

1 AGREEMENT FOR PROVISION OF
2 MEDICAL SAFETY NET PROGRAM NETWORK HOSPITAL SERVICES

3 BETWEEN
4 COUNTY OF ORANGE

5 AND

6 «UC_NAME» «UC_DBA»

7 JULY 1, ~~2015~~2019 THROUGH DECEMBER 31, ~~2018~~2024

8
9 THIS AGREEMENT entered into this 1st day of July, ~~2015, which~~2019 (effective date ~~is~~
10 ~~enumerated for purposes of reference only.~~), is by and between the COUNTY OF ORANGE, a political
11 subdivision of the State of California (COUNTY), and
12 «UC_NAME»«UC_DBA», a ~~California nonprofit corporation~~«CORP_STAT» (CONTRACTOR).
13 COUNTY and CONTRACTOR may sometimes be referred to herein individually as "Party" or
14 collectively as "Parties." This Agreement shall be administered by the ~~County~~Director of ~~Orange~~the
15 COUNTY's Health Care Agency (~~or an authorized designee~~ ("ADMINISTRATOR:").

16
17 WITNESSETH:

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19 WHEREAS, COUNTY, in order to meets is obligations under California Welfare & Institutions
20 Code 17000 (W&I 17000), has established a Medical Safety Net (MSN) Program to provide services
21 which are medically necessary to protect life, prevent significant disability, or prevent serious
22 deterioration of health; and,

23 WHEREAS, with respect to medical criteria for enrollment into the MSN Program, applicants must
24 have an urgent or emergent medical condition that if left untreated would result in serious deterioration
25 of health; and,

26 WHEREAS, COUNTY desires to assure the availability of Network Hospital Services to all low
27 income persons for whom COUNTY is legally responsible pursuant to W&I 17000; and,

28 WHEREAS, CONTRACTOR, upon the terms and conditions set forth herein, is willing to provide
29 Network Hospital Services to persons covered by this Agreement; and,

30 WHEREAS, COUNTY, as provided herein, desires to reimburse hospitals which are providers of
31 Network Hospital Services to persons covered by this Agreement; and,

32 WHEREAS, the parties wish to provide for equitable reimbursement of those providing Network
33 Hospitals Services with a minimum of administrative costs; and,

34 WHEREAS, CONTRACTOR a general acute care facility, is licensed in accordance with the
35 requirements of the California Health Facilities Licensure Act (Health and Safety Code, sections 1250 et
36 seq.) and any regulations promulgated pursuant thereto, and is equipped, staffed, and prepared to provide
37 Network Hospital Services; and,

1 WHEREAS, COUNTY has entered into separate agreements for additional hospital services as well
2 as, physician services, and other medical care services; and,

3 WHEREAS, the parties desire to state the respective rights and responsibilities of the parties related
4 to providing, claiming, and reimbursing Network Hospital Services.

5 ~~NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:~~

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

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

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CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
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<u>PARAGRAPH</u>	<u>PAGE</u>
Title Page.....	1
Contents.....	2
Referenced Contract Provisions.....	4
I. Acronyms	6
II. Alteration of Terms	7
<u>III. Assignment of Debt.....</u>	<u>7</u>
III . <u>IV.</u> Compliance.....	7
IV . <u>V.</u> Confidentiality.....	12
<u>VI. Conflict of Interest.....</u>	<u>13</u>
V . <u>VII.</u> Delegation, Assignment, and Subcontracts	13
<u>VIII. Dispute Resolution</u>	<u>15</u>
VI . <u>IX.</u> Employee Eligibility Verification	16
VII . <u>X.</u> Facilities, Payments and Services	16
VIII . <u>XI.</u> Indemnification and Insurance.....	16
IX . <u>XII.</u> Inspections and Audits	22
X . <u>XIII.</u> Licenses and Laws.....	23
XI . <u>XIV.</u> Literature, Advertisements, and Social Media	25
XII . <u>XV.</u> Nondiscrimination.....	26
XIII . <u>XVI.</u> Notices.....	28
XIV . <u>XVII.</u> Records Management and Maintenance.....	29
XV . <u>XVIII.</u> Research and Publication.....	30
XVI . <u>XIX.</u> Right to Work and Minimum Wage Laws	30
XVII . <u>XX.</u> Severability.....	31
XVIII . <u>XXI.</u> Status of Contractor	31
XIX . <u>XXII.</u> Term	32
XX . <u>XXIII.</u> Termination	32
XXI . <u>XXIV.</u> Third Party Beneficiary	34
XXII . <u>XXV.</u> Waiver of Default or Breach	35
Signature Page	36
#	
#	
#	
//	
//	

	<u>EXHIBIT A</u>	<u>PAGE</u>
1		
2	I. Preamble.....	1
3	II. Common Terms and Definitions	1
4	III. Clinic Obligations	5
5	IV. Guidelines For Reimbursable Medical Services	11
6	V. Funding and Payments	12
7	VI. County Obligations	12
8	VII. Committees/Groups	14
9	VIII. Reports.....	15

	<u>EXHIBIT B – Claims and Disbursements</u>	
10		
11		
12	I. Preamble.....	1
13	II. Satisfaction of County Obligations	1
14	III. Conditions of Reimbursement	1
15	IV. Claim Denial / Appeal.....	3
16	V. Third Party, Primary, or Other Insurance Claims.....	4
17	VI. Payments to Contracting Network Hospitals.....	5
18	VII. Payments For Outpatient Pharmacy Services.....	9
19	VIII. Satisfaction of Claims	9

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REFERENCED CONTRACT PROVISIONS

Master Agreement Term:

Period One means the period July 1, ~~2015~~2019 through June 30, ~~2016~~2020

Period Two means the period July 1, ~~2016~~2020 through June 30, ~~2017~~2021

Period Three means the period July 1, ~~2017~~2021 through June 30, ~~2018~~2022

Period Four means the period July 1, ~~2018~~2022 through June 30, ~~2019~~2023

Period Five means the period July 1, 2023 through June 30, 2024

Administrative/Claiming Responsibilities:

Period One means the period July 1, ~~2015~~2019 through December 31, ~~2016~~2019

Period Two means the period July 1, ~~2016~~2020 through December 31, ~~2017~~2020

Period Three means the period July 1, ~~2017~~2022 through December 31, ~~2018~~2022

Period Four means the period July 1, ~~2018~~2023 through December 31, ~~2019~~2023

Period Five means the period July 1, 2024 through December 31, 2024

CONTRACTOR DUNS Number: «DUNS»

CONTRACTOR TAX ID Number: «TAX_ID»

Notices to COUNTY and CONTRACTOR:

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

HOSPITAL: «LC_NAME» «LC_DBA»
Attn: «CONTACT_1», «CONTACT_2» «TITLE_2»
«TITLE»
«ADDRESS» «ADDRESS_2»
«CITY_STATE_ZIP» «CITY_STATE_ZIP_2»

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I. ACRONYMS

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

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4	A. ACH	Acute Care Hospital
5	B. ARRA	American Recovery and Reinvestment Act
6	C. ASRS	Alcohol and Drug Programs Reporting System
7	D. BH	Base Hospital
8	E. CCC	California Civil Code
9	F. CCR	California Code of Regulations
10	G. CERC	Children's Emergency Receiving Center
11	H. CEO	County Executive Office
12	I. CFR	Code of Federal Regulations
13	J. CHPP	COUNTY HIPAA Policies and Procedures
14	K. CHS	Correctional Health Services
15	L. COI	Certificate of Insurance
16	M. D/MC	Drug/Medi-Cal
17	N. DHCS	Department of Health Care Services
18	O. DPFS	Drug Program Fiscal Systems
19	P. DRS	Designated Record Set
20	Q. ePHI	Electronic Protected Health Information
21	R. ERC	Emergency Receiving Center
22	S. GAAP	Generally Accepted Accounting Principles
23	T. HCA	Health Care Agency
24	U. HHS	Health and Human Services
25	V. HIPAA	Health Insurance Portability and Accountability Act of 1996, Public
26		Law 104-191
27	W. HSC	California Health and Safety Code
28	X. ISO	Insurance Services Office
29	Y. MHP	Mental Health Plan
30	Z. OCJS	Orange County Jail System
31	AA. OCPD	Orange County Probation Department
32	AB. OCR	Office for Civil Rights
33	AC. OCSD	Orange County Sheriff's Department
34	AD. OCEMS	Orange County Emergency Medical Services
35	AE. OC-MEDS	Orange County Medical Emergency Data System
36	AF. OIG	Office of Inspector General
37	AG. OMB	Office of Management and Budget

1	AH. OPM	Federal Office of Personnel Management
2	AI. PA DSS	Payment Application Data Security Standard
3	AJ. PC	State of California Penal Code
4	AK. PCI DSS	Payment Card Industry Data Security Standard
5	AL. PHI	Protected Health Information
6	AM. PII	Personally Identifiable Information
7	AN. PRA	Public Record Act
8	AO. SIR	Self-Insured Retention
9	AP. The HITECH Act	The Health Information Technology for Economic and Clinical Health Act, Public Law 111-005
10		
11	AQ. USC	United States Code
12	AR. WIC	State of California Welfare and Institutions Code

II. ALTERATION OF TERMS

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

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

III. ASSIGNMENT OF DEBTS COMPLIANCE

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

IV. COMPLIANCE

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

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

4 2. CONTRACTOR has the option to ~~adhere to HCA's Compliance Program and Code~~ provide
 5 ADMINISTRATOR with proof of ~~Conduct or establish~~ its own, ~~provided~~ compliance program, code of
 6 conduct and any compliance related policies and procedures. CONTRACTOR's ~~Compliance Program~~
 7 ~~and Code of Conduct have been~~ compliance program, code of conduct and any related policies and
 8 procedures shall be verified ~~to~~ by ADMINISTRATOR's Compliance Department to ensure they include
 9 all required elements by ADMINISTRATOR's Compliance Officer as described in ~~subparagraphs~~
 10 ~~below~~ this Compliance Paragraph to this Agreement. These elements include:

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

12 b. Written standards, policies and/or procedures.

13 c. Compliance related training and/or education program and proof of completion.

14 d. Communication methods for reporting concerns to the Compliance Officer.

15 e. Methodology for conducting internal monitoring and auditing.

16 f. Methodology for detecting and correcting offenses.

17 g. Methodology/Procedure for enforcing disciplinary standards.

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

26 4. If CONTRACTOR elects to have its own ~~Compliance Program and Code of~~
 27 ~~Conduct~~ compliance program, code of conduct and any Compliance related policies and procedures
 28 reviewed by ADMINISTRATOR, then ~~it~~ CONTRACTOR shall submit a copy of its ~~Compliance~~
 29 ~~Program, Code~~ compliance program, code of ~~Conduct~~ conduct and all relevant policies and procedures to
 30 ADMINISTRATOR within thirty (30) calendar days of ~~award~~ execution of this Agreement.
 31 ADMINISTRATOR's Compliance Officer, or designee, shall review said documents within a
 32 reasonable time, which shall not exceed forty-five (45) calendar days, and determine if
 33 ~~CONTRACTOR's~~ contractor's proposed compliance program and code of conduct contain all required
 34 elements to the ADMINISTRATOR's satisfaction as consistent with the HCA's Compliance Program
 35 and Code of Conduct ~~contains all required elements~~. ADMINISTRATOR shall inform
 36 CONTRACTOR ~~shall take necessary action~~ of any missing required elements and CONTRACTOR shall
 37 revise its compliance program and code of conduct to meet ~~said standards or shall be asked to~~

1 ~~acknowledge and agree to HCA's Compliance Program and Code of Conduct if the CONTRACTOR's~~
 2 ~~Compliance Program and Code of Conduct does not contain all required elements.~~ ADMINISTRATOR's
 3 required elements within thirty (30) calendar days after ADMINISTRATOR's Compliance Officer's
 4 determination and resubmit the same for review by the ADMINISTRATOR.

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

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

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

24 1. For purposes of this Compliance Paragraph, Covered Individuals includes all employees,
 25 interns, volunteers, contractors, subcontractors, agents, and other persons who provide health care items
 26 or services or who perform billing or coding functions on behalf of ~~CONTRACTOR.~~ ~~Notwithstanding~~
 27 ~~the above, this term does not include part-time or per-diem employees, contractors, subcontractors,~~
 28 ~~agents, and other persons who are not reasonably expected to work more than one hundred sixty (160)~~
 29 ~~hours per year; except that any such individuals shall become Covered Individuals at the point when~~
 30 ~~they work more than one hundred sixty (160) hours during the calendar year.~~ ADMINISTRATOR.

31 CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of
 32 ADMINISTRATOR's Compliance Program, Code of Conduct and related policies and procedures. (or
 33 CONTRACTOR's own compliance program, code of conduct and related policies and procedures if
 34 CONTRACTOR has elected to use its own).

35 2. An Ineligible Person shall be any individual or entity who:
 36 a. is currently excluded, suspended, debarred or otherwise ineligible to participate in
 37 federal and state health care programs; or

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

4 3. CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement.
 5 CONTRACTOR shall not hire or engage any Ineligible Person to provide services relative to this
 6 Agreement.

7 4. CONTRACTOR shall screen all current Covered Individuals and subcontractors semi-
 8 annually to ensure that they have not become Ineligible Persons. CONTRACTOR shall also request that
 9 its subcontractors use their best efforts to verify that they are eligible to participate in all federal and
 10 State of California health programs and have not been excluded or debarred from participation in any
 11 federal or state health care programs, and to further represent to CONTRACTOR that they do not have
 12 any Ineligible Person in their employ or under contract ~~directly providing services relevant to this~~
 13 ~~Agreement.~~

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

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

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

32 C. GENERAL COMPLIANCE TRAINING ~~—~~ ADMINISTRATOR shall make General
 33 Compliance Training ~~and Provider Compliance Training, where appropriate,~~ available to Covered
 34 Individuals.

