

1 AGREEMENT FOR PROVISION OF
 2 HOSPITAL SERVICES
 3 FOR
 4 CORRECTIONAL HEALTH SERVICES
 5 BETWEEN
 6 COUNTY OF ORANGE
 7 AND
 8 ANAHEIM GLOBAL MEDICAL CENTER, INC.
 9 JULY 1, 2020 THROUGH JUNE 30, 20245

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

17
 18 **W I T N E S S E T H:**
 19

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

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

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

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

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

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REFERENCED CONTRACT PROVISIONS

Term: July 1, 2020 through June 30, 2024⁵

Maximum Obligation: \$ ~~24,647,520~~30,809,400

Basis for Reimbursement: Negotiated Amount
Fee-for-Service

Payment Method(s): Monthly in arrears

CONTRACTOR DUNS Number: 80-981-6668

CONTRACTOR TAX ID Number: 55-0883859

Notices to COUNTY and CONTRACTOR:

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

CONTRACTOR: Anaheim Global Medical Center, Inc.
1025 S. Anaheim Blvd
Anaheim, CA 92805
Jamie Yoo, CEO
Jamie.Yoo@kpchealth.com

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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. ARRA	American Recovery and Reinvestment Act
5	B. ASRS	Alcohol and Drug Programs Reporting System
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. D/MC	Drug/Medi-Cal
14	K. DHCS	Department of Health Care Services
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	Health Care Agency
20	Q. HHS	Health and Human Services
21	R. HIPAA	Health Insurance Portability and Accountability Act of 1996, Public
22		Law 104-191
23	S. HSC	California Health and Safety Code
24	T. ISO	Insurance Services Office
25	U. MHP	Mental Health Plan
26	V. OCJS	Orange County Jail System
27	W. OCPD	Orange County Probation Department
28	X. OCR	Office for Civil Rights
29	Y. OCSD	Orange County Sheriff's Department
30	Z. OIG	Office of Inspector General
31	AA. OMB	Office of Management and Budget
32	AB. OPM	Federal Office of Personnel Management
33	AC. PA DSS	Payment Application Data Security Standard
34	AD. PC	State of California Penal Code
35	AE. PCI DSS	Payment Card Industry Data Security Standard
36	AF. PHI	Protected Health Information
37	AG. PII	Personally Identifiable Information

1	AH. PRA	Public Record Act
2	AI. RBRVS	Resource-Based Relative Value Scale
3	AJ SIR	Self-Insured Retention
4	AK. HITECH Act	Health Information Technology for Economic and Clinical Health
5		Act, Public Law 111-005
6	AL. USC	United States Code
7	AM. WIC	State of California Welfare and Institutions Code
8		

9 **II. ALTERATION OF TERMS**

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

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

17 **III. ASSIGNMENT OF DEBTS**

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

26 **IV. COMPLIANCE**

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

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

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

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

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

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

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

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

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

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

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

12 2. An Ineligible Person shall be any individual or entity who:
13 a. is currently excluded, suspended, debarred or otherwise ineligible to participate in
14 federal and state health care programs; or
15 b. has been convicted of a criminal offense related to the provision of health care items or
16 services and has not been reinstated in the federal and state health care programs after a period of
17 exclusion, suspension, debarment, or ineligibility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31
32 **V. CONFIDENTIALITY**

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

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

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

7 **VI. CONFLICT OF INTEREST**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 //

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

11 **VIII. DISPUTE RESOLUTION**

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

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

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

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

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

33 D. This Agreement has been negotiated and executed in the State of California and shall be
 34 governed by and construed under the laws of the State of California. In the event of any legal action to
 35 enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent
 36 jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit
 37

1 to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the
 2 Parties specifically agree to waive any and all rights to request that an action be transferred for
 3 adjudication to another county.
 4

5 **IX. EMPLOYEE ELIGIBILITY VERIFICATION**

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

16 **X. EXPENDITURE AND REVENUE REPORT**

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

21 B. CONTRACTOR may be required by ADMINISTRATOR to submit periodic Expenditure
 22 Reports throughout the term of this Agreement.
 23

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

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

30 B. In the event that CONTRACTOR is unable to provide the services, staffing, facilities, or
 31 supplies as required, ADMINISTRATOR may, at its sole discretion, reduce the Maximum Obligation.
 32 The reduction to the Maximum Obligation shall be in an amount proportionate to the number of days in
 33 which CONTRACTOR was determined to be unable to provide services, staffing, facilities or supplies.
 34

