

AGREEMENT FOR PROVISION OF  
 PHYSICIAN SERVICES  
 FOR  
 CORRECTIONAL HEALTH SERVICES PROGRAMS  
 BETWEEN  
 COUNTY OF ORANGE  
 AND  
 CORRECTIONAL MANAGED CARE MEDICAL CORPORATION  
 JULY 1, ~~2015~~2017 THROUGH JUNE 30, ~~2017~~2018

THIS AGREEMENT entered into this ~~2nd~~1st day of ~~June 2015~~December 2016, which date is enumerated for purposes of reference only, is by and between the COUNTY OF ORANGE (COUNTY), and CORRECTIONAL MANAGED CARE MEDICAL CORPORATION, a California for-profit corporation (CONTRACTOR). This Agreement shall be administered by the County of Orange Health Care Agency (ADMINISTRATOR).

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

WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of Custody Physician Services described herein to the residents of Orange County; and

WHEREAS, COUNTY has entered into a separate agreement with a hospital for provision of Hospital Services for Correctional Health Services Programs (Hospital); and

WHEREAS, CONTRACTOR agrees to provide Custody Physician Services at Hospital; and

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

WHEREAS, COUNTY may amend the Maximum Obligation by an amount not to exceed ten percent (10%) of the Maximum Obligation funding for this Agreement.

WHEREAS, CONTRACTOR agrees to the possible amendment of the Maximum Obligation by an amount not to exceed ten percent (10%) of the Maximum Obligation funding of this Agreement.

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

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**REFERENCED CONTRACT PROVISIONS**

**Term:** July 1, ~~2015~~2017 through June 30, ~~2017~~2018

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

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

~~Maximum Obligation: Period One~~

**Maximum Obligation:** \$~~2,733,540~~977,786

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

~~TOTAL MAXIMUM OBLIGATION: \$5,549,086~~

**Basis for Reimbursement:** Negotiated Amount

**Payment Method:** Monthly in Arrears

**CONTRACTOR DUNS Number:** 85-972-7898

**CONTRACTOR TAX ID Number:** 33-0795028

**Notices to COUNTY and CONTRACTOR:**

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

**CONTRACTOR:** Correctional Managed Care Medical Corporation  
Attn: Linda Cardoza, Chief Operating Officer  
1475 S. State College Blvd., Suite 202  
Anaheim, CA 92806  
Email: LindaC@cmcmc.com

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## I. ACRONYMS

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

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

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

## 6 **II. ALTERATION OF TERMS**

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

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

## 14 **III. ASSIGNMENT OF DEBTS**

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

## 23 **IV. COMPLIANCE**

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

26 1. ADMINISTRATOR shall provide CONTRACTOR with a copy of the relevant HCA  
27 policies and procedures relating to HCA's Compliance Program, HCA's Code of Conduct and General  
28 Compliance Trainings.  
29

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

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

1 4. If CONTRACTOR elects to have its own Compliance Program and Code of Conduct then  
 2 it shall submit a copy of its Compliance Program, Code of Conduct and relevant policies and  
 3 procedures to ADMINISTRATOR within thirty (30) calendar days of award of this Agreement.  
 4 ADMINISTRATOR's Compliance Officer shall determine if CONTRACTOR's Compliance Program  
 5 and Code of Conduct contains all required elements. CONTRACTOR shall take necessary action to  
 6 meet said standards or shall be asked to acknowledge and agree to HCA's Compliance Program and  
 7 Code of Conduct if the CONTRACTOR's Compliance Program and Code of Conduct does not contain  
 8 all required elements.

9 5. Upon written confirmation from ADMINISTRATOR's Compliance Officer that the  
 10 CONTRACTOR's Compliance Program and Code of Conduct contains all required elements,  
 11 CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of  
 12 CONTRACTOR's Compliance Program, Code of Conduct and related policies and procedures.