35 ~~1. CONTRACTOR~~ 1. CONTRACTORS that have acknowledged to comply with
 36 ADMINISTRATOR's Compliance Program shall use its best efforts to encourage completion by all
 37 Covered Individuals; provided, however, that at a minimum CONTRACTOR shall assign at least one

1 (1) designated representative to complete ~~all~~ the General Compliance ~~Trainings~~ Training when offered.

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

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

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

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

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

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

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

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

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

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

26 E. ~~MEDI-CAL~~ ~~D. MEDICAL~~ BILLING, CODING, AND DOCUMENTATION COMPLIANCE
27 STANDARDS

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

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

36 3. CONTRACTOR shall bill only for those eligible services actually rendered which are also
37 fully documented. When such services are coded, CONTRACTOR shall use ~~accurate~~ proper billing

1 codes which accurately describes the services provided and must ensure compliance with all billing and
2 documentation requirements.

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

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

7 6.

8 CONTRACTOR shall meet the HCA MHP Quality Management Program Standards and participate in
9 the quality improvement activities developed in the implementation of the Quality Management
10 Program.

11 7. CONTRACTOR shall comply with the provisions of the ADMINISTRATOR's Cultural
12 Competency Plan submitted and approved by the state. ADMINISTRATOR shall update the Cultural
13 Competency Plan and submit the updates to the State for review and approval annually. (CCR, Title 9,
14 §1810.410.subds.(c)-(d)).

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

21 **V. CONFIDENTIALITY**

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

25 1. CONTRACTOR acknowledges and agrees that all persons served pursuant to this
26 Agreement are Clients of the Orange County MSN services system, and therefore it may be necessary
27 for authorized staff of ADMINISTRATOR to audit Client files, or to exchange information regarding
28 specific Clients with COUNTY or other providers of related services contracting with COUNTY.

29 2. CONTRACTOR acknowledges and agrees that it shall be responsible for obtaining written
30 consents for the release of information from all persons served by CONTRACTOR pursuant to this
31 Agreement. Such consents shall be obtained by CONTRACTOR in accordance with CCC, Division 1,
32 Part 2.6, relating to confidentiality of medical information.

33 3. In the event of a collaborative service agreement between MSN services providers,
34 CONTRACTOR acknowledges and agrees that it is responsible for obtaining releases of information,
35 from the collaborative agency, for Clients receiving services through the collaborative agreement.

36 B. Prior to providing any services pursuant to this Agreement, all members of ~~the~~
37 CONTRACTOR's Board of Directors or governing body, or its designee or authorized agent,

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

7 C. If CONTRACTOR is a public institution, COUNTY understands and agrees that
 8 CONTRACTOR is subject to the provisions of the California Public Records Act. In the event
 9 CONTRACTOR receives a request to produce this Agreement, or identify any term, condition, or aspect
 10 of this Agreement, CONTRACTOR shall notify COUNTY no less than three (3) business days prior to
 11 releasing such information.

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13 VI. CONFLICT OF INTEREST

14 CONTRACTOR shall exercise reasonable care and diligence to prevent any actions or conditions that
 15 could result in a conflict with COUNTY interests. In addition to CONTRACTOR, this obligation shall
 16 apply to CONTRACTOR's employees, agents, and subcontractors associated with the provision of
 17 goods and services provided under this Agreement. CONTRACTOR's efforts shall include, but not be
 18 limited to establishing rules and procedures preventing its employees, agents, and subcontractors from
 19 providing or offering gifts, entertainment, payments, loans or other considerations which could be
 20 //
 21 deemed to influence or appear to influence COUNTY staff or elected officers in the performance of their
 22 duties.

23

24 VII. DELEGATION, ASSIGNMENT, AND SUBCONTRACTS

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

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

36 1. If CONTRACTOR is a nonprofit organization, any change from a nonprofit corporation to
 37 any other corporate structure of CONTRACTOR, including a change in more than fifty percent (50%) of

1 the composition of the Board of Directors within a two (2) month period of time, shall be deemed an
 2 assignment for purposes of this paragraph. Any attempted assignment or delegation in derogation of this
 3 subparagraph shall be void.

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

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

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

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

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

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

31 1. After approval of ~~a subcontract, ADMINISTRATOR~~ the subcontractor, ADMINISTRATOR
 32 may revoke the approval of ~~a subcontract~~ the subcontractor upon five (5) calendar days' written notice to
 33 CONTRACTOR if the ~~subcontract~~ subcontractor subsequently fails to meet the requirements of this
 34 Agreement or any provisions that ADMINISTRATOR has required. ADMINISTRATOR may disallow
 35 subcontractor expenses reported by CONTRACTOR.

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

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

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

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

17 **VIII. DISPUTE RESOLUTION**

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

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

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

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

35 C. Any final decision of COUNTY shall be expressly identified as such, shall be in writing, and
36 shall be signed by a COUNTY Deputy Purchasing Agent or designee. If COUNTY fails to render a
37

1 decision within ninety (90) calendar days after receipt of CONTRACTOR's demand, it shall be deemed
 2 a final decision adverse to CONTRACTOR's contentions.

3 D. This Agreement has been negotiated and executed in the State of California and shall be
 4 governed by and construed under the laws of the State of California. In the event of any legal action to
 5 enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent
 6 jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit
 7 to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the
 8 Parties specifically agree to waive any and all rights to request that an action be transferred for
 9 adjudication to another county.

10 **IX. EMPLOYEE ELIGIBILITY VERIFICATION**

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

22 **X. FACILITIES, PAYMENTS AND SERVICES**

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

29 ~~B.~~ CONTRACTOR shall, at its own expense, provide and maintain the organizational and
 30 administrative capabilities required to carry out its duties and responsibilities under this Agreement and
 31 in accordance with all the applicable statutes and regulations pertaining to hospital ~~providers~~ Providers.
 32

33 **XI. INDEMNIFICATION AND INSURANCE**

34 A. CONTRACTOR agrees to indemnify, defend with counsel approved in writing by COUNTY,
 35 which approval shall not be unreasonably withheld, and hold COUNTY, its elected and appointed
 36 officials, officers, employees, agents and those special districts and agencies for which COUNTY's
 37 Board of Supervisors acts as the governing Board ("COUNTY INDEMNITEES") harmless from any

1 claims, demands or liability of any kind or nature, including but not limited to personal injury or
 2 property damage, arising from or related to CONTRACTOR's negligence or intentional misconduct in
 3 providing the services, products or other ~~performance provided by CONTRACTOR~~ performances
 4 pursuant to this Agreement, ~~but only in proportion to and to the extent such claims, demands, including~~
 5 ~~defense costs, or liability caused by or resulting from the negligent or intentional acts or omissions of~~
 6 ~~CONTRACTOR, its officers, employees, or agents.~~ If judgment is entered against CONTRACTOR and
 7 COUNTY by a court of competent jurisdiction because of the concurrent active negligence of COUNTY
 8 or COUNTY INDEMNITEES, CONTRACTOR and COUNTY agree that liability will be apportioned
 9 as determined by the court. Neither ~~party~~ Party shall request a jury apportionment.

10 B. COUNTY agrees to indemnify, defend with counsel, and hold CONTRACTOR, its officers,
 11 employees, agents, directors, members, shareholders and/or affiliates harmless from any claims,
 12 demands, ~~including defense costs~~, or liability of any kind or nature, including but not limited to personal
 13 injury or property damage, arising from or related to COUNTY's negligence or intentional misconduct
 14 in the services, products or other performance provided by COUNTY pursuant to of this Agreement. ~~¶~~ If
 15 judgment is entered against ~~COUNTY and~~ CONTRACTOR and COUNTY by a court of competent
 16 jurisdiction because of the concurrent active negligence of COUNTY or COUNTY INDEMNITEES,
 17 ~~CONTRACTOR, COUNTY and CONTRACTOR~~ COUNTY agree that liability will be apportioned as
 18 determined by the court. ~~¶~~ Neither ~~party~~ Party shall request a jury apportionment.

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

23 D. Prior to the provision of services under this Agreement, CONTRACTOR agrees to purchase all
 24 required insurance, or maintain a program of self -insurance, at CONTRACTOR's expense and to
 25 submit to COUNTY the COI, including all endorsements required herein, necessary to satisfy COUNTY
 26 that the insurance provisions of this Agreement have been complied with ~~and~~, CONTRACTOR agrees
 27 to maintain keep such insurance coverage, ~~or a minimum~~ Certificates of self-insurance, Insurance, and
 28 endorsements on deposit with COUNTY during the entire term of this Agreement. In addition, all
 29 subcontractors performing work on behalf of CONTRACTOR pursuant to this Agreement shall obtain
 30 insurance subject to the same terms and conditions as set forth herein for CONTRACTOR.

31 E. CONTRACTOR shall ensure that all subcontractors performing work on behalf of
 32 CONTRACTOR pursuant to this Agreement shall be covered under CONTRACTOR's insurance as an
 33 Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for
 34 CONTRACTOR. CONTRACTOR shall not allow subcontractors to work if subcontractors have less
 35 than the level of coverage required by COUNTY from CONTRACTOR under this Agreement. It is the
 36 obligation of CONTRACTOR to provide notice of the insurance requirements to every subcontractor
 37 and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of

1 insurance must be maintained by CONTRACTOR through the entirety of this Agreement for inspection
2 by COUNTY representative(s) at any reasonable time.

3 F. All SIRs shall be clearly stated on the COI. If CONTRACTOR is self-insured,
4 CONTRACTOR, in addition to, and without limitation of, any other indemnity provision(s) in this
5 Agreement, agrees to all of the following:

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

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

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

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

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

21 ~~G~~H. QUALIFIED INSURER

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

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

30 H. The policy or policies of insurance, ~~or equivalent self insurance,~~ maintained by
31 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
	\$5,000,000 aggregate

1 Business Automobile Liability ~~including coverage~~ \$1,000,000 per occurrence
2 including coverage for owned,
3 non-owned and hired vehicles

5 Workers' Compensation Statutory

7 Employers' Liability Insurance \$1,000,000 per occurrence

10 Network Security & Privacy Liability \$1,000,000 per claims - made

12 Professional Liability Insurance \$5,000,000 per claims made
13 \$5,000,000 aggregate

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

17 ~~* Limits of insurance can be satisfied with a combination of self insurance, primary and
18 excess/umbrella insurance.~~

19 ~~IJ. REQUIRED COVERAGE FORMS IF NOT SELF-INSURED~~

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

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

24 ~~JK. REQUIRED ENDORSEMENTS -~~

25 1. The Commercial General Liability policy shall contain the following endorsements, ~~but~~
26 ~~limited to the indemnity obligations contained in Subparagraph VIII.A above,~~ which shall accompany
27 the COI:

28 ~~1~~ a. An Additional Insured endorsement using ISO form CG ~~2010 or CG 2033~~ 20 26 04 13
29 or a form at least as broad naming the *County of Orange, its elected and appointed officials, officers,*
30 *agents and employees, and agents* as Additional Insureds, ~~or provide blanket coverage, which will state~~
31 ~~AS REQUIRED BY WRITTEN AGREEMENT.~~

32 ~~2~~ b. A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a
33 form at least as broad evidencing that the CONTRACTOR's insurance is primary and any insurance or
34 self-insurance maintained by the County of Orange shall be excess and non-contributing.

35 ~~K~~ 2. The Network Security and Privacy Liability policy shall contain the following
36 endorsements which shall accompany the COI:

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

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

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

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

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

17 O. CONTRACTOR shall notify COUNTY in writing within thirty (30) ~~calendar~~ days ~~notice~~ of any
18 policy cancellation and ~~within~~ ten (10) ~~calendar~~ days ~~notice~~ for non-payment of premium. ~~This shall be~~
19 ~~evidenced by policy provisions or an endorsement separate from the COI~~ and provide a copy of the
20 cancellation notice to COUNTY. Failure to provide written notice of cancellation shall constitute a
21 breach of CONTRACTOR's obligation hereunder and ground for COUNTY to suspend or terminate this
22 Agreement.

23 NP. If CONTRACTOR's Professional Liability ~~policy is a "claims made" policy~~ and Network
24 Security & Privacy are "Claims -Made" policies, CONTRACTOR shall agree to maintain **Professional**
25 **Liability** coverage for two (2) years following the completion of the Agreement. ~~—~~

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

28 ~~— P. Throughout the term of this Agreement and upon mutual written agreement between COUNTY~~
29 ~~and CONTRACTOR, the insurance minimum limits and coverage set forth in Subparagraph VIII.G~~
30 ~~above may be increased or decreased.~~ R. Insurance certificates should be forwarded to the

31 agency/department address listed on the solicitation.

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

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

1 protect COUNTY.

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

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

10 ~~SW.~~ SUBMISSION OF INSURANCE DOCUMENTS

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

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

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

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

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

30 c. If CONTRACTOR is assessed a late penalty, the amount shall be deducted from ~~any~~
31 ~~amounts due CONTRACTOR in accordance with this Agreement~~ CONTRACTOR's monthly invoice.

