

**PROFESSIONAL SERVICES AGREEMENT
BY AND BETWEEN
COUNTY OF HUMBOLDT
AND
CALIFORNIA FORENSIC MEDICAL GROUP**

This Agreement, entered into this 4th day of October, 2016, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and California Forensic Medical Group, a corporation, hereinafter referred to as "CONTRACTOR," is made upon the following considerations:

WHEREAS, COUNTY, by and through its Sheriff's Office, Probation Department, Department of Health and Human Services – Public Health, and County Administrative Office, desires to retain the services of CONTRACTOR to provide professional, medical, dental, and similar health care services and related administrative services for COUNTY's correctional and detention facilities; and

WHEREAS, such work involves the performance of professional, expert and technical services of a temporary and occasional character; and

WHEREAS, COUNTY has no employees available to perform such services and is unable to hire employees for the performance thereof for the temporary period; and

WHEREAS, CONTRACTOR has represented that it is qualified to perform such services.

NOW THEREFORE, the parties hereto mutually agree as follows:

1. DESCRIPTION OF SERVICES:

CONTRACTOR agrees to furnish the services described in Exhibit A – Scope of Services, which is attached hereto and incorporated herein by reference. In providing such services and assistance, CONTRACTOR agrees to fully cooperate with the COUNTY's representative, the Humboldt County Sheriff or his/her authorized designee, hereinafter referred to as "SHERIFF."

2. TERM:

The term of this Agreement shall begin on October 1, 2016 and shall remain in full force and effect through September 30, 2021, unless sooner terminated or modified as provided herein.

3. TERMINATION:

A. Breach of Contract. If, in the opinion of COUNTY, CONTRACTOR fails to adequately perform the services required hereunder within the time limits specified herein, or otherwise fails to comply with the terms of this Agreement, or violates any ordinance, regulation, or other law applicable to its performance herein, COUNTY may terminate this Agreement immediately.

B. Without Cause. This Agreement may be terminated by COUNTY without cause upon thirty (30) days advance written notice to CONTRACTOR. Such notice shall state the effective date of the termination.

- C. Insufficient Funding. COUNTY's obligations under this Agreement are contingent upon the availability of local, state and/or federal funds. In the event such funding is terminated, COUNTY shall, at its sole discretion, determine whether this Agreement shall be terminated. COUNTY shall provide CONTRACTOR seven (7) days advance written notice of its intent to terminate this Agreement due to insufficient funding.
- D. Compensation Upon Termination. In the event of any termination of this Agreement, CONTRACTOR shall be entitled to compensation for uncompensated services rendered hereunder through and including the effective date of such termination. However, this provision shall not limit or reduce any damages owing to COUNTY resulting from a breach of this Agreement by CONTRACTOR.

4. COMPENSATION:

A. Maximum Amount Payable.

- 1. For the contractual period of October 1, 2016 through September 30, 2017, the annual maximum Base Amount payable by COUNTY for services rendered by CONTRACTOR, and costs and expenses incurred, is Two Million, Nine Hundred Eight Thousand, Eighty Dollars (\$2,908,080), or Two Hundred Forty-Two Thousand, Three Hundred Forty Dollars (\$242,340) per month.
- 2. Beginning December 1, 2016, in anticipation of CONTRACTOR expanding nursing staff to add a Receiving Nurse on a twenty-four hour, seven-day per week basis to perform the terms and conditions of this Agreement, the annual maximum Base Amount payable by COUNTY for services rendered by CONTRACTOR, and costs and expenses incurred, will be increased to Three Million, Five Hundred Sixty Thousand, Nine Hundred Fifty-Two Dollars (\$3,560,952) or Two Hundred Ninety-Six Thousand, Seven Hundred Forty-Six Dollars (\$296,746) per month. The annual maximum Base Amount will not be increased unless and until CONTRACTOR has satisfactorily added the personnel described above. In the event CONTRACTOR is able to provide the additional personnel prior to December 1, 2016, the monthly Base Amount set forth in Section 4(A)(1) will increase by One Thousand, Seven Hundred Eighty-Nine Dollars (\$1,789) per day.
- 3. CONTRACTOR agrees to perform all services required by this Agreement for an amount not to exceed such annual maximum dollar amount. The rates and costs shall be as set forth in Exhibit B – Schedule of Rates, which is attached hereto and incorporated herein by reference.

- B. Additional Services. Any additional services not otherwise provided for herein, shall not be provided or compensated without written authorization by COUNTY. All unauthorized costs and expenses incurred above the maximum dollar amount set forth herein shall be the responsibility of the CONTRACTOR. CONTRACTOR shall notify COUNTY, in writing, at least six (6) weeks prior to the date upon which CONTRACTOR estimates that the maximum dollar amount will be reached.

5. PAYMENT:

CONTRACTOR shall submit to COUNTY monthly invoices itemizing all services rendered, and costs and expenses incurred, pursuant to the terms and conditions of this Agreement. Invoices shall be in a format approved by, and shall include backup documentation as specified by, SHERIFF and the Humboldt County Auditor-Controller. CONTRACTOR shall submit a final undisputed invoice for payment no more than thirty (30) days following the expiration or termination date of this Agreement. Payment for services rendered and costs and expenses incurred will be made within thirty (30) days after the receipt of approved invoices. All invoices submitted by CONTRACTOR shall be sent to COUNTY at the following address:

COUNTY: Humboldt County Department of Health and Human Services - Public Health
Attention: Fiscal Division
507 F Street
Eureka, CA 95501

6. NOTICES:

Any and all notices required to be given pursuant to the terms of this Agreement shall be in writing and either served personally or sent by certified mail, return receipt requested, to the respective addresses set forth below. Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

