providing access to PHI COUNTY discloses to  
15 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY  
16 must provide an automatic timeout, requiring re-authentication of the user session after no more than 20  
17 minutes of inactivity.

18 j. Warning Banners. All systems providing access to PHI COUNTY discloses to  
19 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY  
20 must display a warning banner stating that data is confidential, systems are logged, and system use is for  
21 business purposes only by authorized users. User must be directed to log off the system if they do not  
22 agree with these requirements.

23 k. System Logging. The system must maintain an automated audit trail which can  
24 identify the user or system process which initiates a request for PHI COUNTY discloses to  
25 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY,  
26 or which alters such PHI. The audit trail must be date and time stamped, must log both successful and  
27 failed accesses, must be read only, and must be restricted to authorized users. If such PHI is stored in a  
28 database, database logging functionality must be enabled. Audit trail data must be archived for at least 3  
29 years after occurrence.

30 l. Access Controls. The system providing access to PHI COUNTY discloses to  
31 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY  
32 must use role based access controls for all user authentications, enforcing the principle of least privilege.

33 m. Transmission encryption. All data transmissions of PHI COUNTY discloses to  
34 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY  
35 outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is  
36 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files

37 //

1 containing PHI can be encrypted. This requirement pertains to any type of PHI in motion such as  
2 website access, file transfer, and E-Mail.

3 n. Intrusion Detection. All systems involved in accessing, holding, transporting, and  
4 protecting PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains,  
5 or transmits on behalf of COUNTY that are accessible via the Internet must be protected by a  
6 comprehensive intrusion detection and prevention solution.

7 3. Audit Controls

8 a. System Security Review. CONTRACTOR must ensure audit control mechanisms that  
9 record and examine system activity are in place. All systems processing and/or storing PHI COUNTY  
10 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of  
11 COUNTY must have at least an annual system risk assessment/security review which provides  
12 assurance that administrative, physical, and technical controls are functioning effectively and providing  
13 adequate levels of protection. Reviews should include vulnerability scanning tools.

14 b. Log Reviews. All systems processing and/or storing PHI COUNTY discloses to  
15 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY  
16 must have a routine procedure in place to review system logs for unauthorized access.

17 c. Change Control. All systems processing and/or storing PHI COUNTY discloses to  
18 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY  
19 must have a documented change control procedure that ensures separation of duties and protects the  
20 confidentiality, integrity and availability of data.

21 4. Business Continuity/Disaster Recovery Control

22 a. Emergency Mode Operation Plan. CONTRACTOR must establish a documented plan  
23 to enable continuation of critical business processes and protection of the security of PHI COUNTY  
24 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of  
25 COUNTY kept in an electronic format in the event of an emergency. Emergency means any  
26 circumstance or situation that causes normal computer operations to become unavailable for use in  
27 performing the work required under this Agreement for more than 24 hours.

28 b. Data Backup Plan. CONTRACTOR must have established documented procedures to  
29 backup such PHI to maintain retrievable exact copies of the PHI. The plan must include a regular  
30 schedule for making backups, storing backup offsite, an inventory of backup media, and an estimate of  
31 the amount of time needed to restore DHCS PHI or PI should it be lost. At a minimum, the schedule  
32 must be a weekly full backup and monthly offsite storage of DHCS data. Business Continuity Plan  
33 (BCP) for contractor and COUNTY (e.g. the application owner) must merge with the DRP.

34 5. Paper Document Controls

35 a. Supervision of Data. PHI COUNTY discloses to CONTRACTOR or CONTRACTOR  
36 creates, receives, maintains, or transmits on behalf of COUNTY in paper form shall not be left  
37 unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means

1 that information is not being observed by an employee authorized to access the information. Such PHI  
2 in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in  
3 baggage on commercial airplanes.

4 b. Escorting Visitors. Visitors to areas where PHI COUNTY discloses to  
5 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY is  
6 contained shall be escorted and such PHI shall be kept out of sight while visitors are in the area.

7 c. Confidential Destruction. PHI COUNTY discloses to CONTRACTOR or  
8 CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must be disposed of  
9 through confidential means, such as cross cut shredding and pulverizing.

10 d. Removal of Data. PHI COUNTY discloses to CONTRACTOR or CONTRACTOR  
11 creates, receives, maintains, or transmits on behalf of COUNTY must not be removed from the premises  
12 of the CONTRACTOR except with express written permission of COUNTY.

13 e. Faxing. Faxes containing PHI COUNTY discloses to CONTRACTOR or  
14 CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY shall not be left  
15 unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement  
16 notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the  
17 intended recipient before sending the fax.