32 ~~d. Notwithstanding the above, endorsements shall not be required in the case of self-~~
33 ~~insurance~~

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

37 ~~5. COUNTY warrants that it is self-insured or maintains policies of insurance placed with~~

1 ~~reputable insurance companies licensed to do business in the State of California which insures the perils~~
 2 ~~of bodily injury, medical, professional liability, and property damage. Upon request by~~
 3 ~~CONTRACTOR, COUNTY shall provide evidence of such coverage.~~

5 **XII. INSPECTIONS AND AUDITS**

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

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

21 C. AUDIT RESPONSE

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

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

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

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

6 ~~— E. COUNTY shall provide CONTRACTOR with at least seventy two (72) hours prior written~~
 7 ~~notice of such inspections or evaluations. Unannounced inspections, evaluations, or requests for~~
 8 ~~information may be made in those situations where arrangement of an appointment beforehand is not~~
 9 ~~possible or is inappropriate due to the nature of the inspection or evaluation.~~

10 **XIII. LICENSES AND LAWS**

11
 12 A. CONTRACTOR, its officers, agents, employees, affiliates, and subcontractors shall, throughout
 13 the term of this Agreement, maintain all necessary licenses, permits, approvals, certificates,
 14 accreditations, waivers, and exemptions necessary for the provision of the services hereunder and
 15 required by the laws, regulations and requirements of the United States, the State of California,
 16 COUNTY, and all other applicable governmental agencies. CONTRACTOR shall notify
 17 ADMINISTRATOR immediately and in writing of its inability to obtain or maintain, irrespective of the
 18 pendency of any hearings or appeals, permits, licenses, approvals, certificates, accreditations, waivers
 19 and exemptions. Said inability shall be cause for termination of this Agreement.

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

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

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

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

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

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

37 C. CONTRACTOR shall comply with all applicable governmental laws, regulations, and

1 requirements as they exist now or may ~~be~~ hereafter ~~be~~ amended or changed.

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

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

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

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

18 ~~C. The parties acknowledge that each is a Covered Entity, as defined by the Health Insurance
19 Portability and Accountability Act (HIPAA) and is responsible for complying with said regulations for
20 purposes of safeguarding any Protected Health Information (PHI) generated by each party for its own
21 purposes. Except as otherwise limited by said regulation or law, CONTRACTOR shall provide to
22 COUNTY, and COUNTY may use or disclose PHI to perform functions, activities, or services for, or on
23 behalf of, CONTRACTOR as specified in this Agreement, provided such use or disclosure would not
24 violate the Privacy Rule if done by CONTRACTOR or the Minimum Necessary policies and procedures
25 of CONTRACTOR as required and/or defined by HIPAA.~~

26 D. CONTRACTOR attests, to the best of its knowledge, that all hospital-based physicians
27 providing services at ~~CONTRACTOR's facility(ies)~~, CONTRACTOR, under this Agreement, are and
28 will continue to be as long as this Agreement remains in effect, the holders of currently valid licenses to
29 practice medicine in the State of California and are members in "good standing" of the medical staff of
30 CONTRACTOR's facility(ies).

31 ~~E. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS~~

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

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

36 ~~b. In the case of a contractor doing business in a form other than as an individual, the
37 name, date of birth, social security number, and residence address of each individual who owns an~~

1 interest of ten percent (10%) or more in the contracting entity;

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

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

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

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

15 16 **XIV. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA**

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

23 ~~_____ B. Both parties agree that they will not use the name(s), symbols, trademarks or service marks,~~
 24 ~~presently existing or later established, of the other party nor its employees in any advertisement, press~~
 25 ~~release or publicity with reference to this Agreement without the prior written approval of the other~~
 26 ~~party's authorized official. Requests for approval shall be made to ADMINISTRATOR's or to~~
 27 ~~CONTRACTOR's signatory for this Agreement. CONTRACTOR may represent itself as a contracted~~
 28 ~~provider of Hospital Services for the residents of Orange County as provided in Subparagraph A above.~~
 29 ~~ADMINISTRATOR may include reference to Hospital Services provided by CONTRACTOR in~~
 30 ~~informational materials relating to the continuum of care provided using federal, state, and county funds.~~

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

34 C. If CONTRACTOR uses social media (such as Facebook, Twitter, YouTube or other publicly
 35 available social media sites) in support of the services described within this Agreement,
 36 CONTRACTOR shall develop social media policies and procedures and have them available to
 37 ADMINISTRATOR upon reasonable notice. CONTRACTOR shall inform ADMINISTRATOR of all

1 forms of social media used to either directly or indirectly support the services described within this
 2 Agreement. CONTRACTOR shall comply with COUNTY Social Media Use Policy and Procedures as
 3 they pertain to any social media developed in support of the services described within this Agreement.
 4 CONTRACTOR shall also include any required funding statement information on social media when
 5 required by ADMINISTRATOR.

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

9 **XV. NONDISCRIMINATION**

10 **A. EMPLOYMENT**

11 1. During the term of this Agreement, CONTRACTOR shall not unlawfully discriminate
 12 against any employee or applicant for employment because of his/her ethnic group identification, race,
 13 religion, ancestry, color, creed, sex, marital status, national origin, age (40 and over), sexual orientation,
 14 medical condition, or physical or mental disability . Additionally, during the term of this Agreement,
 15 CONTRACTOR and its Covered Individuals shall make their best efforts to require in its subcontracts
 16 that subcontractors shall not unlawfully discriminate against any employee or applicant for employment
 17 because of his/her ethnic group identification, race, religion, ancestry, color, creed, sex, marital status,
 18 national origin, age (40 and over), sexual orientation, medical condition, or physical or mental disability.

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

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

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

29 5. All solicitations or advertisements for employees placed by or on behalf of CONTRACTOR
 30 and its subcontractors shall state that all qualified applicants will receive consideration for employment
 31 without regard to ethnic group identification, race, religion, ancestry, color, creed, sex, marital status,
 32 age (40 and over), sexual orientation, medical condition, or physical or mental disability. Such
 33 requirement shall be deemed fulfilled by use of the term EOE.

34 6. Each labor union or representative of workers with which CONTRACTOR and/or
 35 subcontractor has a collective bargaining agreement or other contract or understanding must post a
 36 notice advising the labor union or workers' representative of the commitments under this
 37 Nondiscrimination ~~paragraph~~ Paragraph and shall post copies of the notice in conspicuous places

1 available to employees and applicants for employment.

2 B. SERVICES, BENEFITS, AND FACILITIES – CONTRACTOR shall not discriminate in the
3 provision of services, the allocation of benefits, or in the accommodation in facilities on the basis of
4 ethnic group identification, race, religion, ancestry, color, creed, sex, marital status, age (40 and over),
5 sexual orientation, medical condition or physical or mental disability in accordance with Title IX of the
6 Education Amendments of 1972 as they relate to 20 USC §1681 - §1688; Title VI of the Civil Rights
7 Act of 1964 (42 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); Title 9, Division
8 4, Chapter 6, Article 1 (§10800, et seq.) of the California Code of Regulations; and Title II of the
9 Genetic Information Nondiscrimination Act of 2008, 42 USC 2000ff, et seq. as applicable, and all other
10 pertinent rules and regulations promulgated pursuant thereto, and as otherwise provided by state law and
11 regulations, as all may now exist or be hereafter amended or changed. For the purpose of this
12 Nondiscrimination Paragraph, Discrimination includes, but is not limited to the following based on one
13 or more of the factors identified above:

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

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

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

31 #

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

34 D. PERSONS WITH DISABILITIES – CONTRACTOR and/or subcontractor agrees to comply
35 with the provisions of §504 of the Rehabilitation Act of 1973, as amended, (29 USC 794 et seq., as
36 implemented in 45 CFR 84.1 et seq.), and the Americans with Disabilities Act of 1990 (42 USC 12101,
37 et seq.; as implemented in 29 CFR 1630), as applicable, pertaining to the prohibition of discrimination

1 against qualified persons with disabilities in all programs or activities, and if applicable, as implemented
2 in Title 45 CFR 84.1 et seq., as they exist now or may be hereafter amended together with succeeding
3 legislation.

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

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

12 **XVI. NOTICES**

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

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

18 2. When faxed, transmission confirmed;

19 3. When sent by Email; or

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

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

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

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

32 E. For purposes of this Agreement, CONTRACTOR agrees that the Hospital Association of
33 Southern California (HASC) may act as a representative of all Contracting Hospitals and Contracting
34 ED Hospitals for the purpose of distributing and/or coordinating any notices which may be provided by
35 ADMINISTRATOR and which shall be applicable to all Contracting Hospitals and/or Contracting ED
36 Hospitals. In such instances, notification to HASC shall be deemed as notification to CONTRACTOR.
37

XVII. RECORDS MANAGEMENT AND MAINTENANCE

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

5 B. CONTRACTOR shall implement and maintain administrative, technical and physical
6 safeguards to ensure the privacy of PHI and prevent the intentional or unintentional use or disclosure of
7 PHI in violation of the HIPAA federal and state regulations, and/or CHPP.

8 C. CONTRACTOR shall mitigate to the extent practicable, the known harmful effect of any use or
9 disclosure of PHI made in violation of federal or state regulations and/or COUNTY policies.

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

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

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

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

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

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

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

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

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

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

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

37 I. CONTRACTOR shall retain all participant, client and/or patient medical records for seven (7)

1 years after the last date of service, with the exception of non-emancipated minors for whom records
 2 must be kept for at least one (1) year after such minors have reached the age of eighteen (18) years, or
 3 for seven (7) years after the last date of service, whichever is longer.

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

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

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

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

14 N. If CONTRACTOR is unable to meet the record location criteria above, ADMINISTRATOR
 15 may provide written approval to CONTRACTOR to maintain records in a single location, identified by
 16 CONTRACTOR.

17 O. CONTRACTOR may be required to retain all records involving litigation proceedings and
 18 settlement of claims for a longer term as reasonably directed by ADMINISTRATOR.

19 P. CONTRACTOR, unless CONTRACTOR is a public institution, shall notify
 20 ADMINISTRATOR of any PRA requests related to, or arising out of, this Agreement, within forty-eight
 21 (48) hours. CONTRACTOR shall provide ADMINISTRATOR all information that is requested by the
 22 PRA request.

23 Q. If CONTRACTOR is a public institution, COUNTY understands and agrees that
 24 CONTRACTOR is subject to the provisions of the California Public Records Act. In the event
 25 CONTRACTOR receives a request to produce this Agreement, or identify any term, condition, or aspect
 26 of this Agreement, CONTRACTOR shall notify COUNTY. CONTRACTOR shall make its best efforts
 27 to notify COUNTY no less than three (3) business days prior to releasing such information.

28 **XVIII. RESEARCH AND PUBLICATION**

29 CONTRACTOR shall not utilize information and data received from COUNTY or developed, as a
 30 result of this Agreement for the purpose of personal publication.
 31

32 **XIX. RIGHT TO WORK AND MINIMUM WAGE LAWS**

33 A. In accordance with the United States Immigration Reform and Control Act of 1986,
 34 CONTRACTOR shall require its employees directly or indirectly providing services pursuant to this
 35 Agreement, in any manner whatsoever, to verify their identity and eligibility for employment in the
 36 United States. CONTRACTOR shall also make best efforts to require and verify that its contractors,
 37

1 subcontractors, or any other persons providing services pursuant to this Agreement, in any manner
2 whatsoever, verify the identity of their employees and their eligibility for employment in the United
3 States.

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

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

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

18 **XX. SEVERABILITY**

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

25 **XXI. STATUS OF CONTRACTOR**

26
27 Each party is, and shall at all times be deemed to be, an independent contractor and shall be wholly
28 responsible for the manner in which it performs the services required of it by the terms of this
29 Agreement. Each party is entirely responsible for compensating staff, subcontractors, and consultants
30 employed by that party. This Agreement shall not be construed as creating the relationship of employer
31 and employee, or principal and agent, between COUNTY and CONTRACTOR or any of either party's
32 employees, agents, consultants, or subcontractors. Each party assumes exclusively the responsibility for
33 the acts of its employees, agents, consultants, or subcontractors as they relate to the services to be
34 provided during the course and scope of their employment. Each party, its agents, employees,
35 consultants, or subcontractors, shall not be entitled to any rights or privileges of the other party's
36 employees and shall not be considered in any manner to be employees of the other party.

XXII. TERM

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

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

XXIII. TERMINATION

A. CONTRACTOR may terminate this Agreement, without cause, upon forty-five (45) calendar days notice given COUNTY.

B. Either party may terminate this Agreement upon fifteen (15) calendar days prior written notice given the other for material breach of the Agreement; provided, however, the alleged breaching party has been given prior written notice setting forth the facts underlying the claim that breach of this Agreement has occurred and has failed to cure the alleged breach within thirty (30) calendar days.

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

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

1. The loss of CONTRACTOR of legal capacity.
2. Cessation of services
3. The delegation or assignment of CONTRACTOR's services, operation, or administration to another entity without prior written consent of COUNTY.
4. The following occurrence by any physician or licensed person employed or provided privileges by CONTRACTOR and providing services pursuant to this Agreement:
 - a. The neglect of any required duty.
 - b. The continued incapacity to perform duties.
 - c. Unethical conduct or malpractice
 - d. COUNTY may waive termination under this subparagraph ~~XIX~~XXIII.D.4 if CONTRACTOR removes such physician or licensed person from serving persons treated or assisted pursuant to this Agreement.