35 **XII. INDEMNIFICATION AND INSURANCE**

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

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

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

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

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

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

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

36 //

37 //

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

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

6 F. QUALIFIED INSURER

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

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

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

<u>Coverage</u>	<u>Minimum Limits*</u>
Commercial General Liability	\$5,000,000 per occurrence \$5,000,000 aggregate
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
Professional Liability Insurance	\$5,000,000 per claims made \$5,000,000 aggregate
Sexual Misconduct Liability	\$1,000,000 per occurrence
Network Security & Privacy Liability	\$1,000,000 per claims made

35 H. REQUIRED COVERAGE FORMS

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

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

3 I. REQUIRED ENDORSEMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 V. SUBMISSION OF INSURANCE DOCUMENTS

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

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

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

27 c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding
28 changes to any of the insurance requirements as set forth in the Coverage Subparagraph above.

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

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

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

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

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

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

XIII. INSPECTIONS AND AUDITS

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

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

C. **AUDIT RESPONSE**

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

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

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1 provided by law, reduce any amount owed CONTRACTOR by an amount not to exceed the
2 reimbursement due COUNTY.

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

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

10 11 **XIV. LICENSES AND LAWS**

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

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

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

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

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

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

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

37 //

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

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

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

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

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

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

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

29
30 **XVI. MAXIMUM OBLIGATION**

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

33
34 **XVII. MINIMUM WAGE LAWS**

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

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

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

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

12 **XVIII. NONDISCRIMINATION**

13 **A. EMPLOYMENT**

14 1. During the term of this Agreement, CONTRACTOR and its Covered Individuals shall not
 15 unlawfully discriminate against any employee or applicant for employment because of his/her race,
 16 religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition,
 17 genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual
 18 orientation, or military and veteran status. Additionally, during the term of this Agreement,
 19 CONTRACTOR and its Covered Individuals shall require in its subcontracts that subcontractors shall
 20 not unlawfully discriminate against any employee or applicant for employment because of his/her race,
 21 religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition,
 22 genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual
 23 orientation, or military and veteran status.
 24

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

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

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

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

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

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

9 B. SERVICES, BENEFITS AND FACILITIES – CONTRACTOR and/or subcontractor shall not
10 discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities
11 on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental
12 disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender
13 expression, age, sexual orientation, or military and veteran status in accordance with Title IX of the
14 Education Amendments of 1972 as they relate to 20 USC §1681 - §1688; Title VI of the Civil Rights
15 Act of 1964 (42 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); Title 9, Division
16 4, Chapter 6, Article 1 (§10800, et seq.) of the California Code of Regulations; and Title II of the
17 Genetic Information Nondiscrimination Act of 2008, 42 USC 2000ff, et seq. as applicable, and all other
18 pertinent rules and regulations promulgated pursuant thereto, and as otherwise provided by state law and
19 regulations, as all may now exist or be hereafter amended or changed. For the purpose of this
20 Nondiscrimination paragraph, Discrimination includes, but is not limited to the following based on one
21 or more of the factors identified above:

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

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

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

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

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

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

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

19 20 **XIX. NOTICES**

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

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

26 2. When faxed, transmission confirmed;

27 3. When sent by Email; or

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

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

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

37 //

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

4 **XX. NOTIFICATION OF DEATH**

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

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

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

16 2. WRITTEN NOTIFICATION

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

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

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

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

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

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

37 //

XXII. RECORDS MANAGEMENT AND MAINTENANCE

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

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

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

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

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

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

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

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

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

32 F. CONTRACTOR shall make records pertaining to the costs of services, participant fees, charges,
33 billings, and revenues available at one (1) location within the limits of the County of Orange. If
34 CONTRACTOR is unable to meet the record location criteria above, ADMINISTRATOR may provide
35 written approval to CONTRACTOR to maintain records in a single location, identified by
36 CONTRACTOR.