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

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

24 1. Covered Individuals includes all contractors, subcontractors, agents, and other persons who  
 25 provide health care items or services or who perform billing or coding functions on behalf of  
 26 ADMINISTRATOR. Notwithstanding the above, this term does not include part-time or per-diem  
 27 employees, contractors, subcontractors, agents, and other persons who are not reasonably expected to  
 28 work more than one hundred sixty (160) hours per year; except that any such individuals shall become  
 29 Covered Individuals at the point when they work more than one hundred sixty (160) hours during the  
 30 calendar year. CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are  
 31 made aware of ADMINISTRATOR's Compliance Program, Code of Conduct and related policies and  
 32 procedures.

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

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

36 //

37 //

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

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

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

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

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

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

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

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

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



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

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

## **V. CONFIDENTIALITY**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### 30 **VII. EMPLOYEE ELIGIBILITY VERIFICATION**

31 CONTRACTOR warrants that it shall fully comply with all federal and state statutes and  
 32 regulations regarding the employment of aliens and others and to ensure that employees, subcontractors,  
 33 and consultants performing work under this Agreement meet the citizenship or alien status requirements  
 34 set forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees,  
 35 subcontractors, and consultants performing work hereunder, all verification and other documentation of  
 36 employment eligibility status required by federal or state statutes and regulations including, but not  
 37

1 limited to, the Immigration Reform and Control Act of 1986, 8 USC §1324 et seq., as they currently  
 2 exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for  
 3 all covered employees, subcontractors, and consultants for the period prescribed by the law.

#### 4 5 **VIII. EXPENDITURE AND REVENUE REPORT**

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

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

#### 12 13 **IX. FACILITIES, PAYMENTS AND SERVICES**

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

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

#### 25 26 **X. INDEMNIFICATION AND INSURANCE**

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

37 //

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

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

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

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

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

26 G. QUALIFIED INSURER

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

32 2. If the insurance carrier is not an admitted carrier in the state of California and does not have  
33 an A.M. Best rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or  
34 reject a carrier after a review of the company's performance and financial ratings.

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

<u>Coverage</u>	<u>Minimum Limits*</u>
Commercial General Liability	\$2,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence
<del>Professional Network Security &amp; Privacy Liability Insurance</del>	<del>\$3</del>
<del>\$1,000,000 per claims made</del>	<del>\$3</del>
<del>Technology Errors &amp; Omissions</del>	<del>\$1,000,000 per claims made</del> <del>\$1,000,000 aggregate</del>
<del>Professional Liability Insurance</del>	<del>\$1,000,000 per claims made</del> <del>\$1,000,000 aggregate</del>
Sexual Misconduct Liability	\$1,000,000 per occurrence

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

#### I. REQUIRED COVERAGE FORMS

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

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

#### J. REQUIRED ENDORSEMENTS –

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

a. An Additional Insured endorsement using ISO form CG 2010 or CG 2033 or a form at

1 least as broad naming the County of Orange, its elected and appointed officials, officers, employees, and  
2 agents as Additional Insureds.

3 2 b. A primary non-contributing endorsement evidencing that the CONTRACTOR's  
4 insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be  
5 excess and non-contributing.

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

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

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

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

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

19 M. ~~All insurance policies required by this Agreement shall give~~ CONTRACTOR shall notify  
20 COUNTY in writing within thirty (30) ~~calendar days' notice in the event~~ days of any policy cancellation  
21 and ten (10) ~~calendar days' notice~~ days for non-payment of premium. ~~This shall be evidenced by policy~~  
22 ~~provisions or an endorsement separate from~~ and provide a copy of the cancellation notice to COUNTY.  
23 Failure to provide written notice of cancellation may constitute a material breach of the COI Agreement,  
24 upon which the COUNTY may suspend or terminate this Agreement.

25 N. If CONTRACTOR's Professional Liability, Technology Errors & Omissions and/or Network  
26 Security & Privacy Liability [is] are a "Claims Made" policy ~~is a "claims made" policy, (ies),~~  
27 CONTRACTOR shall agree to maintain ~~professional liability~~ coverage for two (2) years following  
28 completion of Agreement.

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

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

35 Q. COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If  
36 CONTRACTOR does not deposit copies of acceptable COI's and endorsements with COUNTY  
37 incorporating such changes within thirty (30) calendar days of receipt of such notice, this Agreement



1 may be in breach without further notice to CONTRACTOR, and COUNTY shall be entitled to all legal  
2 remedies.