5. The loss of accreditation or any license required by the License and Laws Paragraph of this

1 Agreement.

2 6. EMERGENCY DEPARTMENT CLOSURE/LOSS OF LICENSE

3 a. CONTRACTOR shall give COUNTY thirty (30) calendar days prior written notice and
4 shall terminate this Agreement in the event that CONTRACTOR loses its general acute care license, or
5 no longer intends to operate at least a Basic Emergency Service, without any cure period,
6 notwithstanding any other prior or subsequent provisions of this Agreement. Such notice shall include
7 the date that operation of its Emergency Service will cease. Payments to CONTRACTOR shall continue
8 for services provided up to the date of termination. CONTRACTOR terminating for such reason shall
9 pay back any funds as may be required pursuant to this Agreement.

10 b. In the event that CONTRACTOR ceases to operate at least a Basic Emergency Service
11 at any time during this Agreement, for reasons other than those specified in Subparagraph ~~XX~~XXIII.D.4
12 above, and CONTRACTOR fails to notify COUNTY of said action, COUNTY shall immediately
13 terminate this Agreement. Payments to CONTRACTOR shall continue for services provided up to the
14 date of termination and CONTRACTOR shall pay back any funds as may be required pursuant to this
15 Agreement.

16 E. Termination of this Agreement for any reason shall result in payment to CONTRACTOR, for
17 emergency and stabilization services which may be provided by CONTRACTOR after termination as
18 required by law, at rates established by COUNTY in accordance with this Agreement for
19 Non-Contracting Hospitals.

20 F. Neither party shall be liable nor deemed to be in default for any delay or failure in performance
21 under this Agreement or other interruption of service or employment deemed resulting, directly or
22 indirectly, from Acts of God, civil or military authority, acts of public enemies, war, accidents, fires,
23 explosions, earthquakes, floods, failure of transportation, machinery or suppliers, vandalism, strikes or
24 other work interruptions by a party's officers, agents, employees, affiliates, or subcontractors, or any
25 similar cause beyond the reasonable control of any party to this Agreement. However, all parties shall
26 make good faith efforts to perform under this Agreement in the event of any such circumstance.

27 G. If state law or a court of competent jurisdiction determines that MSN Enrollees are fully covered
28 by the State Medi-Cal Program, or any other State program, all obligations and rights related to such
29 persons under this Agreement shall be suspended while such state law or court order is effective, or
30 CONTRACTOR and COUNTY shall have the right to terminate this Agreement upon ten (10) calendar
31 days prior written notice given the other parties and without any cure period, notwithstanding any other
32 prior or subsequent provisions of this Agreement.

33 H. CONTINGENT FUNDING

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

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

37 b. Inclusion of sufficient funding for the services hereunder in the applicable budget

1 approved by the Board of Supervisors.

2 2. In the event such funding is subsequently reduced, resulting in COUNTY's inability to
3 reimburse CONTRACTOR in accordance with Exhibit A and B to ~~the~~this Agreement, or terminated,
4 COUNTY may suspend, terminate or renegotiate this Agreement upon thirty (30) calendar days' written
5 notice to CONTRACTOR. If COUNTY elects to renegotiate this Agreement due to reduced funding
6 which impacts COUNTY's ability to reimburse CONTRACTOR in accordance with Exhibit B to the
7 Agreement, or terminated funding, CONTRACTOR shall not be obligated to accept the renegotiated
8 terms and may terminate the Agreement prior to the effective date of the renegotiated Agreement.

9 I. AMENDMENT

10 1. In the event of a formal amendment to this Agreement (Amendment) which requires formal
11 execution by both COUNTY and CONTRACTOR, CONTRACTOR shall return a fully executed
12 Amendment to ADMINISTRATOR within forty-five (45) days of ADMINISTRATOR's delivery to
13 CONTRACTOR of said Amendment

14 2. If CONTRACTOR does not return a fully executed Amendment by the date specified,
15 COUNTY or CONTRACTOR may terminate this Agreement; provided, however, COUNTY shall first
16 notify CONTRACTOR and then give thirty (30) days prior written notice to CONTRACTOR, which
17 notice shall be given no later than fifteen (15) days after the fully executed Amendment was due to
18 ADMINISTRATOR. At ADMINISTRATOR's discretion, a cure period may be provided to
19 CONTRACTOR.

20 J. In the event this Agreement is terminated by either party as allowed herein, CONTRACTOR
21 shall do the following:

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

24 2. Obtain immediate clarification from ADMINISTRATOR of any unsettled issues of contract
25 performance.

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

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

31 5. Assist ADMINISTRATOR in effecting the transfer of patients in a manner consistent with
32 the patients' best interests.

33 K. The rights and remedies of COUNTY and CONTRACTOR provided in this Termination
34 Paragraph shall not be exclusive, and are in addition to any other rights and remedies provided by law or
35 under this Agreement.

36
37 **XXIV. THIRD PARTY BENEFICIARY**

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

4
5 **XXV. WAIVER OF DEFAULT OR BREACH**

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

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

3
4
5 «UC_NAME» «UC_DBA»

6
7 BY: _____ DATED: _____

8
9 TITLE: _____

10
11
12 BY: _____ DATED: _____

13
14 TITLE: _____

15
16
17
18 COUNTY OF ORANGE

19
20
21 BY: _____ DATED: _____

22 HEALTH CARE AGENCY

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

28
29
30 BY: _____ DATED: _____

31 DEPUTY

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

EXHIBIT A
AGREEMENT FOR PROVISION OF
MEDICAL SAFETY NET PROGRAM NETWORK HOSPITAL SERVICES

~~BETWEEN~~
~~COUNTY OF ORANGE~~
AND
~~«UC_NAME» «UC_DBA»~~

BETWEEN
COUNTY OF ORANGE
AND
«UC_NAME» «UC_DBA»

JULY 1, ~~2015~~2019 THROUGH DECEMBER 31, ~~2018~~2024

I. PREAMBLE

The Medical Safety Net (MSN) Program provides services that are medically necessary to protect life, prevent significant disability, or prevent serious deterioration of health. With respect to medical criteria for enrollment into the MSN Program, applicants must have an urgent or emergent medical condition that if left untreated would result in serious deterioration of health with an initial intake through a Hospital’s emergency department.

II. COMMON TERMS AND DEFINITIONS

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

A. 1. “All Providers” or “Providers” means Contracting Hospitals and Other Providers of Medical Services for the MSN Program.

B. 2. “Allowable Costs” means a maximum of one-hundred percent (100%) of CONTRACTOR’s actual costs according to the most recent Hospital Annual Financial Data report issued by the Office of Statewide Health Planning and Development.

C. 3. “APR-DRG” means All Patient Refined Diagnostic Related Groups and is based on the statistical system of classifying any inpatient stay into groups for the purposes of payment. The DRG classification system divides possible diagnoses into major body systems and then subdivides them into groups for purposes of payment. APR-DRG includes a more detailed DRG breakdown for non-Medicare patients and also measures severity of illness and risk of mortality.

D. 4. “CalOptima” means is the local agency created by COUNTY to contract with the Medi-Cal program.

E. 5. “Care Coordination Unit” or “CCU” means appropriately licensed COUNTY staff and/or COUNTY contracted staff responsible for the coordination of services as well as the concurrent and

1 retrospective utilization review of the medical appropriateness, level of care, and utilization of all
2 services provided to MSN Patients by All Providers.

3 F 6. “Consultation” means the rendering by a specialty physician of an opinion or advice, or
4 prescribing treatment by telephone, when determined to be medically necessary by the on-duty
5 emergency department physician and specialty physician, as appropriate. Such Consultation includes
6 review of the MSN Patient’s medical record and may include the examination and treatment of the MSN
7 Patient in person, when appropriate, by a specialty physician who is qualified to give an opinion or
8 render treatment necessary to stabilize the MSN Patient.

9 G 7. “Continuously” means without interruption, twenty-four (24) hours per day throughout the
10 term of ~~the~~this Agreement.

11 H 8. “Contracting ED Hospital” means a hospital that has executed an Agreement for Provision
12 of Emergency and Stabilization Hospital Services for the MSN Program with COUNTY.

13 I 9. “Contracting Hospital” means collectively, both Contracting Network Hospitals and
14 Contracting ED Hospitals.

15 J 10. “Contracting Network Hospital” means a hospital that has executed an Agreement for
16 Provision of Network Hospital Services for the MSN Program with COUNTY that is the same as ~~the~~this
17 Agreement.

18 ~~—~~K
19 11. “Covered California” means the California Health Benefit Exchange, an independent public
20 entity within the California State government, responsible for providing financial assistance and
21 organizing a marketplace for low-income and other California residents to compare and choose
22 affordable health insurance coverage.

23 L 12. “Emergency Services” means Basic Emergency Medical Services, or Comprehensive
24 Emergency Medical Services, as provided for in Title 22, Sections 70411 et seq.

25 M 13. “Emergency and Stabilization Hospital Services” means those specific Hospital Services
26 that are reimbursable to Contracting Hospitals as set forth in Paragraph IV of this Exhibit A to the
27 Agreement and further defined as follows:

28 1. a. “Emergency Services” means lawfully provided medical screening, examination, and
29 evaluation by a physician, or other physician-supervised personnel in a hospital to determine if an
30 emergency medical condition exists, and includes treatment necessary to relieve the condition; provided,
31 however, such treatment shall be within the capabilities required of CONTRACTOR as a condition of
32 its emergency medical services permit, on file with the Office of Statewide Health Planning and
33 Development, and may include, but not be limited to laboratory, pharmacy, and ancillary services.

34 2. b. “Medically Stable” means when an acute care MSN Patient is able to reasonably sustain
35 a transport in an Emergency Medical Technician I (EMT I) staffed ambulance, with no expected increase
36 in morbidity or mortality, as determined by the treating physician.

37 3. c. “Post Stabilization Services” means medically necessary Hospital Services provided by

1 CONTRACTOR after the MSN Patient is considered to be Medically Stable following an Emergency
 2 Medical Condition, which may include, but not be limited to continued hospitalization and/or Outpatient
 3 Hospital Services.

4 ~~4~~ 4 d. “Stabilization Services” means Hospital Services provided in an emergency
 5 department and/or an inpatient setting to a MSN Patient, admitted through CONTRACTOR’s
 6 Emergency Department, up to the point the MSN Patient is considered to be Medically Stable for
 7 transport.

8 ~~N~~ 14. “Fiscal Year” means the period from July 1 through June 30.

9 ~~Q~~ 15. “Funds” means any payments, transfers, or deposits made by COUNTY, and any refunds,
 10 repayments, adjustments, earned interest or other payments made by, or recovered from, Contracting
 11 Hospital, Other Providers, patient, third-party, or other entity as the result of any duty arising pursuant to
 12 this Exhibit A and Exhibit B ~~to the~~ of this Agreement.

13 ~~P~~ 16. “HASC” means the Hospital Association of Southern California authorized by
 14 CONTRACTOR, in accordance with the Agreement to act as a representative of all Contracting ED
 15 Hospitals and Contracting Hospitals for the purpose of distributing and/or coordinating any notices,
 16 agreements, and/or amendments which may be provided by ADMINISTRATOR. Delivery of executed
 17 agreements and/or amendments to HASC shall be deemed as being delivered to ADMINISTRATOR.

18 ~~Q~~ 17. “Hospital” for purposes of ~~the~~ this Agreement, means a general acute care facility licensed
 19 by the State of California that is located in the County of Orange or is Long Beach Memorial Medical
 20 Center.

21 ~~R~~ 18. “Hospital Claim” means a claim submitted by a Contracting Network Hospitals for
 22 reimbursement of Hospital Services.

23 ~~S~~ 19. “Hospital Service(s)” or “Network Hospital Service(s)” means medically necessary
 24 emergency, inpatient, and outpatient services provided in a Hospital, including, but not limited to,
 25 laboratory, pharmacy and ancillary services as well as any other services as defined herein.

26 ~~T~~ 20. “Inappropriate Enrollee Referral” means a patient referral by any Hospital to another
 27 Hospital, in a manner not specifically identified or provided for in ~~the~~ this Agreement, when the referring
 28 Hospital had, or should have had, the personnel, facilities, equipment, and expertise to treat the patient
 29 within the scope of the said Hospital's licensure; excepting, however, unforeseen and/or unpreventable
 30 circumstances as documented in the patient's medical record.

31 ~~U~~ 21. “Intermediary” means the organization, under a separate agreement, and any amendments
 32 thereto, with COUNTY, contracted to act as a fiscal intermediary for the purpose of reimbursing ~~All~~
 33 ~~Providers~~ all providers in accordance with ~~the~~ this Agreement and other specified agreements for the
 34 MSN Program.

35 ~~V~~ 22. “Medi-Cal” means a government program financed by federal and state funds that provides
 36 health care insurance to persons meeting eligibility criteria as provided for in Title 22 of the California
 37 Code of Regulations.

1 ~~W~~ 23. “Medical Service(s)” means a medical service necessary to protect life, prevent significant
2 disability, or prevent serious deterioration of health. Guidelines for Reimbursable Medical Services are
3 set forth in Paragraph IV of this Exhibit A to the Agreement and in the MSN Provider Manual.

4 ~~X~~ 24. “Medically Stable” – ~~See~~ see definition for Emergency and Stabilization Services.

5 ~~Y~~ //

6 ~~Z~~ 25. “MSN Program” means the County’s Program responsible for its California Welfare &
7 Institutions Code (W&I) 17000 obligations, which at the execution of ~~the~~ this Agreement will be known
8 as the Medical Safety Net Program.

9 ~~AA~~ 26. “MSN Funding” means the amount of funds identified by COUNTY for reimbursement of
10 all MSN Program Services, including those specified in this Exhibit A to ~~the~~ this Agreement.