37 //

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

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

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

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

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

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

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

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

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

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

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

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

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1 **XXIII. RESEARCH AND PUBLICATION**

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

6 **XXIV. SEVERABILITY**

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

13 **XXV. SPECIAL PROVISIONS**

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

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

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

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

37 //

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

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

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

6
7 **XXVI. STATUS OF CONTRACTOR**

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

19
20 **XXVII. TERM**

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

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

29
30 **XXVIII. TERMINATION**

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

37 //

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

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

17 C. CONTINGENT FUNDING

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

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

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

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

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

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

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

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

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

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

20 F. COUNTY may terminate this Agreement, without cause, upon thirty (30) calendar days' written
21 notice. The rights and remedies of COUNTY provided in this Termination Paragraph shall not be
22 exclusive, and are in addition to any other rights and remedies provided by law or under this Agreement.
23

24 **XXIX. THIRD PARTY BENEFICIARY**

25 Neither party hereto intends that this Agreement shall create rights hereunder in third parties
26 including, but not limited to, any subcontractors or any clients provided services pursuant to this
27 Agreement.
28

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

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

35 //
36 //
37 //

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

3
4 ANAHEIM GLOBAL MEDICAL CENTER, INC.

5
6
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
 HOSPITAL SERVICES
 FOR
 CORRECTIONAL HEALTH SERVICES
 BETWEEN
 COUNTY OF ORANGE
 AND
 ANAHEIM GLOBAL MEDICAL CENTER, INC.
 JULY 1, 2020 THROUGH JUNE 30, 2024⁵

I. DEFINITIONS

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

A. "Ancillary Services" means those support services other than room, board, and medical and nursing services that are provided by CONTRACTOR to Custody Patients during the course of their care and include, but are not limited to, such services as laboratory and other diagnostic services, pharmacy, and physical therapy services. They are generally distinguished from a Clinic Service by the absence of a corresponding Physician or Specialty Physician Service.

B. "Bed Day" means one (1) calendar day during which CONTRACTOR provides Medical Services described hereunder, which day shall begin at twelve o'clock midnight. A bed day shall include the day of admission and exclude the day of discharge, unless admission and discharge occur on the same day.

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

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

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

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

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

//

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 //

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

5 R. "Medical Services" means any diagnostic, treatment, or supportive services, which are
6 determined by ADMINISTRATOR to be medically necessary to protect life or prevent significant
7 disability, and/or to diagnose and treat illness or injuries which require treatment to prevent serious
8 deterioration of health. Medical Services include any service or examination authorized in accordance
9 with this Agreement.

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

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

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

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

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

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

25 W. "TAR" means Treatment Authorization Request.

26 X. "Unit" means a secure separate patient care area, which is dedicated for the treatment of Type II
27 Maximum Security Outpatient and Inpatient Custody Patients referred by COUNTY.

28 Y. "Vendor" means a provider of services which are outside of CONTRACTOR's normal scope of
29 services offered to the general public, but are deemed medically necessary for a Custody Patient.
30 Services outside CONTRACTOR's normal scope of services include but are not limited to: Pediatric
31 HIV Services; Radiation Therapy; Lithotripsy; MRI; MRA; MRV; MRCP; Mammogram; Optometry;
32 Ophthalmic Surgery; PET Scans; Nuclear PET Scans; Specialized Plastic Surgery; High Risk OB;
33 Transplants; Specialized Radiology; Chemo Therapy, most Quaternary and Tertiary hospital services.
34

35 **II. PAYMENT AND BILLINGS**

36 A. As compensation for Medical Services provided in accordance with Paragraph III of this
37 Exhibit A to the Agreement, COUNTY shall reimburse CONTRACTOR \$513,490 per month;

1 provided, however, that the total of all such monthly payments shall not exceed the COUNTY's Total
2 Maximum Obligation, as specified in the Referenced Contract Provision section of the Agreement.

3 B. As compensation for Medical Services provided in accordance with Paragraph IV of this
4 Exhibit A to the Agreement, reimbursement shall be from the CHS Pool through claims submitted to the
5 Intermediary as follows:

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

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

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

15 b. ADMINISTRATOR and CONTRACTOR shall agree on the following reimbursement
16 process for each Vendor specified on CONTRACTOR's schedule. For Vendor services not on
17 CONTRACTOR'S schedule, CONTRACTOR shall propose the reimbursement process at the same
18 time the negotiated rate(s) with Vendor is submitted to ADMINISTRATOR for approval. At
19 ADMINISTRATOR's sole discretion, any designated reimbursement process may be modified upon
20 written notification to CONTRACTOR and Vendor.

21 1) CONTRACTOR shall request Vendors submit invoices directly to the Fiscal
22 Intermediary for processing and payment.