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

6 **S. SUBMISSION OF INSURANCE DOCUMENTS**

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

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

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

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

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

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

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

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

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

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

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

33  
34 **XI. INSPECTIONS AND AUDITS**

35 A. ADMINISTRATOR, any authorized representative of COUNTY, any authorized representative  
36 of the State of California, the Secretary of the United States Department of Health and Human Services,  
37 the Comptroller General of the United States, or any other of their authorized representatives, shall have

1 access to any books, documents, and records, including but not limited to, financial statements, general  
 2 ledgers, relevant accounting systems, medical and client records, of CONTRACTOR that are directly  
 3 pertinent to this Agreement, for the purpose of responding to a beneficiary complaint or conducting an  
 4 audit, review, evaluation, or examination, or making transcripts during the periods of retention set forth  
 5 in the Records Management and Maintenance Paragraph of this Agreement. Such persons may at all  
 6 reasonable times inspect or otherwise evaluate the services provided pursuant to this Agreement, and  
 7 the premises in which they are provided.

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

### 12 C. AUDIT RESPONSE

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

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

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

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

## 32 **XII. LICENSES AND LAWS**

33 A. CONTRACTOR, its officers, agents, employees, affiliates, and subcontractors shall, throughout  
 34 the term of this Agreement, maintain all necessary licenses, permits, approvals, certificates,  
 35 accreditations, waivers, and exemptions necessary for the provision of the services hereunder and  
 36 required by the laws, regulations and requirements of the United States, the State of California,  
 37



COUNTY, and all other applicable governmental agencies. CONTRACTOR shall notify ADMINISTRATOR immediately and in writing of its inability to obtain or maintain, irrespective of the pendency of any hearings or appeals, permits, licenses, approvals, certificates, accreditations, waivers and exemptions. Said inability shall be cause for termination of this Agreement.

#### B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

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

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

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

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

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

#

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

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

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

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

### **XIII. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA**

A. Any written information or literature, including educational or promotional materials, distributed by CONTRACTOR to any person or organization for purposes directly or indirectly related to this Agreement must be approved at least thirty (30) days in advance and in writing by

ADMINISTRATOR before distribution. For the purposes of this Agreement, distribution of written materials shall include, but not be limited to, pamphlets, brochures, flyers, newspaper or magazine ads, and electronic media such as the Internet.

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

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

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

#### **XIV. MAXIMUM OBLIGATION**

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

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

#### **XV. MINIMUM WAGE LAWS**

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

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

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

## 5 **XVI. NONDISCRIMINATION**

### 6 **A. EMPLOYMENT**

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

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

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

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

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

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

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

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

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

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

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

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

1 as implemented in Title 45, CFR, §84.1 et seq., as they exist now or may be hereafter amended together  
2 with succeeding legislation.

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

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

### 12 **XVII. NOTICES**

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

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

19 2. When faxed, transmission confirmed;

20 3. When sent by Email; or

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

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

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

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

### 33 **XVIII. NOTIFICATION OF DEATH**

34 A. Upon becoming aware of the death of any person served pursuant to this Agreement,  
35 CONTRACTOR shall immediately notify ADMINISTRATOR.  
36  
37



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

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

9 2. WRITTEN NOTIFICATION

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

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

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

21  
22 **XIX. RECORDS MANAGEMENT AND MAINTENANCE**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## 31 **XX. RESEARCH AND PUBLICATION**

32 CONTRACTOR shall not utilize information and/or data received from COUNTY, or arising out  
33 of, or developed, as a result of this Agreement for the purpose of personal or professional research, or  
34 for publication.  
35  
36  
37

**XX. MINIMUM WAGE LAWS**

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

~~#~~

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

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

**XXI. SEVERABILITY**

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

**XXII. SPECIAL PROVISIONS**

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

1. Making cash payments to intended recipients of services through this Agreement.
2. Lobbying any governmental agency or official. CONTRACTOR shall file all certifications and reports in compliance with this requirement pursuant to Title 31, USC, §1352 (e.g., limitation on use of appropriated funds to influence certain federal contracting and financial transactions).
3. Fundraising.
4. Purchase of gifts, meals, entertainment, awards, or other personal expenses for CONTRACTOR's staff, volunteers, or members of the Board of Directors or governing body.
5. Reimbursement of CONTRACTOR's members of the Board of Directors or governing body for expenses or services.





