



CONTRACT NO. MA-042-21011295

FOR

**PHARMACY BENEFITS MANAGER
QUALITY ASSURANCE SERVICES**

BETWEEN

**THE COUNTY OF ORANGE
HEALTH CARE AGENCY**

AND

**PRO PHARMA PHARMACEUTICAL
CONSULTANTS, INC. DBA PRO PHARMA**

MA-042-21011295
FOR
PHARMACY BENEFITS MANAGER QUALITY ASSURANCE SERVICES
WITH
PRO PHARMA PHARMACEUTICAL CONSULTANTS, INC. DBA PRO PHARMA

This Contract Number MA-042-21011295 ("Contract"), is made and entered into this 1st day of July, 2021 ("Effective Date") between Pro Pharma Pharmaceutical Consultants, Inc. dba Pro Pharma ("Contractor"), with a place of business at 9301 Oakdale Ave. Ste. 110, Chatsworth, CA 91311, and County of Orange, a political subdivision of the State of California ("County"), through its Health Care Agency with a place of business at 200 W. Santa Ana Blvd., Suite 650, Santa Ana, CA 92701-7506. Contractor and County may sometimes be referred to hereinafter individually as "Party" or collectively as "Parties".

ATTACHMENTS

This Contract is comprised of this document and the following Attachments, which are attached hereto and incorporated by reference into this Contract:

Attachment A – Scope of Work/Pricing
Attachment B – Compensation and Invoicing
Attachment C - Business Associate Contract
Attachment D - OCHCA Security Requirements and Guidelines for Contractors and Application for Service Providers

RECITALS

WHEREAS, County solicited Contract for Pharmacy Benefits Manager Quality Assurance Services as set forth herein, and Contractor represented that it is qualified to provide Pharmacy Benefits Manager Quality Assurance Services to County as further set forth herein; and

WHEREAS, Contractor and County are entering into this Contract for Pharmacy Benefits Manager Quality Assurance Services under a firm fixed fee Contract; and

WHEREAS, Contractor agrees to provide Pharmacy Benefits Manager Quality Assurance Services to County as further set forth in the Scope of Work/Pricing, attached hereto as Attachment A; and

WHEREAS, Contractor agrees to accept payment from County based on the schedule of fees set forth in Compensation and Invoicing, attached hereto as Attachment B; and

WHEREAS, County of Orange Board of Supervisors has authorized the County Procurement Officer or designee to enter into a Contract for Pharmacy Benefits Manager Quality Assurance Services with Contractor;

NOW, THEREFORE, the Parties mutually agree as follows:

DEFINITIONS

DPA shall mean the Deputy Purchasing Agent assigned to this Contract.

ARTICLES

General Terms and Conditions:

- A. **Governing Law and Venue:** This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for adjudication to another county.
- B. **Entire Contract:** This Contract, including its Attachments, contains the entire contract between the Parties with respect to the matters herein, and there are no restrictions, promises, warranties, understandings, agreements, or undertakings, other than those set forth herein or referred to herein. All previous proposals, offers, discussions, preliminary understandings, and other communications relative to this Contract, oral or written, are hereby superseded, except to the extent that they have been incorporated into this Contract. Further, any other provision or other unilateral terms which may be issued by Contractor before or during the term of this Contract, irrespective of whether any such provisions or terms may be affixed to or accompany the goods or services being purchased, are hereby superseded and are not valid or binding on County unless authorized by County in writing in an amendment to this Contract. Electronic acceptance of any additional terms, conditions or supplemental contracts by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless accepted in accordance with Paragraph "C", Amendments.
- C. **Amendments:** Except as expressly provided herein, no changes, modifications, or amendments to the terms and conditions of this Contract are valid or binding on County unless made in writing and signed by the duly authorized representative of the Parties. No other act, document, usage or custom shall be deemed to change, modify, or amend this Contract. Nor shall any oral understanding or agreement not incorporated herein be binding on either of the Parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.
- D. **Taxes:** Unless otherwise provided herein or by law, the price stated in Attachment B does not include California state sales or use tax. Out-of-state Contractors shall indicate California Board of Equalization permit number and sales permit number on invoices, if California sales tax is added and collectable. If no permit numbers are shown, sales tax will be deducted from payment. The Auditor-Controller will then pay use tax directly to the State of California in lieu of payment of sales tax to Contractor.
- E. **Delivery:** Time of delivery of goods or services is of the essence in this Contract. County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or descriptions or services that do not conform to the prescribed Attachment A, Scope of Work/Pricing. Acceptance of any part of the order for goods shall not bind County to accept future shipments nor deprive it of the right to return goods already accepted at Contractor's expense. Over shipments and under shipments of goods shall be only as agreed to in writing by County.

Delivery shall not be deemed to be complete until all goods or services have actually been received and accepted in writing by County pursuant to Paragraph F.

- F. **Acceptance Payment:** Unless otherwise agreed to in writing by County, 1) acceptance shall not be deemed complete unless in writing and until all the goods/services have actually been received, inspected, and tested to the satisfaction of County, and 2) payment shall be made in arrears after satisfactory acceptance.
- G. **Warranty:** Contractor expressly warrants that the goods covered by this Contract are 1) free of liens or encumbrances, 2) merchantable and good for the ordinary purposes for which they are used, and 3) fit for the particular purpose for which they are intended. Acceptance of this Contract shall constitute an agreement upon Contractor's part to indemnify, defend and hold County and County Indemnitees, as more fully described in Paragraph "Z," harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the goods/services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.
- H. **Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any software as modified through services provided hereunder will not infringe upon or violate any patent, copyright, trademark, trade secret or any other proprietary right (Intellectual Property Right) of any third party. Contractor agrees that, in accordance with the more specific requirement contained in Paragraph "Z", it shall indemnify, defend with counsel approved in writing by County, and hold harmless County and County Indemnitees from any and all such claims, demands or liability of any kind or nature and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s) of Intellectual Property Right infringement, including, costs and expenses and attorney's fees.
- I. **Assignment and Subcontracting:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the Parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned or subcontracted by Contractor without the express prior written consent of County. Any attempt by Contractor to assign the performance or any portion thereof of this Contract without the express prior written consent of County is void and invalid and constitutes a material breach of this Contract pursuant to which County may immediately terminate this Contract without penalty.
- J. **Non-Discrimination:** In the performance of this Contract, Contractor must comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to penalties pursuant to Section 1741 of the California Labor Code.

- K. **Termination:** In addition to any other remedies or rights it may have by law and those set forth in the Contract, County has the right to immediately terminate this Contract without penalty for cause or after thirty (30) calendar days' written notice without cause, unless otherwise specified. Cause includes, but is not limited to, any material breach of contract, any misrepresentation or fraud on the part of Contractor, and any conduct by Contractor that may expose County to liability or endanger the value, integrity, or security of County systems, facilities, personnel, or reputation. County's decision to exercise its right to terminate the Contract relieves County of all further obligations under this Contract. The Parties may mutually terminate this Contract by written agreement at any time. The rights, obligations, and conditions, that by their express terms or nature and context are intended to survive the expiration or earlier termination of this Contract, survive any expiration or earlier termination of this Contract.
- L. **Consent to Breach Not Waiver:** Any action or inaction by County or failure of County in any one or more instances to insist upon strict performance of any of the terms of this Contract or to enforce any right or provision contained herein will not be construed as a waiver or relinquishment by County of its rights hereunder and will not prevent County from enforcing such provision or right on any future occasion. Further, no term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent is in writing and signed by the Party claimed to have waived or consented. Any consent by any Party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach. No course of dealing by either Party in exercising of its rights will constitute a waiver or excuse for breach of a term or provision of this Contract.
- M. **Independent Contractor:** Contractor shall be considered an independent contractor and neither Contractor, its employees, nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor, its employees nor anyone working under Contractor shall qualify for workers' compensation or other fringe benefits of any kind through County.
- N. **Performance Warranty:** Contractor shall warrant all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods/services furnished by Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workmanlike manner; shall furnish all necessary labor, supervision, machinery, equipment, materials, and supplies, shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work. If permitted to subcontract, Contractor shall be fully responsible for all work performed by subcontractors. In addition, Contractor expressly warrants that it will not knowingly use the services of any ineligible person or subcontractor for any purpose in the performance of the services under this Contract.
- O. **Insurance Requirements:**
- Contractor will need to comply with the following insurance requirements if making the deliveries to the County of Orange. No insurance is required if a common carrier makes deliveries to the County of Orange.

Prior to the provision of services under this Contract, Contractor agrees to purchase all required insurance at Contractor's expense, including all endorsements required herein, necessary to satisfy County that the insurance provisions of this Contract have been complied with. Contractor agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with County during the entire term of this Contract.

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

All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any SIR in an amount in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the County's Risk Manager, or designee, upon review of Contractor's current audited financial report. If Contractor's SIR is approved, Contractor, in addition to, and without limitation of, any other indemnity provision(s) in this Contract, agrees to all of the following:

- 1) In addition to the duty to indemnify and hold County harmless against any and all liability, claim, demand or suit resulting from Contractor's, its agents', employees' or subcontractors' performance of this Contract, Contractor shall defend County at its sole cost and expense with counsel approved by Board of Supervisors against same; and
- 2) Contractor's duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and
- 3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the Contractor's SIR provision shall be interpreted as though Contractor was an insurer and County was the insured.

If Contractor fails to maintain insurance acceptable to County for the full term of this Contract, County may terminate this Contract immediately without penalty.

Qualified Insurer

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

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

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

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers Compensation	Statutory
Employers Liability Insurance	\$1,000,000 per occurrence
Network Security & Privacy* Liability	\$1,000,000 per claims-made
Technology Errors & Omissions*	\$1,000,000 per claims-made \$1,000,000 aggregate

Required Coverage Forms

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

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

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

- 1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the **County of Orange, its elected and appointed officials, officers, agents and employees**, as Additional Insureds, or provide blanket coverage, which will state **AS REQUIRED BY WRITTEN CONTRACT**.
- 2) A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

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

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

Contractor shall notify County in writing within thirty (30) calendar days of any policy cancellation and ten (10) calendar days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which County may suspend or terminate this Contract for cause pursuant to Paragraph "K", Termination.

If Contractor's Technology Errors & Omissions and/or Network Security & Privacy Liability are "Claims-Made" policy(ies), Contractor shall agree to maintain coverage for two (2) years following the expiration or termination of the Contract.

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

Insurance certificates should be forwarded to the agency/department address listed in Paragraph 20, Notices.

If Contractor fails to provide the insurance certificates and endorsements within seven (7) calendar days of notification by CEO/Purchasing or the agency/department purchasing division, County may immediately terminate this Contract for cause pursuant to Paragraph K.

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

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

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

- P. **Changes:** Contractor must make no changes in the work set forth in Attachment A, Scope of Work, or perform any additional work without County's express prior written consent in accordance with Paragraph "C", Amendments.
- Q. **Change of Ownership/Name, Litigation Status, Conflicts with County Interests:** Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, and County agrees to an assignment of the Contract, the new owners shall be required under the terms of sale or other instruments of transfer to assume Contractor's duties and obligations contained in this Contract, and complete them to the satisfaction of County.