11 ~~AB~~ 27. “MSN Enrollee” or “Enrollee” means a person meeting the eligibility criteria set by
12 ADMINISTRATOR in order to meet its obligations under W&I 17000 and whose application has been
13 accepted and approved, resulting in enrollment in the MSN Program.

14 ~~AC~~ 28. “MSN Patient” means a person who is either an MSN Enrollee or MSN Pending.

15 ~~AD~~ 29. “MSN Pending” means a person believed to meet the eligibility requirements for enrollment
16 into the MSN Program and whose MSN Program application has been submitted but not yet approved.

17 ~~AE~~ 30. “MSN Program Services” means:

18 ~~1~~ a. All medical and administrative services for which reimbursement is authorized by
19 ~~the~~ this Agreement and all other agreements for the MSN Program, and;

20 ~~2~~ b. Administrative services provided directly by COUNTY for which costs are directly
21 incurred by COUNTY.

22 ~~AF~~ 31. “Non-Contract Hospital” means any Hospital that is neither a Contracting ED Hospital or a
23 Contracting Network Hospital.

24 ~~AG~~ 32. “Other Provider” means a Contracting ED Hospital, Non-Contract Hospital, physician,
25 osteopath, podiatrist, dentist, clinic, ambulance operator, home health services provider, pharmacy, or
26 supplier of durable medical equipment.

27 ~~AH~~ 33. “Outpatient Hospital Services” means, for the purposes of this Agreement, medical or
28 surgical care performed at a Hospital for which there is no expectation of being admitted as an inpatient.

29 ~~AI~~ 34. “Post Stabilization Services” – See definition for Emergency and Stabilization Services

30 ~~AJ~~ 35. “Recovery Account” means a separate account for monies recovered by Intermediary
31 from Contracting Hospitals, Other Providers, or third-party payers.

32 ~~AK~~ 36. “Recuperative Care” or “Recuperative Care Day” means post-hospital room and board
33 provided by a community-based provider to MSN Patients transitioning out of CONTRACTOR’s acute
34 care facility. Additional health care services may be arranged by the CCU to be provided by a home
35 health care and/or durable medical equipment providers, which services shall be reimbursed separately
36 by the MSN Program.

37 ~~AL~~ 37. “Skilled Nursing Facility (SNF)” means a health facility or distinct part of a hospital which

1 provides, under a separate agreement with COUNTY, continuous skilled nursing and supportive care to
2 MSN Enrollees in lieu of acute hospitalization.

3 ~~AL~~ 38. “Special Permit Medical Service” means a burn center service, cardiovascular surgery
4 service, radiation therapy service, trauma center service, renal transplant center service, acute psychiatric
5 service, or a service provided by a hospital with a special rehabilitation unit licensed in accordance with
6 appropriate laws and, if applicable, with Section 70351 et seq. of Title 22. Special Permit Medical
7 Services shall also include such types or kinds of transfers as may be approved in writing by
8 ADMINISTRATOR.

9 ~~AM~~ 39. “Special Permit Transfer” means a MSN Patient, who needs a Special Permit Medical
10 Service that is not available from a Hospital, which another Hospital elects to accept for treatment.

11 ~~AN~~ 40. “Stabilization Services” – see definition for Emergency and Stabilization Services

12 ~~AO~~ 41. “Transfer Patient” means a person accepted by CONTRACTOR, or transferred by a hospital
13 to another hospital or health facility without prior approval of ADMINISTRATOR.

14 ~~AP~~ 42. “Trauma Hospital” means a Hospital that is designated to treat severe physical trauma as a
15 result of the specialized training of its staff and the availability of appropriate diagnostic and treatment
16 tools.

17 B. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
18 Common Terms and Condition Paragraph of this Exhibit A to the Agreement.

20 **III. HOSPITAL OBLIGATIONS**

21 A. CONTRACTOR shall continuously provide MSN Network Hospital Services to persons
22 ~~covered by the Agreement~~ meeting eligibility criteria and presenting for treatment through
23 CONTRACTOR’s Emergency Department. Such MSN Network Hospital Services shall include, but
24 not be limited to inpatient, outpatient, ancillary, laboratory, and pharmaceutical services provided by
25 CONTRACTOR or its subcontractors, in accordance with applicable law.

26 B. CONTRACTOR shall not allow or cause available MSN Network Hospital Services to be
27 reduced below the licensure level and associated scope available at commencement of ~~the~~ this
28 Agreement, unless, due to circumstances beyond ~~its~~ CONTRACTOR’S control, CONTRACTOR lacks
29 appropriate facilities and/or personnel qualified to provide MSN Network Hospital Services. Such a
30 reduction shall be a breach of ~~the~~ this Agreement and may be cause for termination.

31 ~~1C.~~ By all appropriate means available, CONTRACTOR shall assure that it meets licensing
32 requirements, including physician staffing and physician support of its Emergency Service, to provide
33 Hospital Services to MSN Patients under ~~the~~ this Agreement.

34 ~~2D.~~ CONTRACTOR shall continuously maintain and provide Emergency Services.

35 ~~a1.~~ CONTRACTOR shall comply with the Emergency Medical Treatment and Active
36 Labor Act, (specifically 42 CFR 413.65), herein referred to as EMTALA, as it exists now or may
37 hereafter be amended.

1 ~~b~~2. Said regulations require that CONTRACTOR provide Emergency Services to persons
2 covered by ~~the~~this Agreement who present anywhere on CONTRACTOR's campus and request
3 Emergency Services, or who would appear to a reasonably prudent person to be in need of medical
4 attention.

5 ~~ea~~. "Campus" means the physical area immediately adjacent to CONTRACTOR's main
6 buildings, other areas and structures that are not strictly contiguous to the main buildings but are located
7 within two-~~hundred-~~and fifty (250) yards of the main buildings, and any other areas, determined on an
8 individual case basis, by the Centers for Medicare and Medicaid Services regional office, to be part of
9 CONTRACTOR's campus.

10 ~~3~~E. For persons presenting at CONTRACTOR's facility, MSN Eligibility shall be verified
11 electronically.

12 ~~a~~F. CONTRACTOR shall designate and maintain sufficient staff ~~members~~ to serve as
13 Certified MSN Application Technicians (CMAT)~~to~~

14 ~~1. To~~ screen ~~its~~ patients for current Medi-Cal, Covered California, or MSN eligibility;
15 ~~and CONTRACTOR shall maintain sufficient staff to~~ 2. To expeditiously obtain and screen
16 information and complete MSN Program applications as required by ~~the~~this Agreement.

17 ~~b~~3. If a patient is not enrolled in Medi-Cal, MSN, or Covered California, is a citizen or
18 legal resident, and lacks sufficient financial resources to pay for services, CONTRACTOR's CMAT
19 shall:

20 ~~1)~~a. Refer patients who appear to be Medi-Cal eligible to COUNTY's Social Services
21 Agency.

22 ~~2)~~b. Complete an MSN Program application for patients who appear to be MSN or
23 Covered California eligible. COUNTY shall make the final determination as to which program patients
24 shall be made eligible.

25 ~~3)~~c. Submit MSN applications, as specified by ADMINISTRATOR, to the "Application
26 Processor," which, at execution of ~~the~~this Agreement, shall be NetChemistry, but may be changed upon
27 thirty (30) calendar ~~days~~day's written notice by ADMINISTRATOR.

28 ~~4~~G. CONTRACTOR shall provide Hospital Services in the same manner to MSN Patients as it
29 provides Hospital Services to all other patients with the same medical need or condition and shall not
30 discriminate against said MSN Patients in any manner, including: admission practices, disregard to
31 place of residency within the County, timely access to care and services considering the urgency of the
32 service needed, placement in special wings or rooms, or provision of special or separate meals.

33 ~~a~~1. ADMINISTRATOR shall notify CONTRACTOR and investigate allegations of
34 discrimination in the provision of services on the basis of the patient's status as an MSN Patient,
35 including but not limited to denial of care based on the MSN Patient's place of residence.

36 ~~b~~2. In the event that CONTRACTOR is determined by ADMINISTRATOR to have
37 discriminated in the provision of MSN Network Hospital Services on the basis of the patient's status as

1 an MSN Patient, ADMINISTRATOR shall advise the Intermediary to levy appropriate financial
 2 penalties for each occurrence against CONTRACTOR, which may include; but ~~is not be~~ limited to; one
 3 (1) or more of the following:

4 ~~1)~~ a. Denial of the Hospital Claim associated with the Hospital Services

5 ~~2)~~ b. If the Hospital Claim associated with the Hospital Services has been paid, withhold
 6 of any future reimbursement for Hospital Claims up to the amount of the subject Hospital Claim.

7 ~~3)~~ //

8 c. If the discrimination in Hospital Services results in services being provided by another
 9 Hospital, any payment by COUNTY to any other Hospital for services that should have been provided
 10 by CONTRACTOR shall be deducted from any amount due CONTRACTOR.

11 ~~4)~~ d. Termination of ~~the~~ this Agreement; provided however, CONTRACTOR at its sole
 12 discretion may become a Contracting ED Hospital.

13 ~~5)~~ H. CONTRACTOR shall provide interpreters, as needed by persons seeking MSN Network
 14 Hospital Services, in accordance with applicable law.

15 ~~B.~~ I. As a condition of reimbursement for Hospital Services provided by CONTRACTOR to all
 16 persons covered by ~~the~~ this Agreement, CONTRACTOR shall:

17 1. Return a fully executed Agreement, along with a completed Rate Certification Form as
 18 required in Paragraph VI.A. of Exhibit B ~~to the~~ of this Agreement, to ADMINISTRATOR within forty-
 19 five (45) calendar days of ADMINISTRATOR's delivery of Agreement to CONTRACTOR, or HASC
 20 on behalf of CONTRACTOR, ~~of the Agreement.~~

21 a. If CONTRACTOR does not return a fully executed Agreement and a completed Rate
 22 Certification Form, in accordance with Paragraph VI.B of Exhibit B to ~~the~~ this Agreement, to
 23 ADMINISTRATOR or HASC within the specified ~~period~~ timeframe, reimbursement for services
 24 provided to MSN Enrollees shall be made at Non-Contract Hospital rates as set forth in Exhibit B ~~to~~
 25 ~~the~~ of this Agreement until such time the executed Agreement is received. In such instances,
 26 reimbursement at Contracting Network Hospital rates shall be effective upon receipt of the executed
 27 Agreement and shall not be retroactive.

28 b. Any Hospital that does not become a Contracting ED Hospital or Contracting Network
 29 Hospital and elects to provide any Hospital Services to any MSN Patient shall be reimbursed by
 30 COUNTY at ~~the~~ Non-Contract Hospital rates.

31 ~~2.~~ Comply J. CONTRACTOR shall comply with all requirements set forth herein, including,
 32 but not limited to, Exhibit A and Exhibit B of ~~the~~ this Agreement, and.

33 ~~3.~~ Comply with all provisions of the MSN Provider Manual as it exists now or may hereafter
 34 be amended which is available at <http://ohealthinfo.com/about/medical/providers/news>.

35 ~~C.~~ Coordination with CCU K. CONTRACTOR must notify COUNTY's CCU within twenty-
 36 four (24) hours of verifying an MSN Enrollee admission.

37 1. The CCU shall be available five (5) days per week during normal business hours, excluding

1 COUNTY holidays. Any obligation of CONTRACTOR to communicate with the CCU, pursuant to
2 ~~the~~this Agreement, that falls outside the CCU's hours of operation may be performed on the next regular
3 business day.

4 2. CONTRACTOR shall notify the CCU within twenty-four (24) hours of verifying an MSN
5 Enrollee admission via telephone, fax transmission or other reporting mechanism as established by
6 ADMINISTRATOR.

7 3. CONTRACTOR must send MSN Enrollee information to the CCU for concurrent review
8 within twenty-four (24) hours of the MSN Enrollee's admission to CONTRACTOR.

9 4. CONTRACTOR shall assist the CCU in the evaluation of the MSN Enrollee's medical
10 stability and need for the MSN Enrollee's continued hospitalization. The parties agree that the CCU
11 cannot authorize any transfers, admissions to lower level of care or other referrals for patients who are
12 MSN Pending.

13 5. If the patient is MSN Pending, and the patient is later determined to be an MSN Enrollee,
14 reimbursement to Contractor shall be at Contracting Network Hospital rates as specified in Paragraph VI
15 of Exhibit B to ~~the~~this Agreement.

16 6. If CONTRACTOR determines that an MSN Enrollee admitted to CONTRACTOR's facility
17 no longer meets the criteria for acute care and requires discharge to a lower level of care program,
18 CONTRACTOR shall notify the CCU within twenty-four (24) hours of that determination to arrange for
19 the transfer of the MSN Enrollee to a lower level of care, which may include Recuperative Care.

20 7. CONTRACTOR shall notify the CCU if an MSN Enrollee will be transferred to
21 Recuperative Care.

22 a. CONTRACTOR shall make arrangements to transfer the MSN Enrollee to a provider of
23 Recuperative Care.

24 b. CONTRACTOR shall be responsible for reimbursement to the Recuperative Care
25 provider. COUNTY shall reimburse CONTRACTOR for the actual cost of Recuperative Care Days as
26 specified in Exhibit B to ~~the~~this Agreement, up to ten (10) calendar days. CONTRACTOR must obtain
27 authorization from the CCU for reimbursement of days provided after ten (10) calendar days.

28 c. Use of a Recuperative Care provider shall be at the discretion of CONTRACTOR.