1 duties as would normally extend beyond this term, including but not limited to, obligations with respect  
2 to confidentiality, indemnification, audits, reporting and accounting.

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

## 5 6 **XXV. TERMINATION**

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

9 #  
10 B. Unless otherwise specified in this Agreement, COUNTY may terminate this Agreement upon  
11 five (5) calendar days' written notice if CONTRACTOR fails to perform any of the terms of this  
12 Agreement. At ADMINISTRATOR's sole discretion, CONTRACTOR may be allowed up to thirty  
13 (30) calendar days for corrective action.

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

- 16 1. The loss by CONTRACTOR of legal capacity.
- 17 2. Cessation of services.
- 18 3. The delegation or assignment of CONTRACTOR's services, operation or administration to  
19 another entity without the prior written consent of COUNTY.
- 20 4. The neglect by any physician or licensed person employed by CONTRACTOR of any duty  
21 required pursuant to this Agreement.
- 22 5. The loss of accreditation or any license required by the Licenses and Laws Paragraph of  
23 this Agreement.
- 24 6. The continued incapacity of any physician or licensed person to perform duties required  
25 pursuant to this Agreement.
- 26 7. Unethical conduct or malpractice by any physician or licensed person providing services  
27 pursuant to this Agreement; provided, however, COUNTY may waive this option if CONTRACTOR  
28 removes such physician or licensed person from serving persons treated or assisted pursuant to this  
29 Agreement.

### 30 D. CONTINGENT FUNDING

- 31 1. Any obligation of COUNTY under this Agreement is contingent upon the following:
  - 32 a. The continued availability of federal, state and county funds for reimbursement of  
33 COUNTY's expenditures, and
  - 34 b. Inclusion of sufficient funding for the services hereunder in the applicable budget(s)  
35 approved by the Board of Supervisors.
- 36 2. In the event such funding is subsequently reduced or terminated, COUNTY may suspend,  
37 terminate or renegotiate this Agreement upon thirty (30) calendar days' written notice given

1 CONTRACTOR. If COUNTY elects to renegotiate this Agreement due to reduced or terminated  
2 funding, CONTRACTOR shall not be obligated to accept the renegotiated terms.

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

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

9 #

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

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

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

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

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

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

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

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

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



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

3  
4 CORRECTIONAL MANAGED CARE MEDICAL CORPORATION

5  
6  
7 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

8  
9 TITLE: \_\_\_\_\_

10  
11  
12 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

13  
14 TITLE: \_\_\_\_\_

15  
16  
17  
18 COUNTY OF ORANGE

19  
20  
21 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

22 HEALTH CARE AGENCY

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

28  
29  
30 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

31 DEPUTY

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

EXHIBIT A  
 TO AGREEMENT FOR PROVISION OF  
 PHYSICIAN SERVICES  
 FOR  
 CORRECTIONAL HEALTH SERVICES PROGRAMS  
 JULY 1, ~~2015~~2017 THROUGH JUNE 30, ~~2017~~2018

**I. DEFINITIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25           N. "Hospital Services" means all Medical Services provided by Contracting Hospital excluding  
26 Physician Services.

27           O. "Inpatient" means a Custody Patient admitted to Contracting Hospital for the purpose of  
28 receiving Medical Services, with the expectation of remaining hospitalized at least overnight.

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

30           Q. "Medical Services" means any diagnostic, treatment, or supportive services, which are  
31 determined by ADMINISTRATOR to be medically necessary to protect life or prevent significant  
32 disability, and/or to diagnose and treat illness or injuries which require treatment to prevent serious  
33 deterioration of health. Medical Services include any service or examination authorized in accordance  
34 with the Agreement.