County reserves the right to immediately terminate the Contract in the event County determines that the assignee is not qualified or is otherwise unacceptable to County for the provision of services under the Contract.

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

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

- R. **Force Majeure:** Contractor shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract to the extent such delay is caused by any act of God, war, civil disorder, employment strike or other cause beyond Contractor's reasonable control, provided Contractor gives written notice of the cause of the delay to County within thirty-six (36) hours of the start of the delay and Contractor avails itself of any available remedies to end the delay and minimize the effects of such delay. In the event of such a delay, County may suspend its performance hereunder until such time as Contractor resumes performance. County may terminate this Contract by written notice to Contractor if the delay continues substantially uninterrupted for a period of five (5) business days or more. No Force Majeure event excuses Contractor's other obligations under this Contract.
- S. **Confidentiality:** Contractor will hold all County Data in strict confidence and maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees. Contractor will not copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose, such County Data to third parties and will not use such records and information for any purpose other than for performance of this Contract. Contractor will advise and require its staff, agents and employees of their obligations to keep all County Data confidential in compliance with this paragraph.
- T. **Compliance with Laws:** Contractor represents and warrants that services to be provided under this Contract shall fully comply, at Contractor's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by County in its governmental capacity and all

other laws applicable to the services at the time services are provided to and accepted by County. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of Paragraph "Z", Contractor agrees that it shall indemnify, defend with counsel approved in writing by County, and hold County and County Indemnitees harmless from and against any and all claims, suits or proceedings alleging Contractor's failure to comply with the laws, and be responsible for payment of all costs, damages, penalties, and expenses related to or arising from such claims, suits, or proceedings.

- U. **Freight:** Contractor assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.
- V. **Severability:** If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, illegal, void, or unenforceable, such term, covenant, condition, or provision shall be deemed stricken and the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
- W. **Attorney Fees:** In any action or proceeding to enforce or interpret any provision of this Contract, or where any provision hereof is validly asserted as a defense, each Party shall bear its own attorney's fees, costs and expenses.
- X. **Interpretation:** This Contract has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each Party had been represented by experienced and knowledgeable independent legal counsel of its own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each Party further acknowledges that it has not been influenced to any extent whatsoever in executing this Contract by any other Party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the Party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to effect the purpose of the Parties and this Contract.
- Y. **Employee Eligibility Verification:** Contractor warrants that it is and shall remain in full compliance with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against Contractor or County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

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

AA. **Audits/Inspections:** Contractor agrees to permit the County's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. County will provide reasonable notice of such an audit or inspection.

County reserves the right to audit and verify Contractor's records before final payment is made.

Contractor must maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor must include a similar right to County to audit records and interview staff of any subcontractor related to performance of this Contract.

Should Contractor cease to exist as a legal entity, Contractor's records pertaining to this agreement shall be forwarded to County's Project Manager.

BB. **Contingency of Funds:** Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.

CC. **Expenditure Limit:** Contractor shall notify the County of Orange assigned Deputy Purchasing Agent in writing when the expenditures against the Contract reach seventy-five (75) percent of the dollar limit on the Contract. County will not be responsible for any expenditure overruns and will not pay for work exceeding the dollar limit on the Contract unless an amendment to cover those costs is executed.

Additional Terms and Conditions:

1. **Scope of Contract:** This Contract, including its attachments, specifies the contractual terms and conditions by which Contractor shall provide Pharmacy Benefits Manager Quality Assurance Services to County, as further detailed in Attachment A, Scope of Work/Pricing.
2. **Term of Contract:** This Contract shall commence on July 1, 2021 and continue through and including June 30, 2026, unless this Contract is earlier terminated by the Parties.
3. **Breach of Contract:** The failure of Contractor to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event, County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract, do any of the following:
 - a) Terminate the Contract immediately for cause pursuant to Paragraph K;
 - b) Afford Contractor written notice of the breach and ten (10) calendar days or such shorter time as may be specified in this Contract within which to cure the breach;
 - c) Discontinue payment to Contractor for and during the period in which Contractor is in breach; and
 - d) Offset against any monies billed by Contractor but yet unpaid by County those monies disallowed pursuant to the above.
4. **Civil Rights:** Contractor attests that services provided shall be in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975 as amended; Title II of the Americans with Disabilities Act of 1990, and other applicable State and federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, ethnic group identification, age, religion, marital status, sex or disability.
5. **Reports/Meetings:** Contractor shall develop reports and any other relevant documents necessary to complete the services and requirements as set forth in this Contract. County's Project Manager and Contractor's Project Manager will meet on reasonable notice to discuss Contractor's performance and progress under this Contract. If requested, Contractor's Project Manager and other project personnel shall attend all meetings. Contractor shall provide such information that is requested by County for the purpose of monitoring progress under this Contract.
6. **Conflict of Interest – County Personnel:** The County of Orange Board of Supervisors policy prohibits its employees from engaging in activities involving a conflict of interest. Contractor shall not, during the period of this Contract, employ any County employee for any purpose.
7. **Contractor's Project Manager and Key Personnel:** Contractor shall appoint a Project Manager to direct Contractor's efforts in fulfilling Contractor's obligations under this Contract. This Project Manager shall be subject to approval by County and shall not be changed without the written consent of County's Project Manager, which consent shall not be unreasonably withheld.

Contractor's Project Manager shall be assigned to this project for the duration of the Contract and shall diligently pursue all work and services to meet the project time lines.

County's Project Manager shall have the right to require the removal and replacement of Contractor's Project Manager from providing services to County under this Contract. County's Project Manager shall notify Contractor in writing of such action. Contractor shall accomplish the removal within five (5) business days after written notice by County's Project Manager. County's Project Manager shall review and approve the appointment of the replacement for Contractor's Project Manager. County is not required to provide any additional information, reason or rationale in the event it requires the removal of Contractor's Project Manager from providing further services under the Contract.

8. **Contractor's Records:** Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by Contractor in accordance with generally accepted accounting principles. These records shall be stored in Orange County for a period of three (3) years after final payment is received from County. Storage of records in another county will require written approval from the County of Orange assigned Deputy Purchasing Agent.
9. **Conditions Affecting Work:** Contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract and to know the general conditions which can affect the work or the cost thereof. Any failure by Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to County. County assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by County are expressly stated in the Contract.
10. **Cooperative Contract:** The provisions and pricing of this Contract will be extended to other California local or state governmental entities. Governmental entities wishing to use this Contract will be responsible for issuing their own purchase documents/price agreements, providing for their own acceptance, and making any subsequent payments. Contractor shall be required to include in any contract entered into with another agency or entity that is entered into as an extension of this Contract a contract clause that will hold harmless the County of Orange from all claims, demands, actions or causes of actions of every kind resulting directly or indirectly, arising out of, or in any way connected with the use of this Contract. Failure to do so will be considered a material breach of this Contract and grounds for immediate Contract termination. The cooperative entities are responsible for obtaining all certificates of insurance and bonds required. Contractor is responsible for providing each cooperative entity a copy of the Contract upon request by the cooperative entity. The County of Orange makes no guarantee of usage by other users of this Contract.

Contractor is required to maintain a list of the cooperative entities using this Contract. The list shall report dollar volumes spent annually and shall be provided on an annual basis to County, at County's request.

11. **County Data:** All materials, documents, data, reports, information, or other materials obtained from County data files or any County medium or furnished by or on behalf of County to Contractor in the performance of this Contract and created, generated or modified by County or by Contractor through the provision of services, including all intellectual property rights in or pertaining to the same, ("County Data") is owned solely and exclusively by County and remains at all times the property of County. County Data also includes user identification information and metadata which may contain County Data

or from which County Data may be ascertainable. To the extent there is any uncertainty as to whether data constitutes County Data, the data in question must be treated as County Data. As between the Parties, County owns all right, title, and interest in, and all intellectual property rights in and to, all County Data.

County Data may not be used or copied for direct or indirect use by Contractor, except as required in connection with performance of Contractor's duties under this Contract or as specifically directed by County in writing. Contractor must keep and maintain County Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Contract and applicable law to avoid unauthorized access, use, disclosure, or loss, and Contractor may not otherwise use, disclose, modify, merge with other data, commercially exploit, make available or make any other use of County Data or take, or refrain from taking, any other action that might, in any manner or form, adversely affect or jeopardize the integrity, security, or confidentiality of County Data, except as expressly permitted herein or as expressly directed by County in writing. All County Data, including copies, must be promptly returned or delivered to County upon expiration or earlier termination of this Contract pursuant to Paragraph 22, Termination-Orderly. In addition, Contractor must provide County, upon request, a copy of any County Data, reports and other documents or materials created by or obtained from County being stored by Contractor under this Contract.

In the event of disaster or catastrophic failure that results in significant County Data loss or extended loss of access to County Data or services, Contractor must notify County by fastest means available and in writing, within twenty-four (24) hours after Contractor reasonably believes there has been such a disaster or catastrophic failure. Contractor must inform County of the scale and quantity of County Data loss, Contractor's intended actions to recover County Data from backups and mitigate any deleterious effect of County Data and Services loss, and corrective action Contractor will take to prevent future loss. Contractor must conduct an investigation of the disaster or catastrophic failure and must share the report of the investigation with County. Contractor must cooperate fully with County, its agents and law enforcement related to this failure. During the performance of the Contract, Contractor is responsible for any loss or damage to this material and County Data while it is in Contractor's possession, and any such loss or damage must be restored at the expense of Contractor.

12. **Default – Reprourement Costs:** In case of Contract breach by Contractor, resulting in termination by County, County may procure the goods and/or services from other sources. If the cost for those goods and/or services is higher than under the terms of the existing Contract, Contractor will be responsible for paying County the difference between the Contract cost and the price paid, and County may deduct this cost from any unpaid balance due Contractor. The price paid by County shall be the prevailing market price at the time such purchase is made. This is in addition to any other remedies available under this Contract and under law.

13. **Disputes – Contract:**

- A. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by Contractor's Project Manager and County's Project Manager, such matter shall be brought to the attention of the County Deputy Purchasing Agent by way of the following process:

1. Contractor shall submit to the agency/department assigned Deputy Purchasing Agent a written demand for a final decision regarding the disposition of any dispute between the Parties arising under, related to, or involving this Contract, unless County, on its own initiative, has already rendered such a final decision.
 2. Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which Contractor believes County is liable.
- B. Pending the final resolution of any dispute arising under, related to, or involving this Contract, Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. Contractor's failure to diligently proceed shall be considered a material breach of this Contract.

Any final decision of County shall be expressly identified as such, shall be in writing, and shall be signed by the County Deputy Purchasing Agent or his designee. If County fails to render a decision within ninety (90) calendar days after receipt of Contractor's demand, it shall be deemed a final decision adverse to Contractor's contentions. Nothing in this section shall be construed as affecting County's right to terminate the Contract for cause or termination for convenience as stated in Paragraph K.