29 8. CONTRACTOR shall send MSN Enrollee discharge information within seventy-two (72)
30 hours of discharge to the CCU. CONTRACTOR's failure to meet this requirement may result in denial
31 of patient days if the patient remained in CONTRACTOR's facility post-stabilization without
32 documentation of continued medical necessity for the stay. If the timeline for the transfer of information
33 occurs on a weekend or holiday, CONTRACTOR may send the information to the CCU on the next
34 business day.

35 9. CONTRACTOR shall accept the transfer of MSN Enrollees initially receiving Emergency
36 and Stabilization Services at Contracting ED Hospital or Non-Contact Hospital. CONTRACTOR shall
37 not be obligated by ~~the~~this Agreement to accept the transfer of MSN Pending.

1 10. In addition to Emergency and Stabilization Services, CONTRACTOR agrees to provide all
 2 services determined to be medically necessary to MSN Enrollees and within CONTRACTOR's scope of
 3 licensure. "Medically necessary" shall mean Hospital Services, including Outpatient Hospital Services,
 4 provided to a patient for the purpose of evaluating, diagnosing, or treating an illness, injury, disease or
 5 its symptoms and that are:

- 6 a. In accordance with generally accepted standards of medical practice;
- 7 b. Clinically appropriate in terms of type, frequency, extent, site and duration, and
 8 considered effective for the MSN Patient's illness, injury or disease;
- 9 c. Not primarily for the convenience of the MSN Enrollee, CONTRACTOR, or Physician
 10 and not more costly than an alternative service or sequence of services at least as likely to produce
 11 equivalent therapeutic or diagnostic results as to the diagnosis or treatment of that MSN Enrollee's
 12 illness, injury, or disease; and
- 13 d. Within the scope of the MSN Program in accordance with ~~the~~this Agreement and the
 14 MSN Provider Manual.

15 11. All referrals to another Contracting Network Hospital shall be coordinated through the
 16 CCU. CONTRACTOR shall not make Inappropriate Enrollee Referrals to another Contracting Network
 17 Hospital.

18 a. ADMINISTRATOR shall notify all involved parties and investigate allegations of
 19 Inappropriate Enrollee Referrals in accordance with procedures contained in the most current MSN
 20 Provider Manual. ADMINISTRATOR may request that the Medical Policy Committee (MPC) assist
 21 with the investigation of any inappropriate Enrollee referral.

22 b. In the event that CONTRACTOR is determined by ADMINISTRATOR to have made
 23 an Inappropriate Enrollee Referral, ADMINISTRATOR shall advise the Intermediary to levy appropriate
 24 financial penalties for each occurrence against CONTRACTOR, which may include, but not be limited
 25 to, one or more of the following:

- 26 1) Denial of the Hospital Claim associated with the Hospital Services
- 27 2) If the Hospital Claim associated with the Hospital Services has been paid, withhold
 28 any future reimbursement for Hospital Claims up to the amount of the subject Hospital Claim
- 29 3) Termination of ~~the~~this Agreement; provided however, CONTRACTOR at its sole
 30 discretion may request to become a Contracting ED Hospital.

31 12. ~~SPECIAL PERMIT TRANSFER~~ Special Permit Transfer

32 a. If CONTRACTOR has an MSN Enrollee, who is Medically Stable as defined under
 33 EMTALA, that requires Special Permit Medical Services, CONTRACTOR shall contact the CCU to
 34 request the transfer of said MSN Enrollee to, at the discretion of ADMINISTRATOR, a Contracting
 35 Hospital or other facility capable of providing said services.

- 36 1) If transfer can be arranged, in accordance with applicable law, the CCU shall make
 37 necessary arrangements as soon as possible.

1 2) CONTRACTOR shall cooperate with and assist the CCU and Contracting Hospital
2 or other facility accepting the MSN Enrollee.

3 b. ADMINISTRATOR may negotiate, as reimbursement for accepting a Medically Stable
4 MSN Enrollee, as defined under EMTALA, Special Permit Transfer, rates appropriate for securing care,
5 as mutually agreed upon, in writing, between the other facility and ADMINISTRATOR.

6 DL. Any Hospital Service, including Recuperative Care, provided by CONTRACTOR to MSN
7 Pending who subsequently become MSN Enrollees shall be reimbursed in accordance with MSN
8 Program guidelines as specified herein and in the MSN Provider Manual.

9 EM. Reimbursement provided through ~~the~~this Agreement shall be payment of last resort.

10 1. CONTRACTOR shall bill and attempt collection of Medi-Cal, any type of third-party
11 settlement, primary coverage, or other insurance covered claims to the full extent of such coverage and,
12 upon submission of any Hospital Claim, shall submit to the Intermediary, proper documentation
13 demonstrating compliance with this requirement.

14 2. Acceptance by CONTRACTOR of reimbursement made by Intermediary for services
15 provided in accordance with ~~the~~this Agreement shall be deemed satisfaction in full, with respect to the
16 services for which payment was made, except as follows:

17 a. Collection of co-payments established by the MSN Program for Hospital Services.
18 Nothing herein shall prevent CONTRACTOR from pursuing co-payment reimbursement from any MSN
19 Enrollee. Nothing in this paragraph shall prohibit CONTRACTOR from applying any uncollected
20 portion of an MSN Enrollee's co-payments amounts toward CONTRACTOR's charity care and bad debt
21 write-off policy.

22 b. All required co-payments shall be deducted, by Intermediary, from reimbursement due
23 CONTRACTOR; provided, however, if a co-payment is to be waived in accordance with ~~the~~this
24 Agreement, these amounts shall not be deducted by Intermediary from reimbursement due
25 CONTRACTOR.

26 c. For claims covered by Medi-Cal, any third-party settlement, primary, or other
27 insurance, including those received by or on behalf of an MSN Patient, CONTRACTOR shall attempt to
28 bill and collect to the full extent of coverage those claims covered by all known third-party, primary, or
29 other insurance or third-party payers.

30 d. If CONTRACTOR becomes aware of any third-party, primary, or other insurance or a
31 third-party settlement, including those received by or on behalf of an MSN Patient after reimbursement
32 is made by Intermediary, nothing herein shall prevent CONTRACTOR from pursuing reimbursement
33 from these sources; provided, however, that CONTRACTOR shall comply with Paragraph V.G. of
34 Exhibit B to ~~the~~this Agreement. Nothing in this paragraph shall prohibit CONTRACTOR from
35 applying any unreimbursed portion of CONTRACTOR's charges toward CONTRACTOR's charity care
36 and bad debt write-off policy.

37 FN. CONTRACTOR shall assist COUNTY and Intermediary in the conduct of any appeal hearings

1 conducted by COUNTY or Intermediary in accordance with ~~the~~this Agreement.

2 GO. Any administrative duty or obligation to be performed by CONTRACTOR pursuant to
3 ~~the~~this Agreement on a weekend or holiday may be performed on the next regular business day.

4 HP. CONTRACTOR shall make its best efforts to provide services pursuant to ~~the~~this Agreement in
5 a manner that is culturally and linguistically appropriate for the population(s) served. CONTRACTOR
6 shall be in compliance with ~~the current~~The Joint Commission Requirements Related to the Provision of
7 Culturally and Linguistically Appropriate Health Care. If CONTRACTOR is not accredited by The
8 Joint Commission, CONTRACTOR shall maintain documentation of such efforts which may include,
9 but not be limited to: records of participation in COUNTY-sponsored or other applicable training;
10 recruitment and hiring policies and procedures; copies of literature in multiple languages and formats, as
11 appropriate; and descriptions of measures taken to enhance accessibility for, and sensitivity to, persons
12 who are physically challenged.

13 IQ. CONTRACTOR shall not conduct any proselytizing activities, regardless of funding sources,
14 with respect to any person who has been referred to CONTRACTOR by COUNTY under the terms of
15 ~~the~~this Agreement. Further, CONTRACTOR agrees that the funds provided hereunder shall not be used
16 to promote, directly or indirectly, any religion, religious creed or cult, denomination or sectarian
17 institution, or religious belief.

18 R. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
19 Hospital Obligations Paragraph of this Exhibit A to the Agreement.

20 21 **IV. GUIDELINES FOR REIMBURSABLE MEDICAL SERVICES**

22 A. Medical Services reimbursable through the MSN Program means those services that are
23 medically necessary to protect life, prevent significant disability, or prevent serious deterioration of
24 health. Reimbursable and non-reimbursable services include those covered in the MSN Provider
25 Manual as approved by the Medical Policy Committee (MPC).

26 B. The scope of Medical Services to be provided by CONTRACTOR may include, but are not
27 limited to, the following:

28 1. Acute hospital inpatient services, including room and board, diagnostic and therapeutic
29 ancillary services, laboratory, therapy services, anesthesia services, pharmacy services, and other acute
30 hospital inpatient services necessary to the care of the patient.

31 2. Emergency Services including ancillary services, laboratory, therapy services, anesthesia
32 services, pharmacy services, diagnostic and therapeutic services.

33 3. Outpatient Hospital Services including hospital based surgical center services, ancillary
34 services, laboratory, therapy services, anesthesia services, pharmacy services and other services as may
35 be authorized by ADMINISTRATOR.

36 4. Blood and blood derivatives.

37 5. Prosthetic and medical supplies.

1 C. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
 2 Guidelines for Reimbursement Medical Services Paragraph of this Exhibit A to the Agreement.

4 **V. FUNDING AND PAYMENTS**

5 A. COUNTY shall pay the Intermediary an amount sufficient to reimburse Hospital Claims in
 6 accordance with Exhibit B to ~~the~~this Agreement.

7 1. Payment by the Intermediary to CONTRACTOR for Hospital Services shall be contingent
 8 upon ADMINISTRATOR's receipt or confirmation of receipt of a fully executed Agreement and Rate
 9 Certification Form from CONTRACTOR in accordance with Paragraph III.B of this Exhibit A to the
 10 Agreement for Period One. Payment by the Intermediary to CONTRACTOR for Period Two, Period
 11 Three, Period Four, and Period ~~Four~~Five shall be contingent upon receipt of an updated Rate
 12 Certification Form in accordance with ~~Paragraph~~subparagraph VI.B of Exhibit B to ~~the~~this Agreement.

13 2. Any Hospital that does not become a Contracting ED Hospital or Contracting Network
 14 Hospital and elects to provide any Hospital Services to any MSN Enrollee shall be reimbursed by
 15 COUNTY at the Non-Contract Hospital rates.

16 B. Sub-Acute Services – COUNTY shall pay the Intermediary the amount necessary to cover
 17 reimbursement for Sub-Acute Services in accordance with letter(s) of agreement as may be negotiated
 18 by ADMINISTRATOR for such services. These services may include, but are not limited to, Sub-Acute
 19 and Skilled Nursing Facility Services.

20 C. Special Permit Transfer – COUNTY shall pay Intermediary the amount necessary to cover
 21 reimbursement for Special Permit Transfer Services as allowed in ~~Paragraph~~subparagraph III.~~CK~~.12 of
 22 this Exhibit A to the Agreement. ~~The~~This Agreement shall not obligate CONTRACTOR to accept a
 23 transfer from, nor to provide compensation to, any other health care facility, subject to requirements of
 24 applicable law.

25 D. COUNTY shall not reimburse CONTRACTOR for services provided to Transfer Patients.

26 E. ADMINISTRATOR may withhold or delay any payment due CONTRACTOR for failure to
 27 comply with any of the terms of ~~the~~this Agreement.

28 F. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
 29 Funding and Payment Paragraph of this Exhibit A to the Agreement.

31 **VI. COUNTY OBLIGATIONS**

32 A. ADMINISTRATOR shall provide oversight of the MSN Program, including appropriate
 33 program administration, coordination, planning, evaluation, financial and contract monitoring, public
 34 information and referral, standards assurance, and review and analysis of data gathered and reported.
 35 Any administrative duty or obligation to be performed pursuant to ~~the~~this Agreement on a weekend or
 36 holiday may be performed on the next regular business day.

37 B. ADMINISTRATOR shall establish, either directly and/or through subcontract(s), a Care

1 Coordination Unit (CCU) which shall:

2 1. Coordinate and make arrangements for the medical needs and care of MSN Enrollees. The
3 CCU shall not be responsible for the coordination of the social services needs of such patients.

4 2. Perform concurrent and retrospective utilization review of the medical appropriateness,
5 level of care, and utilization of all services provided to MSN Patients by All Providers. The parties
6 understand that the CCU shall use the latest available version of the Milliman Continuum of Care
7 Criteria, or other appropriate criteria as approved by ADMINISTRATOR, as its guideline for such
8 utilization review. ADMINISTRATOR acknowledges that CONTRACTOR may use Interqual criteria
9 for similar purposes within its own operations and with this understanding:

10 a. Prior to recommendation of any adjustment in the level of care or denial of any
11 inpatient day provided by CONTRACTOR that does not meet continuum of care criteria used by the
12 CCU, the CCU shall notify CONTRACTOR of a pending recommendation within two (2) business days
13 of such determination.

14 b. CONTRACTOR shall have the opportunity to provide written justification, within two
15 (2) business days after receiving written notice of recommendation, to the CCU which justification may
16 include the application of Interqual criteria and/or other supporting information, as CONTRACTOR
17 deems necessary.

18 c. If the CCU subsequently recommends the adjustment and/or denial of the inpatient day,
19 CONTRACTOR shall have the right to appeal the decision to the Medical Policy Committee, as
20 established by ADMINISTRATOR.

21 d. Intermediary shall reimburse hospital based on the determination of the CCU or
22 Medical Policy Committee as appropriate.

23 3. Communicate with CONTRACTOR regarding diversions, patient transfers, admissions, and
24 discharge planning.