18 f. Mailing. Mailings containing PHI COUNTY discloses to CONTRACTOR or  
19 CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY shall be sealed and  
20 secured from damage or inappropriate viewing of PHI to the extent possible. Mailings which include  
21 500 or more individually identifiable records containing PHI COUNTY discloses to CONTRACTOR or  
22 CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY in a single package  
23 shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless  
24 the prior written permission of COUNTY to use another method is obtained.

#### 25 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

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

2           a. The identification of each Individual whose Unsecured PHI has been, or is reasonably

3 believed by CONTRACTOR to have been, accessed, acquired, used, or disclosed during the Breach;

4           b. Any other information that COUNTY is required to include in the notification to

5 Individual under 45 CFR §164.404 (c) at the time CONTRACTOR is required to notify COUNTY or

6 promptly thereafter as this information becomes available, even after the regulatory sixty (60) day

7 period set forth in 45 CFR § 164.410 (b) has elapsed, including:

8           1) A brief description of what happened, including the date of the Breach and the date

9 of the discovery of the Breach, if known;

10           2) A description of the types of Unsecured PHI that were involved in the Breach (such

11 as whether full name, social security number, date of birth, home address, account number, diagnosis,

12 disability code, or other types of information were involved);

13           3) Any steps Individuals should take to protect themselves from potential harm

14 resulting from the Breach;

15           4) A brief description of what CONTRACTOR is doing to investigate the Breach, to

16 mitigate harm to Individuals, and to protect against any future Breaches; and

17           5) Contact procedures for Individuals to ask questions or learn additional information,

18 which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

19           4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in

20 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the

21 COUNTY.

22           5. In the event that CONTRACTOR is responsible for a Breach of Unsecured PHI in violation

23 of the HIPAA Privacy Rule, CONTRACTOR shall have the burden of demonstrating that

24 CONTRACTOR made all notifications to COUNTY consistent with this Paragraph F and as required by

25 the Breach notification regulations, or, in the alternative, that the acquisition, access, use, or disclosure

26 of PHI did not constitute a Breach.

27           6. CONTRACTOR shall maintain documentation of all required notifications of a Breach or

28 its risk assessment under 45 CFR § 164.402 to demonstrate that a Breach did not occur.

29           7. CONTRACTOR shall provide to COUNTY all specific and pertinent information about the

30 Breach, including the information listed in Section E.3.b.(1)-(5) above, if not yet provided, to permit

31 COUNTY to meet its notification obligations under Subpart D of 45 CFR Part 164 as soon as

32 practicable, but in no event later than fifteen (15) calendar days after CONTRACTOR's initial report of

33 the Breach to COUNTY pursuant to Subparagraph F.2 above.

34           8. CONTRACTOR shall continue to provide all additional pertinent information about the

35 Breach to COUNTY as it may become available, in reporting increments of five (5) business days after

36 the last report to COUNTY. CONTRACTOR shall also respond in good faith to any reasonable

37 //

requests for further information, or follow-up information after report to COUNTY, when such request is made by COUNTY.

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

#### G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

1) The Disclosure is required by law; or

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

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

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

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

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

#### H. PROHIBITED USES AND DISCLOSURES

1. CONTRACTOR shall not disclose PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY about an individual to a health plan for payment or health care operations purposes if the PHI pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full and the individual requests such restriction, in accordance with 42 USC § 17935(a) and 45 CFR § 164.522(a).



2. CONTRACTOR shall not directly or indirectly receive remuneration in exchange for PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY, except with the prior written consent of COUNTY and as permitted by 42 USC § 17935(d)(2).

I. OBLIGATIONS OF COUNTY

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

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

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

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

J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

b. CONTRACTOR shall retain no copies of the PHI.

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

//



Agreement.

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

EXHIBIT D  
TO AGREEMENT FOR PROVISION OF  
HOSPITAL SERVICES  
FOR  
CORRECTIONAL HEALTH SERVICES  
BETWEEN  
COUNTY OF ORANGE  
AND  
ANAHEIM GLOBAL MEDICAL CENTER, INC.  
JULY 1, 2020 THROUGH JUNE 30, 2021

**I. PERSONAL INFORMATION PRIVACY AND SECURITY CONTRACT**

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

**A. DEFINITIONS**

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

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

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

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

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

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

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

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

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

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

#### B. TERMS OF AGREEMENT

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

2. Responsibilities of CONTRACTOR  
CONTRACTOR agrees:

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

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

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

//

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

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

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

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

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

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

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

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

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

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

8 //

9 //

10 //

11 //

12 //

13 //

14 //

15 //

16 //

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28 //

29 //

30 //

31 //

32 //

33 //

34 //

35 //

36 //

37 //