14. **Drug-Free Workplace:** Contractor hereby certifies it is in compliance and shall remain in compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. Contractor shall:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a)(1).
2. Establish a drug-free awareness program as required by Government Code Section 8355(a)(2) to inform employees about all of the following:
 - a. The dangers of drug abuse in the workplace;
 - b. The organization's policy of maintaining a drug-free workplace;
 - c. Any available counseling, rehabilitation and employee assistance programs; and
 - d. Penalties that may be imposed upon employees for drug abuse violations.
3. Provide as required by Government Code Section 8355(a)(3) that every employee who works under this Contract:
 - a. Shall receive a copy of the company's drug-free policy statement; and
 - b. Shall agree to abide by the terms of the company's statement as a condition of employment under this Contract.

Failure to comply with these requirements may result in suspension of payments under the Contract or termination of the Contract or both, and Contractor may be ineligible

for award of any future County contracts if County determines that any of the following has occurred:

1. Contractor has made false certification, or
 2. Contractor violates the certification by failing to carry out the requirements as noted above.
15. **Ownership of Documents:** County has permanent ownership of all directly connected and derivative materials produced under this Contract by Contractor. All documents, reports and other incidental or derivative work or materials furnished hereunder shall become and remain the sole property of County and may be used by County as it may require without additional cost to County. None of the documents, reports and other incidental or derivative work or furnished materials shall be used by Contractor without the express written consent of County.
16. **Emergency/Declared Disaster Requirements:** In the event of an emergency or if Orange County is declared a disaster area by tCounty, state or federal government, this Contract may be subjected to unusual usage. Contractor shall service County during such an emergency or declared disaster under the same terms and conditions that apply during non-emergency/disaster conditions. The pricing quoted by Contractor shall apply to serving County's needs regardless of the circumstances. If Contractor is unable to supply the goods/services under the terms of the Contract, then Contractor shall provide proof of such disruption and a copy of the invoice for the goods/services from Contractor's supplier(s). Additional profit margin as a result of supplying goods/services during an emergency or a declared disaster shall not be permitted. In the event of an emergency or declared disaster, emergency purchase order numbers will be assigned. All applicable invoices from Contractor shall show both the emergency purchase order number and the Contract number.
17. **Errors and Omissions:** All reports, files and other documents prepared and submitted by Contractor shall be complete and shall be carefully checked by the professional(s) identified by Contractor as project manager and key personnel, prior to submission to County. Contractor agrees that County review is discretionary and that Contractor shall not assume County will discover errors and/or omissions. If County discovers any errors or omissions prior to approving Contractor's reports, files and other written documents, the reports, files or documents will be returned to Contractor for correction. Should County or others discover errors or omissions in the reports, files or other written documents submitted by Contractor after County approval thereof, County approval of Contractor's reports, files or documents shall not be used as a defense by Contractor in any action between County and Contractor, and the reports, files or documents will be returned to Contractor for correction.
18. **Equal Employment Opportunity:** Contractor shall comply with U.S. Executive Order 11246 entitled, "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR, Part 60) and applicable State of California regulations as may now exist or be amended in the future. Contractor shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, religion, sex, marital status, political affiliation or physical or mental condition.

Regarding handicapped persons, Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. Contractor agrees to provide equal opportunity to handicapped persons in employment or in advancement in employment or otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicaps in all employment practices such as the following: employment, upgrading, promotions, transfers, recruitments, advertising, layoffs, terminations, rate of pay or other forms of compensation, and selection for training, including apprenticeship. Contractor agrees to comply with the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, pertaining to prohibition of discrimination against qualified handicapped persons in all programs and/or activities as detailed in regulations signed by the Secretary of the Department of Health and Human Services effective June 3, 1977, and found in the Federal Register, Volume 42, No. 68 dated May 4, 1977, as may now exist or be amended in the future.

Regarding Americans with disabilities, Contractor agrees to comply with applicable provisions of Title 1 of the Americans with Disabilities Act enacted in 1990 as may now exist or be amended in the future.

19. **News/Information Release:** Contractor agrees that it will not issue any news releases or upload County logos or other information onto any website in connection with either the award of this Contract or any subsequent amendment of or effort under this Contract without first obtaining review and written approval of said news releases from County through County's Project Manager. All press releases, including graphic display information to be published in newspapers, magazines, etc., are to be administered only by County unless otherwise agreed to by both Parties.
20. **Notices:** Any and all notices, requests, demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing with a copy provided to the assigned Deputy Purchasing Agent (DPA), except through the course of the Parties' project managers' routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four (4) calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate Party at the address stated herein or such other address as the Parties hereto may designate by written notice from time to time in the manner aforesaid.

For Contractor:	Name:	Pro Pharma Pharmaceutical Consultants, Inc. dba Pro Pharma
	Attention:	Carol Stern
	Address:	9301 Oakdale Ave. Ste. 110 Chatsworth, CA 91311
	Telephone:	818-701-5438
	E-mail:	carol.stern@propharmaconsultants.com

For County:	Name:	County of Orange HCA/Procurement and Contract Services
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Attention: Kevin Work
 Address: 200 W. Santa Ana Blvd Suite 650
 Santa Ana, CA 92701
 Telephone: (714) 347-0470
 E-mail: kwork@ochca.com

CC: Name: County of Orange HCA
 Attention: Carlos Andrade
 Address: 200 W. Santa Ana Blvd Suite 1000
 Santa Ana, CA 92701
 Telephone: 714-834-6006
 E-mail: candrade@ochca.com

21. **Precedence:** The Contract documents consist of this Contract and its Attachments. In the event of a conflict between or among the Contract documents, the order of precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the recitals and articles of this Contract, then the Attachments.
22. **Termination – Orderly:** After receipt of a termination notice from the County of Orange, Contractor may submit to County a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than sixty (60) calendar days from the effective date of the termination, unless one or more extensions in writing are granted by County upon written request of Contractor. Upon termination, County agrees to pay Contractor for all services performed prior to termination which meet the requirements of the Contract, provided, however, that such compensation combined with previously paid compensation shall not exceed the total compensation set forth in the Contract. Upon termination or other expiration of this Contract, each party shall promptly return to the other party all papers, materials, and other properties of the other held by each for purposes of performance of the Contract.
23. **Usage:** No guarantee is given by County to Contractor regarding usage of this Contract. Usage figures, if provided, are approximations. Contractor agrees to supply services and/or commodities requested, as needed by the County of Orange, at rates/prices listed in the Contract, regardless of quantity requested.
24. **Usage Reports:** Contractor shall submit usage reports on an annual basis to the assigned Deputy Purchasing Agent of the County of Orange user agency/department. The usage report shall be in a format specified by the user agency/department and shall be submitted ninety (90) calendar days prior to the expiration date of the contract term, or any subsequent renewal term, if applicable.
25. **Contractor Screening:** Throughout the term of this Contract, Contractor shall not be listed on any state or federal exclusionary rosters, listed below. County may screen Contractor on a monthly basis to ensure Contractor is not listed on the exclusionary rosters, listed below. If Contractor or its employee(s) are found to be included on any of the rosters indicated below, Contractor shall be deemed in default of its obligation under this Paragraph and shall constitute a cause for County to exercise its right to terminate this Contract immediately pursuant to Paragraph K. County, in its sole discretion, may afford Contractor an opportunity to cure said default within a reasonable time.

- a. United States Department of Health and Human Services, Office of Inspector General (OIG) List of Excluded Individuals & Entities (LEIE) (<http://exclusions.oig.hhs.gov>).
 - b. General Services Administration (GSA) System for Award Management (SAM) Excluded Parties List (<http://sam.gov>).
 - c. State of California Department of Health Care Services Medi-Cal Suspended and Ineligible Provider List (County Health Care Agency Internal Database).
26. **Debarment:** Contractor certifies that neither Contractor nor its employee(s) are presently debarred, proposed for debarment, declared ineligible or voluntarily excluded from participation in a contractual transaction by any state or federal department or agency.
27. **Lobbying:** On the best information and belief, Contractor certifies no federal appropriated funds have been paid or will be paid by, or on behalf of, Contractor to any person influencing or attempting to influence an officer or employee of Congress; or an employee of a member of Congress in connection with the awarding of any federal contract, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative contract.
28. **California Public Records Act:** Contractor and County agree and acknowledge that all information and documents related to the award and performance of this Contract are subject to disclosure pursuant to the California Public Records Act, California Government Code Section 6250 et seq.
29. **Gratuities:** Contractor warrants that no gratuities, in the form of entertainment, gifts or otherwise, were offered or given by Contractor or any agent or representative of Contractor to any officer or employee of County with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, County shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by County in procuring on the open market any goods or services which Contractor agreed to supply shall be borne and paid for by Contractor. The rights and remedies of County provided in this paragraph are not exclusive and are in addition to any other rights and remedies provided by law or under the Contract.
30. **Parking for Delivery Services:** County shall not provide free parking.
31. **Promotional/Advertisement:** County owns all rights to the name, trademarks, logos and symbols of County. The use and/or reproduction of County's name, trademark, logo and/or symbols for any purpose, including commercial advertisement, promotional purposes, announcements, displays or press releases, without County's express prior written consent is expressly prohibited. No use or reproduction may state or imply that County endorses Contractor's products or services.
32. **Compliance with County Information Technology Policies and Procedures:**

Policies and Procedures

Contractor, its subcontractors, Contractor personnel, and all other agents and representatives of Contractor, shall at all times comply with and abide by all Information Technology (IT) policies and procedures of County that are provided or made available to Contractor that pertain to Contractor (and of which Contractor has been provided with advance notice) in connection with Contractor's performance under this Contract.

Contractor shall cooperate with County in ensuring Contractor's compliance with the IT policies and procedures described in this Contract and as adopted by County from time-to-time, and any material violations or disregard of such IT policies or procedures shall, in addition to all other available rights and remedies of County, be cause for termination of this Contract. In addition to the foregoing, Contractor shall comply with the following:

Security and Policies

All performance under this Contract shall be in accordance with County's security requirements, policies, and procedures as set forth above and as modified, supplemented, or replaced by County from time to time, in its sole discretion, by providing Contractor with a written copy of such revised requirements, policies, or procedures reasonably in advance of the date that they are to be implemented and effective (collectively, the "Security Policies"). Contractor shall at all times use industry best practices and methods, and all applicable HIPAA privacy and security regulations with regard to the prevention, detection, and elimination, by all appropriate means, of fraud, abuse, and other inappropriate or unauthorized access to County systems accessed in the performance of services in this Contract.

Information Access

County may require all Contractor personnel performing services under this Contract to execute a confidentiality and non-disclosure agreement and concerning access protection and data security in the form provided by County. County shall authorize, and Contractor shall issue, any necessary information-access mechanisms, including access IDs and passwords, and Contractor shall take all commercially reasonable measures that comply with HIPAA security and privacy regulations to secure such mechanisms. Contractor shall provide each Contractor personnel with only such level of access as is required for such individual to perform his or her assigned tasks and functions. All County systems, and all data and software contained therein, including County data, County hardware and County software, used or accessed by Contractor: (a) shall be used and accessed by such Contractor solely and exclusively in the performance of their assigned duties in connection with, and in furtherance of, the performance of Contractor's obligations hereunder; and (b) shall not be used or accessed except as expressly permitted hereunder, or commercially exploited in any manner whatsoever, by Contractor, at any time.