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

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

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

37 E. FINANCIAL CONTROLS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 //

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

1 with any provision of this Agreement.

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

6 **III. UNIT SERVICES**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 1. Appointment and admission scheduling and cancellations.

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

36 //

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

1 CONTRACTOR'S facility or elsewhere as appropriate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Visit volume.

2 b.

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4	Orthopedics	6 times per month
5	Neurology	1 time per month and PRN
6	General Surgery	PRN
7	ENT	2 times per month
8	Oral Surgery	2 times per month and PRN
9	Gastroenterology	2 times per month and PRN
10	Pulmonary Medicine	PRN
11	Cardiology	PRN
12	Obstetrics/Gynecology	2 times per month and PRN
13	Ophthalmology	4 times per month and PRN
14	Dermatology	PRN
15	Nephrology	1 time per month and PRN
16	Urology	1 time per month & PRN
17	Endocrinology	2 times per month and PRN
18	Podiatry	PRN
19		

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

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

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

30 E. Vendor Services

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 C. During the term of this Agreement, representatives of CONTRACTOR and
18 ADMINISTRATOR, which shall include the Contract Officers, shall meet at least quarterly to discuss
19 CONTRACTOR's and COUNTY's administrative and programmatic progress and performance.
20

21 **VI. DATA REPORTING REQUIREMENTS**

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

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

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

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

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

1 by CONTRACTOR in accordance with this Agreement.

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

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

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

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

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

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

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

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

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

26 7. Custody Patients Facility Transfer Report:

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

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

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37 **VII. RECORDS**

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

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

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

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

16 B. Records Retention

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

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

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

27 C. Report Distribution

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

32 2. CONTRACTOR shall not be entitled to any patient identifying information under this
 33 Subparagraph. Said patient identifying information shall mean for purposes of this Agreement, services
 34 provided to any Custody Patient at any other health care facility, including COUNTY's CHS facilities.
 35 Nothing in this Subparagraph shall affect the ability of CONTRACTOR to examine records it submits to
 36 //
 37 the Fiscal Intermediary or COUNTY. This section is not intended to include information needed for

1 continuity of Custody Patient Care.

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

5 E. CONTRACTOR shall provide access by COUNTY to any medical records of Custody Patients
6 in accordance with all applicable laws and regulations as they now exist or may hereafter be changed.
7

8 **VIII. INTERRUPTIONS IN SERVICE**

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

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

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

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

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EXHIBIT B
 TO AGREEMENT FOR PROVISION OF
 HOSPITAL SERVICES
 FOR
 CORRECTIONAL HEALTH SERVICES
 BETWEEN
 COUNTY OF ORANGE
 AND
 ANAHEIM GLOBAL MEDICAL CENTER, INC.
 JULY 1, 2020 THROUGH JUNE 30, 2024⁵

I. EXTERNALLY REVIEWED ANNUAL PROFIT AND LOSS STATEMENT
METHODOLOGY

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

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

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

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

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

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

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

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

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

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

D. METHODOLOGY:

1. Revenue shall consist of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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EXHIBIT C
 TO AGREEMENT FOR PROVISION OF
 HOSPITAL SERVICES
 FOR
 CORRECTIONAL HEALTH SERVICES
 BETWEEN
 COUNTY OF ORANGE
 AND
 ANAHEIM GLOBAL MEDICAL CENTER, INC.
 JULY 1, 2020 THROUGH JUNE 30, 2024⁵

I. BUSINESS ASSOCIATE CONTRACT

A. GENERAL PROVISIONS AND RECITALS

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

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

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

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

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

6. The parties understand that the HIPAA Privacy and Security rules, as defined below in Subparagraphs B.9 and B.14, apply to the CONTRACTOR in the same manner as they apply to a

1 covered entity (COUNTY). CONTRACTOR agrees therefore to be in compliance at all times with the
2 terms of this Business Associate Contract and the applicable standards, implementation specifications,
3 and requirements of the Privacy and the Security rules, as they may exist now or be hereafter amended,
4 with respect to PHI and electronic PHI created, received, maintained, transmitted, used, or disclosed
5 pursuant to the Agreement.