25 4. Assist in coordinating the transitions of MSN Patients to appropriate outpatient care, lower
26 levels of care or other needed services through COUNTY contracted providers for skilled nursing
27 facilities, durable medical equipment, pharmacy services and home health care.

28 C. When needed services are not available through any Contracting Network Hospital,
29 ADMINISTRATOR may negotiate separate Letters of Agreement with rates appropriate for securing
30 care for the provision of such services with other Contracting ED Hospitals, or Non-Contract Hospitals,
31 including those that may not be located in Orange County.

32 D. If an MSN Enrollee requires acute psychiatric care, ADMINISTRATOR will make every
33 reasonable best effort to facilitate the transfer of the MSN Enrollee to a hospital or health care facility
34 that is operated by or has contracted with COUNTY to provide such acute psychiatric treatment.

35 E. Except as provided herein with respect to discrimination of care to MSN Patients, COUNTY
36 shall neither have, nor exercise, any control or direction over the methods by which CONTRACTOR
37 shall perform its obligations under ~~the~~this Agreement. The standards of medical care and professional

1 duties of CONTRACTOR’s employees providing Hospital Services under ~~the~~this Agreement shall be
2 determined, as applicable, by CONTRACTOR’s Board of Directors and the standards of care in the
3 community in which CONTRACTOR is located and all applicable provisions of law and other rules and
4 regulations of any and all governmental authorities relating to licensure and regulation of
5 CONTRACTOR.

6 F. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
7 COUNTY Obligations Paragraph of this Exhibit A to the Agreement.

8
9 **VII. COMMITTEES/GROUPS**

10 A. A Medical Policy Committee (MPC) shall be formed by ADMINISTRATOR which shall meet
11 ~~at least quarterly~~bi-annually and may meet ~~more~~less frequently as determined by ADMINISTRATOR.

12 B. The MPC shall consist of the following members:

- 13 1. ~~MSN~~EHS Program Medical Director who shall serve as Chairperson of the Committee
- 14 2. Multiple Physicians from the private sector, hospital and clinic communities.
- 15 3. A minimum of two additional representatives from the MSN Program
- 16 4. Representative from the Care Coordination Unit, who may also be one of the
17 representatives from the MSN Program as specified in B.3 above.
- 18 5. Pharmacy Consultant
- 19 6. MSN Program Public Health Nurse(s) ~~(-)~~(-), who may also be one of the representatives from
20 the MSN Program as specified in B.3 above.

21 C. The MPC shall adopt and follow rules as it deems necessary to carry out its responsibilities.

22 D. The duties of the MPC shall include, but not be limited to, the following:

- 23 1. Prospective and retrospective review of services rendered and their medical
24 appropriateness.
- 25 2. Review of procedures, treatments, and therapies, consistent with MSN Program benefits, for
26 inclusion in, or deletion from, the MSN Program’s scope of covered services.
- 27 3. Review of medical policy as it relates to patient treatment and community standards of care.
- 28 4. Approval of modifications, deletions, and additions to the list of services for which All
29 Providers will be recommended to seek pre-authorization from COUNTY’s CCU.
- 30 5. Review and ruling on any appeals brought before the MPC.
- 31 6. Enlisting the expertise of specialists when indicated.

32 E. Decisions of the MPC shall be binding and final.

33 F. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
34 Committees/Groups Paragraph of this Exhibit A to the Agreement.

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36 //
37 //

VIII. REPORTS

A. Upon CONTRACTOR’s request, COUNTY shall provide or cause the Intermediary to provide, a complete copy of any data and reports prepared by the Intermediary in accordance with ~~the~~this Agreement between COUNTY and the Intermediary for services relating to the MSN Program.

B. As directed by COUNTY, CONTRACTOR shall compensate either the Intermediary or COUNTY for the cost of any record and data duplication under this paragraph; provided, however any reports sent electronically shall be at no additional cost.

C. CONTRACTOR shall not be entitled to any MSN Patient identifying information under this subparagraph. Nothing in this subparagraph shall affect the ability of CONTRACTOR to examine records it submits.

D. ADMINISTRATOR Reporting – ADMINISTRATOR shall provide the following reports to HASC, Contracting Network Hospitals, and Contracting ED Hospitals, which reporting shall continue until December 31 following the end of each Fiscal Year. Unless otherwise specified, the reports shall be provided ~~quarterly~~bi-annually beginning October 1 of Period One. The following reports may be combined, in all or in part:

1. Year-to-Date MSN Funding Expenditures showing administrative and health services expenditures separately

~~2. MSN Funding Projections showing administrative and health services expenditures separately.~~

~~3. MSN Profile Reports (to be provided following December 31 following each Fiscal Year)~~

~~4~~ 2. Other reports as mutually agreed upon between ADMINISTRATOR, Contracting Network Hospitals and Contracting ED Hospitals.

~~5~~ 3. All reports shall also available at <http://ohealthinfo.com/about/medical/providers/news>.

E. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Reports Paragraph of this Exhibit A to the Agreement.

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1 EXHIBIT B
2 AGREEMENT FOR PROVISION OF
3 MEDICAL SAFETY NET PROGRAM NETWORK HOSPITAL SERVICES

4 BETWEEN
5 COUNTY OF ORANGE
6 AND
7 «UC_NAME» «UC_DBA»

8 ~~BETWEEN~~
9 ~~COUNTY OF ORANGE~~

10 ~~AND~~
11 ~~«UC_NAME» «UC_DBA»~~

12 JULY 1, ~~2015~~2019 THROUGH DECEMBER 31, ~~2018~~2024

13
14 **CLAIMS AND DISBURSEMENTS**

15
16 **I. PREAMBLE**

17 The Medical Safety Net (MSN) Program provides services that are medically necessary to protect
18 life, prevent significant disability, or prevent serious deterioration of health. With respect to medical
19 criteria for enrollment into the MSN Program, applicants must have an urgent or emergent medical
20 condition that if left untreated would result in serious deterioration of health with initial intake
21 conducted through a Hospital’s emergency department.

22
23 **II. SATISFACTION OF COUNTY OBLIGATION**

24 In consideration of payments made by COUNTY through its Intermediary for Hospital Services
25 provided to MSN Patients pursuant to ~~the~~this Agreement, COUNTY’s obligation to CONTRACTOR
26 and persons for whom it may have any legal obligation to provide Hospital Services shall be satisfied.

27
28 **III. CONDITIONS OF REIMBURSEMENT**

29 A. As a condition of reimbursement through ~~the~~this Agreement, all claims for reimbursement of
30 Hospital Services provided to Enrollees shall be:

31 1. Claims for Hospital Services provided during each Period of ~~the~~this Agreement, as
32 enumerated in the Referenced Contract Provisions, except for:

33 a. Claims for Hospital Services covered by a court order.

34 b. Claims for Hospital Services if eligibility for a person is established by COUNTY after
35 the claims submission deadline for the applicable contract period.

36 2. Submitted electronically and completed in accordance with ~~the~~this Agreement. Paper
37 claims shall not be accepted without prior authorization of ADMINISTRATOR.

1 3. Initially received by the Intermediary no later than ninety (90) calendar days following the
2 date of service; provided, however, that claims shall be received no later than

- 3 a. September 30, ~~2016~~2020 for Period One.
4 b. September 30, ~~2017~~2021 for Period Two.
5 c. September 30, ~~2018~~2022 for Period Three.
6 d. September 30, ~~2019~~2023 for Period Four.
7 e. September 30, 2024 for Period Five.

8 B. The Intermediary should initially approve or deny all claims no later than

- 9 1. October 31, ~~2016~~2020 for Period One.
10 2. October 31, ~~2017~~2021 for Period Two.
11 3. October 31, ~~2018~~2022 for Period Three.
12 4. October 31, ~~2019~~2023 for Period Four.
13 5. October 31, 2024 for Period Five.

14 C. The Intermediary should reimburse all approved claims as soon as possible, and in no event
15 later than sixty (60) calendar days following the end of the month in which the claim was approved,
16 unless otherwise approved by ADMINISTRATOR.

17 D. Except as otherwise specified in this paragraph, any unapproved claims for Hospital Services
18 shall be void after

- 19 1. November 30, ~~2016~~2020 for Period One.
20 2. November 30, ~~2017~~2021 for Period Two.
21 3. November 30, ~~2018~~2022 for Period Three.
22 4. November 30, ~~2019~~2023 for Period Four.
23 5. November 30, 2024 for Period Five.

24 E. Exceptions to the above timelines may be allowed under the following conditions, which may
25 be modified by ADMINISTRATOR at its sole discretion:

- 26 1. The Notice of Action establishing MSN eligibility was generated after June 30 of the
27 applicable Period.
28 2. More information is requested by ADMINISTRATOR and/or Intermediary to further
29 consider an appeal.
30 3. ADMINISTRATOR and/or Intermediary discover any irregularities in claims payment or
31 denial.
32 4. Any payment for the above Hospital Claims occurring after December 31, shall be deemed
33 "Exception Claims" and shall be paid from Exception Funding as specified in COUNTY's agreement
34 with the Intermediary.

35 F. CONTRACTOR must submit all Hospital Claims to Intermediary, whether or not, due to
36 CONTRACTOR's collection of the co-payment from the MSN Patient. The Hospital Claims are
37 eligible for reimbursement, as specified in Paragraph VI of this Exhibit B to the Agreement.

G. Unless otherwise directed by ADMINISTRATOR, all Hospital Claims shall be submitted to:
Advanced Medical Management, Inc.

~~5000 Airport Plaza Drive, Suite 150~~

PO BOX 3689

Long Beach, CA ~~90815-1250~~90853

H. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Conditions of Reimbursement Paragraph of this Exhibit B to the Agreement.

IV. CLAIM DENIAL/Appeal

A. CONTRACTOR shall be notified, in writing, of the reason for a denial of any claim(s).

B. Notice shall be deemed effective:

- 1. Three (3) calendar days from the date written notice is deposited in the United States mail, first class postage prepaid; or
- 2. When faxed, transmission confirmed; or
- 3. When accepted by U.S. Postal Service Express Mail, Federal Express, United Parcel Service, or other expedited delivery service.

C. CONTRACTOR may resubmit denied claims to the Intermediary; provided, however, CONTRACTOR shall complete any necessary corrective action, and resubmit the claim no later than thirty (30) calendar days after notification of the rejection.

D. CONTRACTOR may appeal claims denied by the Intermediary to the Intermediary in accordance with procedures set forth by ADMINISTRATOR in the MSN Provider Manual and as set forth by Intermediary on the back of the Explanation of Benefits (EOB) form. Such appeal shall be made, in writing using the appeal form required by the Intermediary, no later than thirty (30) calendar days after notification of denial.

1. If all information necessary to review the appeal is submitted as required to the Intermediary, Intermediary shall respond to the appeal within thirty (30) calendar days.

2. If the appeal is subsequently denied by the Intermediary, CONTRACTOR within thirty (30) calendar days of receipt of the denied appeal, may submit an appeal to the MPC.

E. If a denied claim is not resubmitted and/or appealed in writing to the Intermediary and/or MPC within thirty (30) calendar days after notification of denial, the Intermediary's determination shall be final, and CONTRACTOR shall have no right to further review of the claim.

F. All appeals of denied claims shall be heard and decided no later than

- 1. November 15, ~~2016~~2020 for Period One-
- 2. November 15, ~~2017~~2021 for Period Two-
- 3. November 15, ~~2018~~2022 for Period Three-
- 4. November 15, ~~2019~~2023 for Period Four-
- 5. November 15, 2024 for Period Five

1 G. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Claim
 2 Denial/Appeal Paragraph of this Exhibit B to the Agreement.

3
 4 **V. THIRD PARTY, PRIMARY, OR OTHER INSURANCE CLAIMS**

5 A. Reimbursement provided through ~~the~~this Agreement shall be payment of last resort. Prior to
 6 submitting any claim to the Intermediary for reimbursement of Hospital Services provided to an
 7 Enrollee, CONTRACTOR shall:

8 1. Use its reasonable best efforts to determine whether the claim is a third party, primary or
 9 other insurance covered claim.

10 2. Bill and use its reasonable best efforts to collect third party, primary or other insurance
 11 covered claims to the full extent of such coverage.

12 B. CONTRACTOR shall determine that a claim is not covered, in whole or in part, under any other
 13 state or federal medical care program or under any other contractual or legal entitlement including, but
 14 not limited to, coverage defined in W&I Section 10020.

15 C. With submission of a claim, CONTRACTOR shall provide proof of denial to the Intermediary,
 16 if a third party, primary or other insurance denies coverage of the claim.

17 D. CONTRACTOR shall report to the Intermediary any payments received from a third party,
 18 primary or other insurance covered claims.

19 E. ADMINISTRATOR shall not reimburse deductibles or co-payments required by an Enrollee's
 20 third party, primary or other insurance coverage. ADMINISTRATOR shall also not reimburse co-
 21 payments required by the MSN Program.

22 F. CONTRACTOR shall provide the Intermediary such records and other documentation as the
 23 Intermediary may reasonably require to maintain centralized data collection and referral services in
 24 support of third-party revenue recovery activities.