Enhanced Security Procedures

County may, in its discretion, designate certain areas, facilities, or systems as requiring a higher level of security and access control. County shall notify Contractor in writing reasonably in advance of any such designation becoming effective. Any such notice shall set forth in reasonable detail the enhanced security or access-control procedures, measures, or requirements that Contractor shall be required to implement and enforce, as well as the date on which such procedures and measures shall take effect. Contractor shall fully comply with and abide by all such enhanced security and access measures and procedures as of such date.

Breach of Security

Any breach or violation by Contractor of any of the foregoing shall be deemed a material breach of a material obligation of Contractor under this Contract and may be deemed an

incurable and material breach of a material obligation of Contractor under this Contract resulting in termination.

Conduct on County Premises

Contractor shall, at all times, comply with and abide by all reasonable policies and procedures of County (or that may be established thereby, from time to time) that pertain to conduct on County's premises, possession or distribution of contraband, or the access to, and security of, the Party's real property or facilities, to the extent that Contractor has been provided with a copy of each such policy or procedure. Contractor shall exercise due care and diligence to prevent any injury to persons or damage to property while on the other Party's premises. The operation of vehicles by either Party's personnel on the other Party's property shall conform to posted and other applicable regulations and safe-driving practices. Vehicular accidents occurring on a Party's property and involving either Party's personnel shall be reported promptly to the appropriate Party's personnel. Each Party covenants that at all times during the Term, it, and its employees, agents, and subcontractors shall comply with, and take no action that results in the other Party being in violation of, any applicable federal, state, and local laws, ordinances, regulations, and rules. Each Party's personnel shall clearly identify themselves as the appropriate Party's personnel and not as employees of the other Party. When on the other Party's premises, each Party's personnel shall wear and clearly display identification badges or tags, as approved by the other Party.

Security Audits

Each Contract year, County may perform or have performed security reviews and testing. Such reviews and testing shall ensure compliance with all pertinent County security standards as well as any HCA/Environmental Health requirements such as federal tax requirements or HIPAA.

33. **Extraction of County Data:** During the term of this Contract, County is able to extract County Data from the System without cost at any time. For up to thirty (30) calendar days after termination or expiration of this Contract, cessation of business by Contractor, or any other event preventing Contractor from continuing to perform under this Contract, Contractor must provide County an extract of County Data in the format specified by County within five (5) business days of County's request.

The extraction of County Data by Contractor is without cost and not subject to any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Contractor). Contractor cannot withhold County Data or refuse for any reason to promptly return to County all County Data (including copies thereof) requested by County, even if County is then or is alleged to be in breach of the Contract. As part of Contractor's obligation to provide County Data, Contractor will also provide County any data maps, documentation, software, or other materials necessary for County to use, translate, interpret, extract and convert County Data.

34. **Data Location:** Except where Contractor obtains County's express prior written consent, the physical location of Contractor's data center where County Data is stored must be within the United States. Any time County Data is relocated within the United States, Contractor must securely dispose of such copies from the former data location and certify in writing to County that such County Data has been disposed of securely. Contractor must comply with all reasonable directions provided by County with respect to the disposal

of County Data. Further, should it become necessary in the course of normal operations for Contractor to copy or move County Data to another storage destination on its online system and delete County Data found in the original location, Contractor must preserve and maintain the content and integrity of County Data.

35. **Trans-Border Data Flow:** Contractor must not transfer any County Data across a country border. Furthermore, Contractor must perform all services required under this Contract within the United States and must not access County Data from outside the United States.

(SIGNATURE PAGE FOLLOWS)

**MINUTES OF AN ANNUAL MEETING OF
THE BOARD OF DIRECTORS OF
PRO PHARMA PHARMACEUTICAL CONSULTANTS, INC.**

The undersigned, being all of the directors of the corporation, by their signatures on the Waiver of Notice and Consent, or on a counterpart thereof, hereby adopt the following resolutions on behalf of the corporation, pursuant to the Bylaws of the corporation and the California Corporations Code, at the time, on the day and at the place set forth as follows:

TIME: 11:00 a.m.
DATE: January 11, 2021
PLACE: 9301 Oakdale Avenue, Suite 110
Chatsworth, CA 91311

There were present at the meeting the following directors, constituting a quorum of the full board:

CAROL STERN
CRAIG STERN
LINDA ESTRIN

There were absent:

NONE

The following individuals also were present at the meeting:

NONE

The annual meeting of the board of directors was called to order at 11:00¹ a.m. at the principal office of the corporation. CAROL STERN was elected to Chair the meeting, and CRAIG STERN was elected as Secretary of the meeting.

WAIVER

The Chair called the meeting to order and announced that the meeting was held pursuant to a written Waiver of Notice and Consent signed by all of the directors of the corporation. Such Waiver of Notice and Consent was presented to the meeting, and upon a motion duly made, seconded and unanimously carried, was made a part of the records of the meeting, ordered inserted in the minute book and now precedes the minutes of this meeting in the minute book of the corporation.

LAST MEETING

The minutes of the meeting of the board of directors, last held on January 7, 2020, were read to those present. There being no objections or modifications thereto, the same were unanimously approved.

DISCUSSION

This regular annual meeting of the board of directors is being held immediately following the adjournment of the annual meeting of the shareholders. The Secretary reported that all of the directors had been reelected at the shareholder's meeting just adjourned. Financial statements of the corporation, copies of which had previously been sent to the directors, were discussed, and the President and Chief Executive Officer reviewed with the directors the current operations of the corporation.

RESOLUTIONS

ELECTION OF OFFICERS

The meeting then proceeded to the election of officers of the corporation. The Chair stated that, in accordance with the Bylaws of this corporation, the Board of Directors should nominate and elect the officers for the ensuing year. There was a discussion of the election of officers for the coming year.

The following persons were nominated for and, upon motion duly made, seconded and unanimously carried, elected to the offices indicated before their names to serve until the next annual meeting of the board of directors, or until their successors are elected and qualified:

President:	CRAIG STERN
Chief Executive Officer:	CAROL STERN
Secretary:	CAROL STERN
Chief Financial Officer:	CAROL STERN

Upon motion duly made, seconded and unanimously carried, the following resolutions were adopted:

RESOLVED, that for purposes of giving any reports or executing any documents requiring the signature of the "Treasurer," the Chief Financial Officer is deemed to be also the Treasurer of this corporation.

RESOLVED FURTHER, that the President and Chief Executive Officer of this corporation are each authorized, until otherwise ordered, to enter into, execute and deliver in the name and on behalf of this

corporation, any contract, agreement, conveyance or any other instrument that may be deemed necessary and proper for the business of the corporation, without further act or resolution of this board of directors, and that the Secretary is authorized and directed to attach the corporate seal by her signature to any such documents, agreements, and/or instruments.

RESOLVED FURTHER, that the duty of the President is to look after all matters pertaining to the management of this business: to see that each and every department is brought up to its highest efficiency, with full power to transact any and all business pertaining to the affairs of this corporation; to make and sign all contracts with employees, selling agencies, salespeople and others, and all such other contracts which may be necessary for conducting the affairs of this corporation from time to time, to look after every detail pertaining to this business through its employees; to confer and advise with the other executive officers on all important matters, whenever it is practical to do so, and whenever the other executive officers are readily accessible for such conference. All employees will be subject to the direction of the President and will be responsible to the President. The President in turn will be subject to the acts of the board of directors, making the reports as he may be called on to render at any time, offering the suggestions to the board of directors as in his judgment will be for the betterment of the business.

DIVIDENDS

There was a discussion of the payment of dividends by the corporation. Upon motion duly made, seconded and unanimously carried, the following resolution was adopted:

RESOLVED, that in view of the current operating results of the corporation and the needs of the corporation for working capital and its contemplated capital expenditures, no dividends shall be declared or paid with respect to the stock of the corporation for the fiscal year ended September 30, 2020.

CORPORATE FILINGS

The meeting then proceeded to the discussion of corporate filings. After discussion and upon motion duly made, seconded and unanimously carried, the following resolution was adopted:

RESOLVED, that any officer of this corporation be, and each of them hereby is, authorized and directed to prepare, or cause to be prepared, and file, or cause to be filed, such documents, statements, applications and tax returns as may be necessary or appropriate to continue the business of this corporation.

RESOLVED FURTHER, that any officer of this corporation is authorized and directed to make such filings and applications, including, but not limited to, the "Statement By Domestic Stock Corporation" required by Section 1502 of the California General Corporation Law, and to

execute and deliver such documents and instruments, file such certificates or reports, and to do such acts and things as such officer deems necessary or appropriate in order to obtain such licenses, authorizations and permits as are necessary or desirable for the conduct of the corporation's business or to fulfill such legal requirements as are applicable to this corporation or its business as may be required by law to be filed in any state, or in any territory or dependency of the United States, or in any foreign country, in which the officers will find it necessary to file them to authorize the corporation to transact business in that state, territory, dependency or foreign country.

COMPENSATION

The next matter to come before the board of directors was the consideration of the payment of compensation to the officers of the corporation for services that each has rendered to PRO PHARMA PHARMACEUTICAL CONSULTANTS, INC. After discussion, upon motion duly made, seconded and unanimously carried, the following resolutions were adopted:

NOW THEREFORE, BE IT RESOLVED, that the compensation, including any bonuses, paid to the senior officers as appears on the books, records and tax returns of the corporation is hereby reviewed, approved, ratified and deemed consistent with the terms and conditions of their employment.

RESOLVED FURTHER, that if compensation payments made to an officer of the corporation shall be disallowed in whole or in part as a deductible expense for federal income tax purposes, that payment shall be reimbursed by such officer to the corporation to the full extent of the disallowance. It shall be the duty of the board of directors to enforce payment of each such amount disallowed.

RATIFICATION

The Chair reviewed the progress, operations and activities of the corporation for the previous year; reported on its financial condition and presented the financial statements for said previous year, a copy of which is on file with the corporation and by this reference made a part hereof; reported that the board of directors knows of no facts which would subject the corporation to any tort liability; and then proposed and requested that the board of directors ratify those previous actions of the officers of the corporation. Upon motion duly made and seconded, the following resolutions were adopted unanimously:

RESOLVED, that all the acts and actions, conduct and effects taken by the officers of this corporation since the proceedings of the last meeting of the Board of Directors are hereby ratified, approved and adopted in all respects, however, for only those actions which were undertaken for the direct benefit of the corporation and not otherwise.

OMNIBUS RESOLUTIONS

RESOLVED, that the officers of this corporation are, and each acting alone is, hereby authorized to do and perform any and all such acts, including execution of any and all documents and certificates, as said officers shall deem necessary or advisable, to carry out the purposes of the foregoing resolutions.

RESOLVED FURTHER, that any actions taken by such officers prior to the date of the foregoing resolutions adopted hereby that are within the authority conferred thereby are hereby ratified, confirmed and approved as the acts and deeds of this corporation as if such execution was authorized by the board of directors in advance.