6 B. DEFINITIONS

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

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

13 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 //

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

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

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

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

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

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

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

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

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

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

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

13 D. SECURITY RULE

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

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

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

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

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

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

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

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

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

11 E. DATA SECURITY REQUIREMENTS

12 1. Personal Controls

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

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

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

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

1 2. Technical Security Controls

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 m. Transmission encryption. All data transmissions of PHI COUNTY discloses to
34 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
35 outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is
36 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files
37 //

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

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

7 3. Audit Controls

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

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

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

21 4. Business Continuity/Disaster Recovery Control

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

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

34 5. Paper Document Controls

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

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

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

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

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

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

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

25 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

- 1 3. CONTRACTOR's notification shall include, to the extent possible:
- 2 a. The identification of each Individual whose Unsecured PHI has been, or is reasonably
- 3 believed by CONTRACTOR to have been, accessed, acquired, used, or disclosed during the Breach;
- 4 b. Any other information that COUNTY is required to include in the notification to
- 5 Individual under 45 CFR §164.404 (c) at the time CONTRACTOR is required to notify COUNTY or
- 6 promptly thereafter as this information becomes available, even after the regulatory sixty (60) day
- 7 period set forth in 45 CFR § 164.410 (b) has elapsed, including:
- 8 1) A brief description of what happened, including the date of the Breach and the date
- 9 of the discovery of the Breach, if known;
- 10 2) A description of the types of Unsecured PHI that were involved in the Breach (such
- 11 as whether full name, social security number, date of birth, home address, account number, diagnosis,
- 12 disability code, or other types of information were involved);
- 13 3) Any steps Individuals should take to protect themselves from potential harm
- 14 resulting from the Breach;
- 15 4) A brief description of what CONTRACTOR is doing to investigate the Breach, to
- 16 mitigate harm to Individuals, and to protect against any future Breaches; and
- 17 5) Contact procedures for Individuals to ask questions or learn additional information,
- 18 which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.
- 19 4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in
- 20 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the
- 21 COUNTY.
- 22 5. In the event that CONTRACTOR is responsible for a Breach of Unsecured PHI in violation
- 23 of the HIPAA Privacy Rule, CONTRACTOR shall have the burden of demonstrating that
- 24 CONTRACTOR made all notifications to COUNTY consistent with this Paragraph F and as required by
- 25 the Breach notification regulations, or, in the alternative, that the acquisition, access, use, or disclosure
- 26 of PHI did not constitute a Breach.
- 27 6. CONTRACTOR shall maintain documentation of all required notifications of a Breach or
- 28 its risk assessment under 45 CFR § 164.402 to demonstrate that a Breach did not occur.
- 29 7. CONTRACTOR shall provide to COUNTY all specific and pertinent information about the
- 30 Breach, including the information listed in Section E.3.b.(1)-(5) above, if not yet provided, to permit
- 31 COUNTY to meet its notification obligations under Subpart D of 45 CFR Part 164 as soon as
- 32 practicable, but in no event later than fifteen (15) calendar days after CONTRACTOR's initial report of
- 33 the Breach to COUNTY pursuant to Subparagraph F.2 above.
- 34 8. CONTRACTOR shall continue to provide all additional pertinent information about the
- 35 Breach to COUNTY as it may become available, in reporting increments of five (5) business days after
- 36 the last report to COUNTY. CONTRACTOR shall also respond in good faith to any reasonable
- 37 //

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

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

7 G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

17 1) The Disclosure is required by law; or

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

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

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

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

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

32 H. PROHIBITED USES AND DISCLOSURES

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

1 2. CONTRACTOR shall not directly or indirectly receive remuneration in exchange for PHI
2 COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on
3 behalf of COUNTY, except with the prior written consent of COUNTY and as permitted by
4 42 USC § 17935(d)(2).

5 I. OBLIGATIONS OF COUNTY

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

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

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

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

17 J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

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

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

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

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EXHIBIT D
 TO AGREEMENT FOR PROVISION OF
 HOSPITAL SERVICES
 FOR
 CORRECTIONAL HEALTH SERVICES
 BETWEEN
 COUNTY OF ORANGE
 AND
 ANAHEIM GLOBAL MEDICAL CENTER, INC.
 JULY 1, 2020 THROUGH JUNE 30, 2024⁵

I. PERSONAL INFORMATION PRIVACY AND SECURITY CONTRACT

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

A. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

14 B. TERMS OF AGREEMENT

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

20 2. Responsibilities of CONTRACTOR
21 CONTRACTOR agrees:

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

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

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

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

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

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

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

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

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

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

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

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

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

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