35           R. "Outpatient Services" means any Clinic Services or Ancillary Services provided to Custody  
36 Patients which do not require an admission into HOSPITAL's facility.

37 //



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

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

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

8 V. “TAR” means Treatment Authorization Request.

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

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

## 14 **II. PAYMENTS AND BILLINGS**

15 A. As compensation for Medical Services provided in accordance with Paragraph III of this  
16 Exhibit A to the Agreement, COUNTY shall reimburse CONTRACTOR ~~\$227,795~~248,148 (July 2017-  
17 May 2018) and \$248,158 (June 2018) per month, in arrears ~~for Period One; and \$234,628 (July 2016-~~  
18 ~~May 2017) and \$234,638 (June 2017) per month, in arrears for Period Two~~; provided, however, that  
19 the total of all such monthly payments shall not exceed the COUNTY’s Total Maximum Obligation, as  
20 specified in the Referenced Contract Provision section of the Agreement.

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

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

		<del>Period One</del>	<del>Period Two</del>
29	Management Fee	<del>\$ 665,000</del>	\$ 685,000
30	Medical Director Fee	<del>\$ 36,000</del>	\$ 42,000
31	Emergency Services	\$ 150,000	<del>\$ 150,000</del>
32	Negotiated Amount Services	<del>\$1,633,790</del> 844,840	<del>\$1,682,600</del>
33	Subtotal	<del>\$2,484,790</del> 721,840	<del>\$2,559,600</del>
34	Profit (Limited to 35 10%)	<del>\$ 248,750</del>	\$ 255,946



Total	\$2,733,540 <del>977,786</del>	\$2,815,546
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a. Management Fees may include payments for consulting, certified public accounting, or legal services that are incurred during the normal course of business that are necessary in order for CONTRACTOR to fulfill duties and obligations under this Agreement.

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

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

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

a. Evaluate the frequency of requests for specialty Outpatient Services specified in Subparagraph B.1 below. If CONTRACTOR and ADMINISTRATOR mutually agree that any of these services are being provided at a frequency that justifies regular availability of these specialties, CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to transfer specialty categories from Subparagraph A.2.b to Subparagraph B.1 and/or from Subparagraph B.1 to Subparagraph A.2.b if Custody Patient trends indicate.

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

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

//

	<u>Service</u>	<u>Maximum Rate</u>
1		
2	Cardiothoracic Surgery	120%
3	Neurosurgery	120%
4	Ophthalmology Retinal	160%
5	Plastic Surgery	Pass Through
6	Pediatrics	125%
7	Vascular Surgery	120%
8		

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

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

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

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

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

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

36           a. CONTRACTOR shall submit a monthly reconciliation of the Reimbursement Account  
37 to ADMINISTRATOR. CONTRACTOR shall require its Vendors to submit claims to

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

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

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

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

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

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

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

### 26 **III. PHYSICIAN SERVICES**

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

30 B. COUNTY'S Agreement with Contracting Hospital/Corporation for provision of the Unit. The  
 31 capacity of the Unit is as follows:

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

34 2. Licensed Outpatient examination and treatment services in two (2) other rooms, and which  
 35 shall be capable of being used as an isolation room for one (1) Custody Patient who requires Inpatient  
 36 Services.  
 37

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

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

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

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

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

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

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

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

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

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

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

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

37 //

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

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

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

10 2) ICU/CCU and Post-Partum Obstetrics

11 3) 23 Hour Stay in the emergency department

12 3. Outpatient Services – On the Unit

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

18 CLINIC

19 Orthopedics	6 times per month
20 Neurology	1 time per month and PRN
21 General Surgery	PRN
22 ENT	2 times per month
23 Oral Surgery	2 times per month and PRN
24 Gastroenterology	2 times per month and PRN
25 Pulmonary Medicine	PRN
26 Cardiology	PRN
27 Obstetrics/Gynecology	2 times per month and PRN
28 Ophthalmology	4 times per month and PRN
29 Dermatology	PRN
30 Nephrology	1 time per month and PRN
31 Urology	1 time per month and PRN
32 Endocrinology	2 times per month and PRN
33 Podiatry	PRN
34 <u>Psychiatry</u>	<u>2 times per month and PRN</u>
35 <u>Telemedicine</u>	<u>2 times per month and PRN</u>