RESOLVED FURTHER, that the board of directors have authorized the President and the President shall indemnify all officers, directors, agents and employees for actions taken in the last fiscal year in accordance with the following:

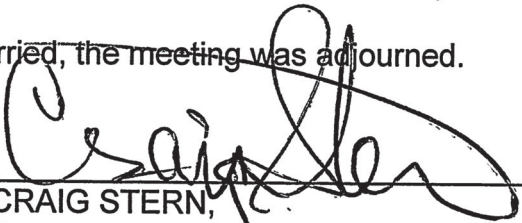
The corporation shall, to the maximum extent permitted by the California General Corporation Law, have power to indemnify each of its agents against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with any proceeding arising by reason of the fact that any such person is or was an agent of the corporation, and shall have power to advance to each such agent expenses incurred by defending

any such proceeding to the maximum extent permitted by that law. For purposes of this resolution, an "agent" of the corporation includes any person who is or was a director, officer, employee or other agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a corporation which was a predecessor corporation of the corporation or of another enterprise serving at the request of such predecessor corporation.

FURTHER RESOLVED, that the Secretary of the corporation be and is hereby directed to certify these resolutions and deliver certified copies thereof to support the authority of the above officers to act for and on behalf of the corporation.

ADJOURNMENT

There being no further business to come before the meeting at this time, upon motion duly made, seconded and unanimously carried, the meeting was adjourned.


CRAIG STERN,
Secretary of Meeting

ATTEST:


CAROL STERN,
Chair

CERTIFICATE OF SECRETARY

I, CAROL STERN, the duly elected, qualified, and acting Secretary of PRO PHARMA PHARMACEUTICAL CONSULTANTS, INC., a duly organized and qualified California corporation, hereby certify that attached hereto is a true, full and correct copy of the resolutions of the board of directors of the corporation adopted on January 11, 2021, and that the same have not been amended, rescinded or revoked and remain in full force and effect without modification on the date hereof.

IN WITNESS WHEREOF, I have hereunto set my hand as the Secretary of said corporation on January 11, 2021, at Chatsworth, California.



CAROL STERN,
Secretary

CONTRACT SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties hereto have executed this Contract No. MA-042-21011295 the date set forth opposite their signatures. If Contractor is a corporation, Contractor shall provide two signatures as follows: 1) the first signature must be either the Chairman of the Board, the President, or any Vice President; 2) the second signature must be that of the Secretary, an Assistant Secretary, the Chief Financial Officer, or any Assistant Treasurer. In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution or by-laws demonstrating the legal authority of the signature to bind the company.

Contractor: PRO PHARMA PHARMACEUTICAL CONSULTANTS, INC. DBA PRO PHARMA

Craig S. Stern, RPh, PharmD, MBA	President
Print Name	Title
DocuSigned by:	
Craig S. Stern, RPh, PharmD, MBA	4/28/2021
Signature	

Carol Stern	Chief Executive Officer
Print Name	Title
DocuSigned by:	
Carol Stern	4/28/2021
Signature	Date

County of Orange, a political subdivision of the State of California

Purchasing Agent/Designee Authorized Signature:

	Deputy Purchasing Agent
Print Name	Title
Signature	Date

Approved as to Form

Office of the County Counsel

County of Orange, California

DocuSigned by:	
Brittany McLean	5/4/2021
County Counsel Deputy	

ATTACHMENT A

SCOPE OF WORK/PRICING

I. Introduction

Contractor shall perform Quality Assurance (QA) analysis and oversight of the Health Care Agency's Pharmacy Benefits Management (PBM) contract for the Behavioral Health Services Program (BHS). Contractor shall assist the Medical Safety Net (MSN) Program in formulary development, benefit design and quality assurance oversight. Contractor shall also provide medication and pharmaceutical consultation for County's California Children's Service's (CCS) Program.

II. Background

A. Behavioral Health Services Program

BHS provides culturally competent and client-centered behavioral health services for eligible County residents in need of treatment for mental health and substance use issues. BHS is the payer of last resort for medically necessary medications in the treatment of mental illness for clients that are seen at various County and contracted clinics and psychiatric facilities throughout Orange County. About 83,198 prescriptions were filled in FY 2014/2015 through retail pharmacies only; no mail prescriptions were filled. The generic substitution rate is about 99% and the generic dispensing rate is about 88%. Pharmaceutical costs through the current PBM are estimated at \$3 million for Fiscal Year 2014-2015

Covered medications are included in the BHS Formulary or are approved through a Treatment Authorization Request (TAR) process, at County's discretion. All medications must be obtained through the PBM network of pharmacies.

During Fiscal Year 2014/2015, programs served approximately 6,933 (monthly average) clients via its Pharmaceutical Benefits Management (PBM) model and its extensive pharmacy network which includes all major retail pharmacies as well as a large number of independent pharmacies.

B. Medical Safety Net Program

MSN provides urgent and emergent medical services to protect life and prevent serious deterioration in health to low income eligible County residents who have no other source of coverage. MSN delivers medically necessary care and medications through a partnership between the County of Orange and a network of contracted hospitals, community clinics and pharmacies. The pharmacy Benefits Manager oversees dispensing of approved formulary medications to members at contracted sites throughout the County. Non-formulary medications or those requiring prior authorization must be approved by MSN care coordination unit and/or Medical Director prior to processing at the pharmacy level.

During FY19-20, the MSN program served approximately 150 members, using a formulary which is over 90% generic.

C. CCS Program

The CCS Program is a statewide program providing medical case management, financial assistance, and physical and occupational therapy services to children,

from birth to age twenty- one (21) with special health care needs who meet medical, financial, and residential requirements. The CCS Program covers children with medical conditions both complex and rare. Because of this, CCS-paneled providers often request authorization for medications for uses which may be "off label" or non-FDA approved.

III. Contractor's Duties and Responsibilities

A. Behavioral Health Services

1. Contractor shall assist County with the oversight and management of services and billings provided through the agreement between the Health Care Agency and its contracted PBM. Contractor shall provide periodic financial review of program expenditures, invoice analyses, and any discrepancies noted.
2. Contractor shall perform invoice screenings and assist with financial and clinical management problem identification, including a monthly review of PBM drug pricing (brand and generic).
3. Contractor shall assist County in communications with care providers for clinical management, problem identification, profiling and resolution.
4. Contractor shall assist County with the design of the medication benefit plan language, including but not limited to, prior authorizations, quantity limits, and plan exclusions, as applicable.
5. Contractor shall conduct periodic reviews of County's current program drug formulary and make recommendations to County for changes, updates, and modifications as appropriate and/or necessary.
6. Contractor shall create standard, custom and Ad-Hoc reports using PBM data on a monthly, quarterly, yearly basis, and/or when requested by County. Reports shall serve as Contractor's basis for making recommendations to County on the effectiveness of HCA's PBM contract.
7. Contractor shall assist County in identifying any new cost savings program(s) (i.e. Patient Assistance Programs (PAP), new federal or state programs, etc.) that could reduce the price of medication distribution, and assist County in implementing those programs.
8. At the County's direction, Contractor shall act as a liaison between the County's PBM and the BHS Program for day-to-day questions, conflict resolution, concerns, and operational issues.
9. Contractor shall attend PBM and other related meetings when deemed necessary by County.

B. Medical Safety Net

1. Contractor shall assist County with pharmacy benefit design, such as prior authorizations, quantity limits, cost threshold and plan exclusions.
2. Contractor shall conduct a bi-annual review of the formulary and ensure that all formulary medications follow current best practice recommendations and safety guidelines. Contractor shall make recommendations to County on changes and updates, as necessary.
3. Contractor shall advise on any recommended refinements of formulary design and coordinate implementation of such changes with the Pharmacy Benefit Manager and the MSN program.
4. Contractor shall monitor formulary performance and provide standard, customized and ad hoc reporting on data from PBM as needed.
5. Contractor shall provide consultation on prior authorization requests from MSN providers for alternative and non-formulary medications as needed.
6. Contractor shall provide other pharmacy consulting services as needed.

C. California Children Services

1. Contractor shall conduct all consultations via telephone or email. On-site consultations shall not be conducted.
2. Contractor shall provide consultation when requested in writing by County's authorized CCS representatives, in the following instances. County shall provide a list of authorized representatives to Contractor.
 - a. Specific drug protocols and efficacy for medications for FDA approved uses, non-FDA approved uses, non-indicated uses, orphan drugs, expensive brand name drugs and/or new drugs on the market.
 - b. Indications for non Medi-Cal contracted drugs that CCS may authorize, and when available literature and/or national guidelines states that such drugs or treatments should be discontinued.
 - c. Alternative and/or available pharmacological choices for treatment of specific diseases and/or symptoms.
 - d. Guidance as to denials of requests for authorization of medications accompanied with supporting literature, including references, and denial rationale.
3. Contractor shall, when requested in writing by County, provide telephonic web-based trainings to CCS staff on topics that are mutually agreed upon, in writing between both parties

IV. Reports:

Contractor shall provide periodic reports as requested by County, and County shall determine the frequency and interval of requested reports.

A. Program Reports

Invoice Rejection Analysis Reports - Frequency shall coincide with the invoice billing cycle of County's current contracted PBM.
Invalid Members
Ineligible Members
Mismatched Copays
Non Formulary Transactions
Benefit Exclusions
Days' supply exceeds benefit limits
Number of refills exceeds benefit limits
Claims processed on non-eligible clients
Quantity greater than benefit limits
Generic Switch
Amount Paid Greater Than Formulary
Invalid DMR Paper Claims
Number Rx per-patient-per-month more than benefit limits
Dollar Amount per Rx more than benefit limits
Quantity Dispensed Equals Zero or Fraction of a penny
U&C Equals Zero or Fraction of a penny
Non-Compound Drugs with Invalid Pricing Information
Compound Drugs with Invalid or Termed NDC code
Invalid doctor (DEA, NPI, etc.) Numbers. NON-controlled substances
Invalid doctor (DEA, NPI, etc.) Numbers. Controlled Substances
Invalid Claims Written Out of Network Physicians
Compound Drugs without valid drug pricing data
Invalid pharmacy (NABP, NCPDP, NPI) Numbers
AWP Variance from Pricing Source
Invalid or null AWP in the claim
AWP Multiplier Validation
Dispensing Fee variance from contract guarantee
Dispensing Fee Equals Zero, Non-Mail - varies from contract
Refills earlier than allowed in Benefit limits
Claim AWP and IC Validation

Specialty Drug Pricing variance from contract discounts
Total Amount Paid + Copay Greater than U&C
Rounding Issue
DMR Claims Pricing Variance
Generic Pricing variance - price paid above MAC - Claim adjudicated at higher amount than is allowed by MAC.
Retail Caps & Tabs
Retail: Non-Caps, Non-Tabs, Non-Insulins
Retail Caps & Tabs
Generic Pricing Discrepancies – FUL
Generic Pricing Discrepancies - Medicaid MAC (client damaged)
Generic Retail Cap/Tab
Brand Retail Cap/Tab
Discount Generic Opportunity Savings - Report that shows missed savings opportunities.