25 G. Provider Refunds ~~Of~~of Claims Covered By Other Payments

26 1. If CONTRACTOR, through its own efforts, identifies Medi-Cal coverage, third party
 27 settlement, primary or other insurance coverage for services reimbursed through ~~the~~this Agreement,
 28 CONTRACTOR shall, within thirty (30) calendar days of such identification, unless disputed in
 29 accordance with subparagraph G.2. below, to reimburse the Intermediary an amount equal to the MSN
 30 payment. If Medi-Cal coverage, third party settlement, primary or other insurance coverage is identified
 31 due to efforts of Intermediary's Third Party Recovery Services (Recovery Services) specified in
 32 subparagraph G.4. below, CONTRACTOR shall, within thirty (30) calendar days of notice from
 33 Recovery Services, unless disputed in accordance with subparagraph G.2. below, reimburse the
 34 Intermediary an amount equal to the MSN payment. Third-party settlement payments may be paid
 35 directly to COUNTY or Intermediary, as directed by ADMINISTRATOR.

36 2. Should CONTRACTOR wish to dispute the reimbursement of a MSN payment as a result
 37 of the identification of Medi-Cal coverage, third party settlement, primary or other insurance coverage

1 either by CONTRACTOR or through Recovery Services, CONTRACTOR shall give written notice,
 2 within thirty (30) calendar days of notice of information, to ADMINISTRATOR’s MSN Program
 3 Administrator or designee (MSN Administrator), setting forth in specific terms the existence and nature
 4 of any dispute or concern related the information provided through Recovery Services or the
 5 reimbursement due MSN. MSN Administrator shall have fifteen (15) business days following such
 6 notice to obtain resolution of any issue(s) identified in this manner, provided, however, by mutual
 7 consent this period of time may be extended. If MSN Administrator determines that the recovery
 8 information is accurate and appropriate, CONTRACTOR shall, within thirty (30) calendar days of
 9 receipt, reimburse an amount equal to the MSN payment.

10 3. For purposes of computing the amount of reimbursement due from CONTRACTOR, the
 11 services provided to an Enrollee shall be valued at the percentage of reimbursement for the applicable
 12 contract period, less any co-payments or other fees.

13 4. COUNTY has contracted for Third Party Recovery Services (Recovery Services) for the
 14 purpose of actively pursuing reimbursement of claims paid for MSN Enrollees later determined to be
 15 eligible for Medi-Cal or third party, primary or other insurance. CONTRACTOR shall reasonably
 16 cooperate in recovering these costs.

17 5. If any reimbursement due is not paid by CONTRACTOR in accordance with subparagraphs
 18 G.1., G.2., or G.4. above, the Intermediary shall reduce any payment due CONTRACTOR by an amount
 19 not to exceed the amount to be reimbursed.

20 H. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Third
 21 Party, Primary, or Other Insurance Claims Paragraph of this Exhibit B to the Agreement.

22
 23 **VI. PAYMENTS TO CONTRACTING NETWORK HOSPITALS**

24 **A. Hospital Claims for Emergency Services and Outpatient Hospital Services**

25 1. Upon approval of Hospital Claims for Emergency Services not resulting in an inpatient
 26 admission and Outpatient Hospital Services, the Intermediary shall make reimbursements for these
 27 claims at the following specified percentage of APR-DRGs or the CalOptima Medi-Cal fee-for-service
 28 rates, less the required co-payments to be collected by CONTRACTOR.

	Contracting	Contracting ED	Non-Contracting
<u>Service</u>	<u>Hospitals</u>	<u>Hospitals</u>	<u>Hospitals</u>
Medical	100%	75%	45%

34 2. Required co-payments to be collected by CONTRACTOR for these services are as follows:
 35 a. For emergency department visits CONTRACTOR shall collect a three hundred dollar
 36 (\$300) co-payment from MSN Enrollees; provided, however, if the MSN Enrollee is admitted directly
 37 from the Emergency Room to CONTRACTOR’s facility or lower level of care, including Recuperative

1 Care, the co-payment for the emergency department visit shall be waived.

2 b. For Outpatient Hospital Services, including hospital based surgical center services and
3 physical and occupational therapy services as may be authorized by the CCU as Post Stabilization
4 Services, CONTRACTOR shall collect a twenty dollar (\$20) co-payment per visit; provided, however
5 CONTRACTOR's co-payment shall be waived if there is a corresponding professional co-payment due
6 from the MSN Enrollee.

7 c. Regardless of the number of services or visits provided in a single day at
8 CONTRACTOR's facility, only one (1) co-payment may be collected per day.

9 d. CONTRACTOR shall also attempt to collect co-payments from MSN Pending who
10 subsequently become MSN Enrollees.

11 4. Inpatient Hospital services, including Emergency and Stabilization Services which result in
12 the admission of an MSN Enrollee shall be reimbursed as specified in subparagraph B below.
13 CONTRACTOR shall not be separately reimbursed for Emergency and Stabilization Services for MSN
14 Enrollees directly admitted to CONTRACTOR's facility, as such reimbursement shall be deemed to be
15 included in the reimbursement for inpatient care.

16 B. Hospital Claims for Inpatient Services

17 1. Reimbursement to CONTRACTOR for inpatient services shall be contingent upon
18 ADMINISTRATOR's receipt of CONTRACTOR's Rate Certification Form. CONTRACTOR must
19 reflect on the Rate Certification Form the payment mechanism that is in effect between CONTRACTOR
20 and CalOptima at the time the Rate Certification Form is completed as follows:

21 a. For Period One, ADMINISTRATOR shall distribute, concurrently with ~~the~~this
22 Agreement for signature, a Rate Certification Form which must be completed and returned in
23 accordance with ~~Paragraph~~subparagraph III.B.1. of Exhibit A to ~~the~~this Agreement.

24 b. For Period Two, Period Three, Period Four, and Period ~~Four~~Five, ADMINISTRATOR
25 shall distribute a Rate Certification Form prior to the start of each Period.
26 ~~CONTRACTOR~~CONTRACTOR shall return the completed Rate Certification Form to
27 ADMINISTRATOR within forty-five (45) calendar days of ADMINISTRATOR's delivery to
28 CONTRACTOR, or HASC on behalf of CONTRACTOR, of the Rate Certification Form.

29 c. On the Rate Certification Form, CONTRACTOR shall certify if it contracts with
30 CalOptima, and if so, that it contracts with CalOptima for one of the following reimbursement methods,
31 as applicable to the Period:

32 1) On a fee-for-service basis: CONTRACTOR shall ~~provide~~ the Traditional
33 CalOptima rate that is in effect as of July 1 of each period. ADMINISTRATOR shall direct the
34 Intermediary to reimburse CONTRACTOR at one hundred percent (100%) of the Traditional
35 CalOptima rate after ADMINISTRATOR validates the rate with CalOptima. Regardless of any
36 subsequent negotiations between CONTRACTOR and CalOptima for reimbursement of services
37 provided during any Period, the rate that is in effect as of the completion of the Rate Certification Form

1 for each Period shall be the rate paid by the MSN Program for each Period.

2 2) Based on Diagnostic Related Groups (DRGs): ADMINISTRATOR shall direct the
3 Intermediary to reimburse CONTRACTOR at one hundred percent (100%) of DRGs after
4 ADMINISTRATOR validates the reimbursement method with CalOptima. Regardless of any
5 subsequent negotiations between CONTRACTOR and CalOptima for reimbursement of services
6 provided during each Period, the rate that is in effect as of the completion of the Rate Certification Form
7 shall be the rate paid by the MSN Program for each Period.

8 3) If CONTRACTOR's Rate Certification Form is not received by the deadlines
9 specified for each Period, ADMINISTRATOR shall direct the Intermediary to reimburse
10 CONTRACTOR at the last certified rate that ADMINISTRATOR has on file for CONTRACTOR. If no
11 certified rate is on file for CONTRACTOR, one hundred percent (100%) of the Non-Contract Hospital
12 Rate shall be used. In such instances, any change in the reimbursement rate to CONTRACTOR shall be
13 effective upon receipt of Rate Certification Form and shall not be retroactive to the beginning of the
14 applicable Period.

15 2. Reimbursement to Contracting ED Hospitals shall be made at ~~75%~~ seventy-five percent
16 (75%) of the rates or method provided on the Rate Certification Form.

17 3. Any Hospital that does not become a Contracting ED Hospital or Contracting Network
18 Hospital and elects to provide any Hospital Services to any MSN Patient shall be reimbursed by
19 COUNTY at a rate equal to forty-five percent (45%) of APR-DRG, or the Non-Contract Hospital's
20 most recent CalOptima negotiated
21 ~~per diem rate or DRG, the 2010 CalOptima negotiated per diem rate, or the 2010 CalOptima~~
22 ~~non-contract per diem rate~~, dependent upon information made available to the Intermediary or
23 ADMINISTRATOR by the Non-Contract Hospital.

24 4. For all approved Hospital Claims for Inpatient Services, which may include Stabilization
25 Services and Post Stabilization Services, the Intermediary shall deduct the amount of the required co-
26 payments to be collected by CONTRACTOR from reimbursement due for these claims. Hospitals shall
27 not be reimbursed for the day an MSN Enrollee is discharged unless the MSN Enrollee's admission and
28 discharge occur on the same day.

29 a. If an MSN Enrollee requires admission to CONTRACTOR's facility, CONTRACTOR
30 shall collect a flat three hundred dollar (\$300) co-payment for the admission, regardless of the MSN
31 Patient's length of stay.

32 b. Transfers from Contracting ED Hospitals and Non-Contract Hospitals

33 1) If the transfer is directly from the emergency department of a Contracting ED
34 Hospital or a Non-Contract Hospital, CONTRACTOR shall collect a flat three hundred dollar (\$300) co-
35 payment for the admission, regardless of the MSN Patient's length of stay.

36 2) If the MSN Patient was admitted to a Contracting ED Hospital or Non-Contract
37 Hospital and, following inpatient Stabilization Services, is being admitted to CONTRACTOR's facility,

1 the co-payment shall be waived.

2 c. CONTRACTOR shall also attempt to collect co-payments from MSN Pending who
3 subsequently become MSN Enrollees.

4 C. Implant Devices – This shall apply only to those Hospitals not reimbursed based on DRGs.
5 DRG reimbursement is understood to include reimbursement of implants as applicable.

6 1. “Implant Device” means a medical device manufactured to replace a missing biological
7 structure, support a damaged biological structure, or enhance an existing biological structure which are
8 allowed in accordance with the MSN Provider Manual or as may be authorized by ADMINISTRATOR,
9 which authorization may be provided through the CCU.

10 2. CONTRACTOR and Contracting ED Hospitals shall be paid one hundred percent (100%)
11 of the invoiced cost for Implant Devices. CONTRACTOR must submit a copy of its invoice for the
12 Implant Device with the Claim to the Intermediary in order to receive reimbursement.

13 3. Non-Contract Hospitals shall be paid seventy percent (70%) of the invoiced cost for Implant
14 Devices Non-Contract Hospitals must submit a copy of its invoice for the Implant Device with the
15 Claim to the Intermediary in order to receive reimbursement.

16 D Recuperative Care

17 1. Hospital Claims for Recuperative Care shall be reimbursed at two hundred and twenty
18 dollars (~~\$200~~220) per day.

19 2. Non-Contract Hospitals shall not be reimbursed for Recuperative Care.

20 E. Reimbursement Limitations

21 1. For Emergency Services and Outpatient Hospital Services - No Contracting Network
22 Hospital shall be reimbursed more than one hundred percent (100%) of CalOptima fee-for-service rates
23 or Allowable Costs, less the required co-payments, whichever is less.

24 2. For inpatient Hospital Services – No Contracting Network Hospital shall be paid more than
25 one hundred percent (100%~~%~~) of the equivalent CalOptima reimbursement, or Allowable Costs, less
26 applicable co-payments, whichever is less.

27 3. “Allowable Costs” means a maximum of one- hundred percent (100%) of
28 CONTRACTOR’s actual costs according to the most recent Hospital Annual Financial Data report
29 issued by the Office of Statewide Health Planning and Development.

30 F. All Funds in accounts maintained by the Intermediary relating to the term of thethis Agreement,
31 which funds are remaining after December 31 following each Fiscal Year, and all other payments
32 required by thethis Agreement have been made, shall be, in whole or in part, returned to COUNTY by
33 the Intermediary or rolled over to a subsequent Period as directed by ADMINISTRATOR.

34 G. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
35 Payments to Contracting Network Hospitals Paragraph of this Exhibit B to the Agreement.

36 //

37 //

VII. PAYMENTS FOR OUTPATIENT PHARMACY SERVICES

A. If CONTRACTOR elects to be an outpatient pharmaceutical provider, CONTRACTOR shall bill COUNTY's Pharmacy Benefits Manager and shall be reimbursed at rates to be negotiated by COUNTY with said Pharmacy Benefits Manager.

B. Only products identified on the MSN formulary shall be reimbursed. Products available over the counter shall not be reimbursed, including those products for which the prescribed dosage can be achieved through an increased dosage of an over the counter medication.

C. Unless otherwise directed by ADMINISTRATOR, all pharmacy claims shall be submitted electronically to COUNTY's Pharmacy Benefits Manager.

D. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Payments for Outpatient Pharmacy Services Paragraph of this Exhibit B to the Agreement.

VIII. SATISFACTION OF CLAIMS

A. Acceptance by CONTRACTOR of payments made by Intermediary in accordance with ~~the~~this Agreement shall be deemed satisfaction in full of any COUNTY obligation to CONTRACTOR with respect to those claims for Hospital Services for which payment has been made by COUNTY, notwithstanding CONTRACTOR's right to appeal any denied claim, as provided for in Paragraph IV. of this Exhibit B to the Agreement and CONTRACTOR's right to pursue co-payments due from MSN Patients.

B. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Satisfaction of Claims Paragraph of this Exhibit B to the Agreement.

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