36 //

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

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

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

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

17 2) If Custody Patients have been scheduled for Outpatient Services and are  
 18 transported to Contracting Hospital, and CONTRACTOR's physician either does not arrive or leaves  
 19 prior to waiting thirty (30) minutes for Custody Patients to arrive, ADMINISTRATOR shall deduct  
 20 \$125 per patient requiring a rescheduled Outpatient Visit as a result of CONTRACTOR's physician  
 21 failure to provide services.

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

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

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

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

36 1) Accompanied by an Orange County Deputy; and  
 37 //



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

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

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

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

7 e. Outpatient Surgery

8 5. Outpatient Services – On site jail clinics

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

11 CLINIC

12 Cardiology	1-2 times per month
13 General Surgery	3 times per month
14 Orthopedics	2 times per month
15 Dermatology	1 time per month

16  
17  
18 b. ADMINISTRATOR and CONTRACTOR may mutually agree, in writing, to authorize  
19 additional specialty clinics.

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

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

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

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

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

36 1. CONTRACTOR's physicians or designees shall write legibly in Custody Patient charts. A  
37 copy of the Custody Patient's chart, notes and orders shall accompany the Custody Patient back to the

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

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

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

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

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

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

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

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

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

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

37 //



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

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

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

#### 10 **IV. OTHER VENDOR SERVICES**

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

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

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

25 D. Care provided to all Custody Patients at Orange County Global Medical Center for Chest and  
26 Critical Care shall be included in the capitated rate structure and should not result in an additional  
27 charge.

#### 28 E. Other Vendor Services

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

34 2. It is expected by the parties that most Physician Services required by Custody Patients, as  
35 defined in Subparagraph II.4 of this Exhibit A to the Agreement, will not require a pediatric specialty.  
36 In the event CONTRACTOR is unable to provide a requested specialty pediatric service,  
37 CONTRACTOR shall arrange for Physician Services to be provided by appropriate Vendors, with

1 ADMINISTRATOR's prior approval. COUNTY shall reimburse the Vendors in accordance with  
2 Subparagraph II.C of this Exhibit A.

### 3 4 **V. UTILIZATION REVIEW/QUALITY ASSURANCE**

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

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

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

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

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

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

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

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

### 31 32 **VI. DATA FISCAL REPORTING REQUIREMENTS**

33 A. CONTRACTOR shall submit to COUNTY's Fiscal Intermediary, via electronic data interface  
34 and within ninety (90) days of the date of service all utilization data for Custody Patients receiving  
35 Medical Services in accordance with Paragraph III of this Exhibit A to the Agreement, consistent with  
36 the data structure and requirements in accordance with direction provided by ADMINISTRATOR. The

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1 parties agree that this data is essential to monitoring the services provided by CONTRACTOR on  
2 behalf of COUNTY.

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

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

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

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

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

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

23 D. Fiscal Reporting

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

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

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

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**VII. INTERRUPTIONS IN SERVICE**

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

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

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

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

**VIII. RECORDS**

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

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

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

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

**B. Records Retention**

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

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

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

8 C. Report Distribution

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

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

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

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

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EXHIBIT B  
TO AGREEMENT FOR PROVISION OF  
PHYSICIAN SERVICES  
FOR  
CORRECTIONAL HEALTH SERVICES PROGRAMS  
JULY 1, ~~2015~~2017 THROUGH JUNE 30, ~~2017~~2018

**EXHB-I. BUSINESS ASSOCIATE CONTRACT**

A. GENERAL PROVISIONS AND RECITALS

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

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

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

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

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

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



1 B. DEFINITIONS

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

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

8 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 7 D. SECURITY RULE

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

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

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

#### 21 E. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

3 F. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

13 1) The Disclosure is required by law; or

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

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

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

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

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

28 G. OBLIGATIONS OF COUNTY

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

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

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



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

3 H. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

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

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

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

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