B. Clinical Screens - Frequency is monthly.

Dosage Variance - claims where the dosage exceeds the usually prescribed amount
Dosage – APAP
Duration Variance - claims where the duration exceeds the usually expected days' supply
Multiple Prescribers/Coordination of Care Issue (> 5 MD per Patient)
Multiple Prescribers/Coordination of Care Issue (> 4 MD per Patient) - Controlled Substances
Patients using multiple pharmacies (> 3 Pharmacies per Patient) - All drugs
Patients using multiple pharmacies (> 3 Pharmacies per Patient) - Controlled Substances
Drug Interactions - patients receiving high severity drug combinations
Gender Exclusions - patients receiving drugs that are inappropriate for their gender
Age Exclusions - patients receiving drugs that are not approved for their age group
Pregnancy Contraindication - patients receiving drugs that are contraindicated during pregnancy
Dosage Optimization - opportunities where prescribing higher strength saves on drug spend
Tablet Splitting - opportunities where higher strength tablet can be split to save on drug spend
Patients with 7+ Rx Count - Under 65 Years of Age
Patients with 7+ Rx Count - 65 Years of Age and Older

Top High Quantity Rx Caps/Tabs
Top High Quantity Rx NON-Caps/Tabs
Top High Ingredient Cost - All drugs @ Retail

Top High Days' Supply - All drugs

C. Management Screens - Frequency is monthly.

Top 10 (Prescribers, Pharmacies, Patients)
Top 10 Brand/Generic (Top drug utilization by cost and number of claims)
High Utilization Patients >= 5 Rx in a Month average
High Utilization Patients >= 5 Pharmacies in a Month average
High Utilization Patients >= 5 Physicians in a Month average
Coordination Of Benefit (COB) Report
Prior Authorization by Pharmacy
Prior Authorization by Physician
Prior Authorization by Drug
Top pharmacies accounting for highest brand cost variance in the invoice screens
Top pharmacies accounting for highest generic cost variance in the invoice screens
Least expensive pharmacies dispensing brand and generic drugs
Top pharmacies paid for drugs that cost above the federal upper limit (FUL)
Lag Claims Analysis

D. Patient Specific Queries (PSQs) - Frequency is Quarterly.

Chronic Use - Short Acting Opioids
Coordination of Care - Controlled Substances
Simple Dosage (Top 500 drugs frequently prescribed at higher than expected doses)
Toxic Drug Combinations
Compound Dosage - Salicylates
Pharmacy Shopping - Non-Controlled Drugs
Compound Dosage - Acetaminophen
Pharmacy Shopping - Controlled Substances
Compound Dosage Propoxyphene
Excessive Rx Utilization - Non Controlled Drugs
Compound Dosage Morphine Equivalents (MEQ)
Excessive Rx Utilization - Controlled Substances
Simple Duration - (Drugs in therapeutic categories frequently prescribed for longer than effective durations)

Patients on 2 or more Antipsychotics Concurrently
Simple Duration - LABAs
Patients on 2 or More Benzodiazepines Concurrently
Simple Duration - NSAIDs
Polypharmacy - ACE and ARB
Simple Duration - Narcotics
Polypharmacy - Long Acting Opioids
Coordination of Care - Non-Controlled Drugs
Therapeutic Compliance
Adverse Drug Interactions
Drug Switch Patient Profiles

E. Case Callouts - Quarterly.

F. Report Card Monitoring (RCM) - Quarterly.

G. Financials - Quarterly.

H. MAC Analysis- Quarterly.

I. Pharmacy Reimbursement Report -As Needed.

J. Chain Discount Analysis-As Needed.

K. Custom Reporting - As Needed.

No material adjustments made to the Scope of Work will be authorized without prior written approval of the County. Non-material adjustments may be made with the written approval of the County assigned Deputy Purchasing Agent.

ATTACHMENT B**COMPENSATION AND INVOICING**

1. **Compensation:** This is a fixed price Contract not to exceed the amount of \$1,000,000 for the Term of Contract.

The Contractor agrees to accept the specified compensation as set forth in this Contract as full payment for performing all services and furnishing all staffing and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by the Contractor of all its duties and obligations hereunder. The Contractor shall only be compensated as set forth herein for work performed in accordance with the Scope of Work.

2. **Fees and Charges:** County will pay the following fees in accordance with the provisions of this Contract.

Line	Description	Rate
Behavioral Health Services (BHS) and California Children's Services (CCS) Programs		
1.	BHS Fixed monthly Fee: All inclusive fee for all items included in the Scope of Work including emailing of PQSs TM .	\$5,700/month
2.	BHS requested site visits: Any "face-to-face" meetings requested by County, on-site in Orange County, CA which could not be managed via web/telephone conferencing. Invoiced at \$3,500/day or in ½ day increments, in addition to the current IRS mileage rate, portal to portal.	\$3,500/day or in ½ day increments plus current mileage rate
3.	Contractor reimbursable expenses: Telephone and fax expenses approved by BHS program.	At cost
4.	BHS Client Portal Secured Web Access including monthly maintenance & storage fees	Not to exceed \$100/month
5.	Services provided to BHS by Contractor at no additional charges to County: <ul style="list-style-type: none"> ▶ Provider telephone calls Up to one (1) hour total in a given month, in conjunction with the BHS Medical Director, to discuss PSQsTM (which ▶ is utilized as a basis for discussions with panel providers). ▶ Invoice ScreeningTM ▶ Patient Specific QueriesTM (PSQs) ▶ Patient CalloutsTM ▶ Monthly conference calls with BHS Finance Managers 	No Charge

6.	BHS - Additional Work Requested: Any additional consulting and auditing and/or reconciliation work as requested in writing and approved by BHS.	\$300/hour
7.	BHS only - one-time set up fee (waived if current contracted services are not interrupted)	\$6,500
8	CCS- Additional Work Requested: Any additional consulting and web- based trainings as requested in writing and approved by CCS.	\$300/hour
	MSN- All work requested will be paid based on an hourly rate.	\$300/hour

3. **Price Increase/Decreases:** No price increases will be permitted during the first period of the Contract. The County requires documented proof of cost increases on Contracts prior to any price adjustment. A minimum of 30-days advance notice in writing is required to secure such adjustment. No retroactive price adjustments will be considered. All price decreases will automatically be extended to the County of Orange. The County may enforce, negotiate, or cancel escalating price Contracts or take any other action it deems appropriate, as it sees fit. The net dollar amount of profit will remain firm during the period of the Contract. Adjustments increasing the Contractor's profit will not be allowed.
4. **Firm Discount and Pricing Structure:** Contractor guarantees that prices quoted are equal to or less than prices quoted to any other local, State or Federal government entity for services of equal or lesser scope. Contractor agrees that no price increases shall be passed along to the County during the term of this Contract not otherwise specified and provided for within this Contract.
5. **Contractor's Expense:** The Contractor will be responsible for all costs related to photo copying, telephone communications and fax communications while on County sites during the performance of work and services under this Contract.
6. **Payment Terms:** Invoices are to be submitted to the user agency/department to the ship-to address, unless otherwise directed in this Contract. Vendor shall reference Contract number on invoice. Payment will be net 30 days after receipt of an invoice in a format acceptable to the County of Orange and verified and approved by the agency/department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the Contractor.

Billing shall cover services and/or goods not previously invoiced. The Contractor shall reimburse the County of Orange for any monies paid to the Contractor for goods or services not provided or when goods or services do not meet the Contract requirements.

Payments made by the County shall not preclude the right of the County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the goods or services.
7. **Taxpayer ID Number:** The Contractor shall include its taxpayer ID number on all invoices submitted to the County for payment to ensure compliance with IRS requirements and to expedite payment processing.

8. **Payment – Invoicing Instructions:** The Contractor will provide an invoice on the Contractor's letterhead for goods delivered and/or services rendered. In the case of goods, the Contractor will leave an invoice with each delivery. Each invoice will have a number and will include the following information:

- a. Contractor's name and address
- b. Contractor's remittance address
- c. Contractor's Taxpayer ID Number
- d. Name of County Agency/Department
- e. Delivery/service address
- f. Master Agreement (MA) or Purchase Order (PO) number
- g. Agency/Department's Account Number, if applicable
- h. Date of invoice
- i. Product/service description, quantity, and prices
- j. Sales tax, if applicable
- k. Freight/delivery charges, if applicable
- l. Total

The responsibility for providing acceptable invoices to County for payment rests with Contractor. Incomplete or incorrect invoices are not acceptable and shall be returned to Contractor.

Invoice and support documentation are to be forwarded to:

Orange County Health Care Agency
Accounts Payable
PO Box 689
Santa Ana, CA 92702

9. **Payment (Electronic Funds Transfer)**

County offers Contractor the option of receiving payment directly to its bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment made via EFT shall also receive an Electronic Remittance Advice with the payment details via e-mail. An e-mail address shall need to be provided to County via an EFT Authorization Form. Contractor may request a form from the agency/department representative listed in the Contract.

ATTACHMENT C
BUSINESS ASSOCIATE CONTRACT

A. GENERAL PROVISIONS AND RECITALS

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

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

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

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

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

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

B. DEFINITIONS

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

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

a. Breach excludes:

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

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

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

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

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

ii. The unauthorized person who used the PHI or to whom the disclosure was made;

iii. Whether the PHI was actually acquired or viewed; and

iv. The extent to which the risk to the PHI has been mitigated.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15. CONTRACTOR shall make itself and any subcontractors, employees or agents assisting CONTRACTOR in the performance of its obligations under the Agreement, available to COUNTY at no cost to COUNTY to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against COUNTY, its directors, officers or employees based upon claimed violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy, which involves inactions or actions by CONTRACTOR, except where CONTRACTOR or

its subcontractor, employee or agent is a named adverse party.

16. The Parties acknowledge that federal and state laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Business Associate Contract may be required to provide for procedures to ensure compliance with such developments. The Parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations and other applicable laws relating to the security or privacy of PHI. Upon COUNTY's request, CONTRACTOR agrees to promptly enter into negotiations with COUNTY concerning an amendment to this Business Associate Contract embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations or other applicable laws. COUNTY may terminate the Agreement upon thirty (30) days written notice in the event:

- a. CONTRACTOR does not promptly enter into negotiations to amend this Business Associate Contract when requested by COUNTY pursuant to this Paragraph C; or
- b. CONTRACTOR does not enter into an amendment providing assurances regarding the safeguarding of PHI that COUNTY deems are necessary to satisfy the standards and requirements of HIPAA, the HITECH Act, and the HIPAA regulations.

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

D. SECURITY RULE

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

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

3. CONTRACTOR shall ensure the continuous security of all computerized data systems containing electronic PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY. CONTRACTOR shall protect paper documents containing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates,

receives, maintains, or transmits on behalf of COUNTY. These steps shall include, at a minimum:

- a. Complying with all of the data system security precautions listed under Paragraphs E, below;
 - b. Achieving and maintaining compliance with the HIPAA Security Rule, as necessary in conducting operations on behalf of COUNTY;
 - c. Providing a level and scope of security that is at least comparable to the level and scope of security established by the Office of Management and Budget in OMB Circular No. A-130, Appendix III - Security of Federal Automated Information Systems, which sets forth guidelines for automated information systems in Federal agencies;
4. CONTRACTOR shall ensure that any subcontractors that create, receive, maintain, or transmit electronic PHI on behalf of CONTRACTOR agree through a contract with CONTRACTOR to the same restrictions and requirements contained in this Paragraph D of this Business Associate Contract.
5. CONTRACTOR shall report to COUNTY immediately any Security Incident of which it becomes aware. CONTRACTOR shall report Breaches of Unsecured PHI in accordance with Paragraph E below and as required by 45 CFR § 164.410.
6. CONTRACTOR shall designate a Security Officer to oversee its data security program who shall be responsible for carrying out the requirements of this paragraph and for communicating on security matters with COUNTY.

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E. DATA SECURITY REQUIREMENTS

1. Personal Controls

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

b. **Employee Discipline.** Appropriate sanctions must be applied against workforce members who fail to comply with any provisions of CONTRACTOR's privacy policies and

procedures, including termination of employment where appropriate.

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

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

2. Technical Security Controls

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

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

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

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

to another of CONTRACTOR's locations.

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

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

g. User IDs and Password Controls. All users must be issued a unique user name for accessing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password, at maximum within 24 hours. Passwords are not to be shared. Passwords must be at least eight characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed every 90 days, preferably every 60 days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three of the following four groups from the standard keyboard:

- Upper case letters (A-Z)
- Lower case letters (a-z)
- Arabic numerals (0-9)
- Non-alphanumeric characters (punctuation symbols)

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

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

20 minutes of inactivity.

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

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

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

m. Transmission encryption. All data transmissions of PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files containing PHI can be encrypted. This requirement pertains to any type of PHI in motion such as website access, file transfer, and E-Mail.

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

3. Audit Controls

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

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

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

4. Business Continuity/Disaster Recovery Control

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

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

5. Paper Document Controls

a. Supervision of Data. PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by an employee authorized to access the information. Such PHI in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.

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

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

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

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

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

F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

2. CONTRACTOR shall provide the notification of the Breach immediately to the COUNTY Privacy Officer.

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

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

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

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

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

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

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

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

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

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

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

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

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

8. CONTRACTOR shall continue to provide all additional pertinent information about the Breach to COUNTY as it may become available, in reporting increments of five (5) business days after the last report to COUNTY. CONTRACTOR shall also respond in good faith to any reasonable

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

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

G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

i. The Disclosure is required by law; or

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

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

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

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

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

H. PROHIBITED USES AND DISCLOSURES

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

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

I. OBLIGATIONS OF COUNTY

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

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

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

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

J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

b. CONTRACTOR shall retain no copies of the PHI.

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

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

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Attachment C-1

Personal Information Privacy and Security Contract

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

A. DEFINITIONS

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

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

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

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

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

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

voice print, a photograph or a biometric identifier. Notice-triggering Personal Information includes PI in electronic, paper or any other medium.

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

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

Code§ 1798.3(a).

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

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

B. TERMS OF AGREEMENT

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

2. Responsibilities of CONTRACTOR

CONTRACTOR agrees:

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

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

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

i. Complying with all of the data system security precautions listed in Paragraph E of the Business Associate Contract, Attachment C to the Agreement. ; and

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

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

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

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

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

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

h) Breaches and Security Incidents. During the term of the Agreement, CONTRACTOR agrees to implement reasonable systems for the discovery of any breach of unsecured DHCS PI and PII or security incident. CONTRACTOR agrees to give notification of any beach of unsecured DHCS PI and PII or security incident in accordance with Paragraph F, of the Business Associate Contract, Attachment C to the Agreement.

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

ATTACHMENT D

**OCHCA SECURITY REQUIREMENTS AND GUIDELINES FOR CONTRACTORS AND
APPLICATION SERVICE PROVIDERS**



County of Orange Health Care Agency

Security Requirements and Guidelines for Application Vendors and Application Service Providers

04/2018

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1 Overview

Security Requirements and Guidelines for Application Vendors and Application Service Providers

This document provides a high-level overview of application security related guidelines and requirements set forth by the Orange County Health Care Agency (OCHCA), and applies to both software vendors for County-implemented applications and application service providers who provide hosted services.

These requirements and guidelines are consistent with regulatory privacy and security requirements and guidelines as well as supportive of OCHCA's position and practices on risk management in terms of appropriately safeguarding OCHCA's information assets.

The sections below are comprehensive and may apply in whole or in part based on specific implementation and scope of work. The expectation is that vendors will comply with relevant sections, as necessary. This information will be reviewed, validated and documented by OCHCA Security prior to any contract being finalized.

Vendors are required to comply with all existing legal and regulatory requirements as they relate to OCHCA's systems and data. Example of regulations, rules and laws include, but are not limited to, the Health Insurance Portability and Accountability Act (HIPAA), Senate Bill 1386, Payment Card Industry (PCI) Data Security Standards, and Sarbanes- Oxley (SOX). Vendors must also commit to ensuring compliance with all future local, state and federal laws and regulations related to privacy and security as they pertain to the application or service.

2 General Security Requirements

- The application/system must meet the general security standards based upon ISO 17799 – Code of Practice for Information Security and ISO 27799 – Security Management in Health Using ISO 17799.
- The application must run on an operating system that is consistently and currently supported by the operating systems vendor. Applications under maintenance are expected to always be current in regards to the current version of the relevant operating system.
- For applications hosted by OCHCA, OCHCA will routinely apply patches to both the

operating system and subsystems as updated releases are available from the operating system vendor and or any third party vendors. The vendors must keep their software current and compatible with such updated releases in order for the application to operate in this environment.

- Vendors must provide timely updates to address any applicable security vulnerabilities found in the application.
- OCHCA utilizes a variety of proactive, generally available, monitoring tools to assess and manage the health and performance of the application server, network connectivity, power etc. The application must function appropriately while the monitoring tools are actively running.
- All application services must run as a true service and not require a user to be logged into the application for these services to continue to be active. OCHCA will provide an account with the appropriate security level to logon as a service, and an account with the appropriate administrative rights to administer the application. The account password must periodically expire, as per OCHCA policies and procedures.
- In order for the application to run on OCHCA server and network resources, the application must not require the end users to have administrative rights on the server or subsystems.

3 Encryption

- Application/system must use encryption to protect sensitive data at rest wherever technically possible (e.g. SQL TDE Encryption).
- All data transmissions must be encrypted using a FIPS 140-2 certified algorithm, such as Advanced Encryption Standard (AES), with a 128bit key or higher. Encryption can be end to end at the network level. This requirement pertains to any regulated data in motion such as website access and file transfers.
- All electronic files, where applicable, that contain OCHCA data must be encrypted when stored on any removable media or portable device (USB drives, CD/DVD, mobile phones, backup tapes). The encryption must be a FIPS 140-2 certified algorithm, such as Advanced Encryption Standard (AES), with a 128bit key or higher.
- All encryption methods used for data storage and transmission must be disclosed by the vendors.

4 Network Application Documentation

- Vendors must provide documentation related to the configuration of the application including methods of secure implementation and port requirements.

5 Access Management

- Application/system must control access to and within the system at multiple levels (e.g. per user, per user role, per area, per section of the chart) through a consistent mechanism of identification and authentication of all users in accordance with the 'Role Based Access Control' (RBAC) standard.
- Application/system must support measures to define, attach, modify and remove access rights for all classes of users.
- Application/system must support measures to enable and restrict access to the whole and/or sections of the technology solution in accordance with prevailing consent and access rules.
- Application must have the ability to create unique user accounts.
- Application must support session timeouts or automatic logoff after 20 minutes of inactivity.
- The application must provide functionality to automatically disable or lock accounts after 60 days of inactivity.

6 Password Management

- Application must support password management measures including but not limited to password expiration, account lockout and complex passwords.
- Passwords expiration must be set to 90 days and the system must prevent the use of the previous 4 passwords.
- Accounts must be locked after five unsuccessful login attempts.
- The password must be at least 8 characters in length and a combination of letters, numbers, and special characters with at least 3 of the four following categories.
 - ◆ Uppercase letters (A through Z)
 - ◆ Lowercase letters (a through z)
 - ◆ Numeric digits (0 through 9)
 - ◆ Special Characters (! @ # \$ % ^ & etc.)

7 Audit Capabilities

Auditing and logging capabilities will permit HCA to identify, and possibly reverse, unauthorized or unintended changes to application.

- Application must support the identification of the nature of each access and/or modification through the use of logging.
- Application must employ audit capabilities to sufficiently track details that can establish accountability for each step or task taken in a clinical or operational process.
- All audit logs must be protected from human alteration.
- Access to logs must be limited to authorized users.
- The application must employ basic query tools and reports to easily search logs.
- OCHCA record retention policies must be followed. [Currently OCHCA requires that this period be at least six years from the time the record was initiated.](#)
- Logging and auditing functionality must include the following:
 - ◆ Record of who did what to which object, when and on which system.
 - ◆ Successful/unsuccessful log-in and log-out of users.
 - ◆ Add, modify and delete actions on data/files/objects.
 - ◆ Read/view actions on data classified as restricted/confidential.
 - ◆ Changes to user accounts or privileges (creation, modification, deletion).
 - ◆ Switching to another users access or privileges after logging in (if applicable).

8 Protection from Malicious Code

- For cloud hosted solutions, vendors must utilize antivirus/antispyware software on servers and monitor to prevent malicious code which may lead to a compromise of OCHCA's data.
- For local hosted solutions, vendors must ensure that the application appropriately supports the use of antivirus/antispyware software.

9 Remote Support Functionality

- Provider must conform to OCHCA Vendor Remote Access Policy.

10 HCA Data Usage

- During the course of any implementation and subsequent support and life cycle

management, any OCHCA data that the vendors have access to in any manner shall be considered confidential unless otherwise designated in writing.

- Vendors must not use or disclose OCHCA's data other than as permitted or as required by contract or law.
- The vendors must agree to use appropriate safeguards to prevent the unauthorized use or disclosure of OCHCA's data during any time that the data is stored or transported in any manner by vendors.
- After the end of any appropriate use of OCHCA's data within the vendors' possession, such data must be returned to OCHCA or securely destroyed unless otherwise permitted by contract or law.

11 Cloud Solutions

Application Service Providers hosting OCHCA data must meet the following additional requirements and are required to comply with and provide deliverables noted below:

- **SSAE 18.** SSAE 18 SOC 2 Type 2 or SOC 3 compliance certificate
- **Network Intrusion Detection and Prevention.** All systems that are accessible via the internet must actively use a network based intrusion detection and prevention solution.
- **Workstation/Laptop Encryption.** All workstations, laptops and mobile devices that process and/or store OCHCA data must be encrypted using full disk encryption that uses a FIPS 140-2 certified algorithm, such as Advanced Encryption Standard (AES), with a 128bit key or higher.
- **Jurisdiction and Location of OCHCA Data.** To protect against seizure and improper use by non-United States (US) persons and government entities, all data / information stored and processed for OCHCA must reside in a facility under the legal jurisdiction of the US.
- **Patch Management.** All workstations, laptops, and other systems that access, process and/or store OCHCA data must have appropriate security patches installed. Application Service Providers must utilize a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a minimum, all applicable patches must be installed within 30 days of vendor release.
- **Application Access.** All systems accessible via the internet must employ security

controls to prevent access to the application via an asset not approved or owned by the county.

- **Risk Assessment.** Application Service Providers hosting data for HIPAA covered services must conduct an accurate and thorough Risk Assessment as required by HIPAA Security Rule, Security Management (§ 164.308(a)(1)). Further, they must follow the risk assessment methodology, based on the latest version of NIST SP 800-30 (http://csrc.nist.gov/publications/nistpubs/800-30-rev1/sp800_30_r1.pdf). Upon request, the Risk Assessment findings and remediation strategy must be shared with OCHCA.
- **NIST.** To ensure compliance with HIPAA, Application Service Providers shall implement appropriate security safeguards by following National Institute of Standards and Technology (NIST) guidelines.

12 Policies

Vendors must have formal, published IT security policies that address how they manage and maintain the internal security posture of their own or sub-contracted infrastructure. The vendor shall also clearly demonstrate that additional security features are in place to protect systems and data in the unique environment of the service provider model: namely, security issues associated with storing County-owned data on a remote server that is not under direct County control and the necessity of transferring this data over an untrusted network.

Vendors must provide, to the extent permissible, all relevant security policies and procedures to the County for review and validation. All documentation must be provided in electronic format for the County's review.

These policies must include, but not be limited to, the following:

- **IT Staff Usage Agreement.** All vendor employees performing services for the County must sign and agree to an IT usage agreement within their own organization as part of an overall security training and awareness program. At a minimum, vendor employees must sign a statement of understanding within their own organization regarding Internet dangers, IT security, and IT ethics and best practices,
- **IT Security Policies and Procedures.**

- **IT Operations Security Policy.** Written standards for operational security for any facilities where the County data, staff or systems shall exist. These documents must include, but not be limited to, physical security, network security, logical security, systems/platform security, wireless access, remote access, and data protections.
- **Data Management Security Policy.** Policy for the safeguarding and management of all data provided by the County or accessed by vendor as part of implementation and ongoing maintenance. This policy must, at a minimum, include check-in, check-out, copy control, audit logs and separation of duties.
- **Security Incident Notification and Management Process.** A detailed document that outlines the contact names and order and escalation of events that will occur in the case of a security breach concerning the County staff, data, or systems. This document must be updated immediately upon any change. The vendor shall be held liable to the time-tables and protections outlined in the document.

In addition to developing, maintaining, and enforcing the above named policies, the vendor must:

- Bear the cost of compliance for any required changes to security infrastructure, policies and procedures to comply with existing regulations, unless such change is unique to the County.
- Comply with reasonable requests by the County for audits of security measures, including those related to identification and password administration.
- Comply with reasonable requests by the County for onsite physical inspections of the location from which the vendor provides services.
- Provide the County with any annual audit summaries and certifications, including but not limited to HIPAA, ISO or SOX audits, as applicable.
- Designate a single point of contact to facilitate all IT security activities related to services provided to the County, with the allowance of appropriate backups. Such contact(s) must be available on a 7/24/365 basis.

13 Business Continuity / Disaster Recovery Plans

Application Service Providers must have a viable risk management strategy that is formally documented in a Business Continuity Plan (BCP) and/or a Disaster Recovery Plan (DRP). This BCP/DRP plan(s) must identify recovery strategies within the application service areas, outline specific recovery methods and goals, and provide the mutually agreed upon recovery time and point objectives.

14 Backup and Restore

The vendor must provide their routine Backup and Restore policy and procedure which includes their backup data security strategy. These procedures shall allow for protection of encryption keys (if applicable) as well as a document media destruction strategy including media management tasks (i.e., offsite vaulting and librarian duties).

15 Staff Verification

For any employee a vendor contemplates using to provide services for the County, the vendor shall use its standard employment criteria as used for similar services provided to other customers in evaluating the suitability of that employee for such roles.

At a minimum, subject to the requirements of applicable law, such criteria must include the information as outlined below for each employee:

- **Relevant Skills, Licenses, Certifications, Registrations.** Each service employee must possess the educational background, work experience, skills, applicable professional licenses, and related professional certifications commensurate with their position. The County may, at any time and at its sole discretion, request that the vendor demonstrate compliance with this requirement as applicable to the nature of the services to be offered by the vendor's employee. The County may, at its sole discretion, also request the vendor's certification that the vendor employee has undergone a chemical/drug screening, with negative results, prior to granting access to the County facilities.
- **Background Checks.** In accordance with applicable law, the vendor must,

at the County's request, obtain as a condition of employment, a background investigation on any vendor employee selected to work for the County. The security and background investigation shall include criminal record checks, including records of any conviction in the U.S. or other relevant jurisdiction where the employee resides. Costs for background investigations must be borne by the vendor.

At a minimum, subject to the requirements of applicable law, the vendor must:

1. Ensure that all vendor service employees performing applicable services or supporting the vendor's duties and obligations under a County agreement: (i) have not been convicted of any crime involving violence, fraud, theft, dishonesty or breach of trust under any laws; and (ii) have not been on any list published and maintained by the Government of the United States of America of persons or entities with whom any United States person or entity is prohibited from conducting business.
2. Follow such verification procedures as may be reasonably specified by the County from time to time. If either the vendor or the County becomes aware that any vendor employee has been convicted of a crime involving violence, fraud, theft, dishonesty or breach of trust, or has been included on any such list of persons or entities convicted of such crimes, then the vendor shall promptly remove the employee from providing services to the County and prohibit that employee from entering any facilities at which services are provided.
3. Annually certify to the County that, to the best of its knowledge, none of the service employees have been convicted of any felony involving fraud, theft, dishonesty or a breach of trust under any laws.

16 IT Physical Security and Access Control

The vendor must establish processes and procedures for physical access to and control of their own facilities that are, at a minimum, consistent with relevant industry-specific best practices.

Vendor employees are expected to:

- Comply with facility access procedures, using procedures such as sign-in/sign-out requirements and use of assigned ID badges.
- Scan ID badges, where applicable, at any secure door and/or entrance and exit gates, including any door or gate that may already be open.
- Refrain from using recordable media in conjunction with County-owned equipment.
- Comply with check-in/check-out requirements for materials and/or equipment.
- Adhere to the facility's established emergency, safety and evacuation procedures.
- Report any unsafe conditions to the facility's safety representative.
- Report any access violations or security threats to the facility's local security administrator.

17 IT Security Compliance and Training

The vendor must ensure that all vendor employees comply with security policies and procedures and take all reasonable measures to reduce the opportunity for unauthorized access, transmission, modification or misuse of the County's data by vendor employees.

The vendor must ensure that all vendor employees are trained on security measures and practices. The vendor will be responsible for any costs related to such training.

At a minimum, the vendor is expected to:

- Ensure that a formal disciplinary process is defined and followed for vendor employees who violate established security policies and procedures.
- Proactively manage and administer access rights to any equipment, software and systems used to provide services to the County.
- Define, maintain and monitor access controls, ranging from physical access to logical security access, including a monthly review of vendor employees' access to systems used to provide services to the County.

The vendor shall monitor facilities, systems and equipment to protect against unauthorized access. At a minimum, the vendor is expected to:

- Monitor access to systems; investigate apparent security violations; and notify the County of suspected violations, including routine reporting on hacking attempts, penetrations and responses.
- Maintain data access control and auditing software and provide adequate logging, monitoring, and investigation of unusual or suspicious activity.
- Initiate immediate corrective actions to minimize and prevent the reoccurrence of attempted or actual security violations.
- Document details related to attempted or actual security violations and provide documentation to the County.
- Provide necessary documentation and evidence to the County in connection with any legal action or investigation.

18 Security Testing Recommendations

The vendor should perform a series of steps to verify the security of applications, some of which are noted below. This section will not be validated by the County, but reflects best practices that the vendor should consider and follow.

1. Look for vulnerabilities at various layers of the target environment. In the lowest layer, the vendor's testing team should look for flaws in the target network environment, including any routers and firewalls designed to control access to the web server and related target components. The team should attempt to determine whether such filters provide adequate protection at the network layer of the target hosts that the team can reach across the Internet.
2. Look for flaws in the Internet-accessible hosts associated with the target infrastructure, including the web server. This host-based component of the test will analyze which network-accessible services are available on the target hosts across the Internet, including the web server process. The testing team should look for incorrect configuration, unpatched or enabled services, and other related problems on the target hosts.

This review performed by the vendor should include but not be limited to:

- The web application (i.e., the software that interacts with users at their web browsers; typically custom- crafted code created by the web development team)
- The web server application (the underlying software that sends and receives information via HTTP and HTTPS, typically off-the-shelf software such as Microsoft's IIS or the open-source Apache software)
- Any separate backend application servers that process information from the web application
- The backend database systems that house information associated with the web application.
- Infrastructure diagrams.
- Configuration host review of settings and patch versions, etc.
- Full code review.
- Identification and remediation of well-known web server, code engine, and database vulnerabilities.
- Identification and remediation of any server and application administration flaws and an exploitation attempt of same.
- Analysis of user interface, normal application behavior, and overall application architecture for potential security vulnerabilities.
- Analysis of data communications between the application and databases or other backend systems.
- Manual analyses of all input facilities for unexpected behavior such as SQL injection, arbitrary command execution, and unauthorized data access.
- Analyses of user and group account authentication and authorization controls to determine if they can be bypassed.
- Identification of information leakage across application boundaries, including the capability to enumerate other users' data and "show code" weaknesses that reveal internal application logic.
- Identification of areas where error handling is insufficient or reveals too much sensitive information.

- Identification of opportunities to write to the host file system or execute uploaded files.
- Identification of product sample files, application debugging information, developer accounts or other legacy functionality that allows inappropriate access.
- Determination as to whether or not fraudulent transactions or access can be performed.
- Attempts to view unauthorized data, especially data that should be confidential.
- Examination of client-side cached files, temporary files, and other information that can yield sensitive information or be altered and re-submitted.
- Analysis of encoded and encrypted tokens, such as cookies, for weakness or the ability to be reverse engineered.

19 Vendor Deliverables

The following items are to be provided by the vendor:

- OCHCA Security Requirements and Guidelines for Application Vendors and Application Service Providers - Questionnaire
- Business Continuity Plan Summary (as related to service provided)
- SSAE 18 SOC 2 Type 2 or SOC 3 compliance certificate
- Network Diagram that demonstrates vendor network and application segmentation including the security controls in place to protect HCA data
- IT Security Staff Usage Policy
- IT Security Policies and Procedures
- IT Operations Security Policy
- Data Management Security Policy
- Security Incident Notification and Management Process
- Security Contact Identification (24x7x365)
- Staff Related Items
 - Pre-Employment Screening Policy/Procedure

- Background Checking Procedure
- Ongoing Employment Status Validation Process
- Staff Roster and Duties