COUNTY: Humboldt County Sheriff's Office
Attention: Sheriff
826 4th Street
Eureka, CA 95501

Humboldt County Probation Department
Attention: Chief Probation Officer
2002 Harrison Avenue
Eureka, CA 95501

Humboldt County DHHS- Public Health
Attention: Public Health Director
529 I Street
Eureka, CA 95501

Humboldt County Administrative Office
Attention: County Administrative Officer
825 5th Street
Eureka, CA 95501

CONTRACTOR: California Forensic Medical Group
Attention: Chief Financial Officer
2511 Garden Road Suite A160
Monterey, CA 93940

7. REPORTS:

CONTRACTOR agrees to provide COUNTY with any and all reports that may be required by local, state or federal agencies for compliance with this Agreement. Reports shall be submitted no later than fifteen (15) days after the end of each calendar quarter using the format required by the State of California as appropriate.

8. RECORD RETENTION AND INSPECTION:

A. Maintenance and Preservation of Records. CONTRACTOR agrees to timely prepare accurate and complete financial, performance and payroll records relating to the services provided hereunder, and to maintain and preserve said records for at least three (3) years from the date of final payment under this Agreement, except that if any litigation, claim, negotiation, audit or other action is pending, the records shall be retained until completion and resolution of all issues arising therefrom. The books and records shall be original entry books with a general ledger itemizing all debits and credits for the services provided hereunder.

B. Inspection of Records. Pursuant to California Government Code Section 8546.7, all records, documents, conditions and activities of CONTRACTOR, and its subcontractors, related to the services provided hereunder, shall be subject to the examination and audit of the California State Auditor and other duly authorized agents of the State of California for a period of three (3) years after final payment under this Agreement. CONTRACTOR hereby agrees to make such records available during normal business hours to inspection, audit and reproduction by COUNTY and/or any duly authorized local, state and/or federal agencies. CONTRACTOR further agrees to allow interviews of any of its employees who might reasonably have information related to such records by COUNTY and/or any duly authorized local, state and/or federal agencies. All examinations and audits conducted hereunder shall be strictly confined to those matters connected with the performance of this Agreement, including, but not limited to, the costs of administering this Agreement.

C. Audit Costs. In the event of an audit exception or exceptions, the party responsible for not meeting the program requirements shall be responsible for the deficiency and for the cost of the audit. If the allowable expenditures cannot be determined because CONTRACTOR's documentation is nonexistent or inadequate, according to generally accepted accounting practices, the questionable cost shall be disallowed by COUNTY.

D. Medical Records. CONTRACTOR's obligations regarding the maintenance, security, and custody of medical records are set forth in Exhibit A - Scope of Services and Exhibit E - Business Associate Agreement.

9. MONITORING:

CONTRACTOR agrees that COUNTY has the right to monitor all activities related to this Agreement, including, without limitation, the right to review and monitor CONTRACTOR's records, programs or procedures, at any time, as well as the overall operation of CONTRACTOR's programs in order to ensure compliance with the terms and conditions of this Agreement. However, COUNTY is not responsible, and will not be held accountable, for overseeing or evaluating the adequacy of the results of services performed by CONTRACTOR pursuant to the terms of this Agreement. CONTRACTOR shall make requested records available within a maximum of five (5) working days of said request when the records are maintained on site at the Humboldt County

Correctional Facility, the Humboldt County Juvenile Hall, or the Northern California Regional Center, and within a minimum of fifteen (15) working days when the records are maintained off site.

10. CONFIDENTIAL INFORMATION:

- A. Disclosure of Confidential Information. In the performance of this Agreement, CONTRACTOR may receive information that is confidential under local, state or federal law. CONTRACTOR hereby agrees to protect all confidential information in conformance with any and all applicable local, state and federal laws, regulations, policies, procedures and standards, including, but not limited to: Division 19 of the California Department of Social Services Manual of Policies and Procedures – Confidentiality of Information; California Welfare and Institutions Code Sections 827, 5328 and 10850; California Health & Safety Code Sections 1280.15 and 1280.18; the California Confidentiality of Medical Information Act (“CMIA”); the United States Health Information Technology for Economic and Clinical Health Act, (“HITECH Act”); the United States Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and any current and future implementing regulations promulgated thereunder, including, without limitation, the Federal Privacy Regulations contained in Title 45 of the Code of Federal Regulations (“C.F.R.”) Parts 160 and 164, the Federal Security Standards contained in 45 C.F.R. Parts 160, 162 and 164 and the Federal Standards for Electronic Transactions contained in 45 C.F.R. Parts 160 and 162, all as may be amended from time to time.
- B. Continuing Compliance with Confidentiality Laws. The parties acknowledge that federal and state confidentiality laws are rapidly evolving and that amendment of this Agreement may be required to ensure compliance with such developments. Each party agrees to promptly enter into negotiations concerning an amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the CMIA and any other applicable local, state and federal laws or regulations.
- C. HIPAA Compliance. As a condition of CONTRACTOR performing services for COUNTY, CONTRACTOR agrees that it shall abide by the terms, conditions, and obligations set forth in the COUNTY’s HIPAA Business Associate Agreement, which is attached hereto as Exhibit E and incorporated by reference herein.

11. NUCLEAR FREE HUMBOLDT COUNTY ORDINANCE COMPLIANCE:

CONTRACTOR certifies by its signature below that it is not a Nuclear Weapons Contractor, in that CONTRACTOR is not knowingly or intentionally engaged in the research, development, production or testing of nuclear warheads, nuclear weapons systems or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. CONTRACTOR agrees to notify COUNTY immediately if it becomes a Nuclear Weapons Contractor as defined above. COUNTY may immediately terminate this Agreement if it determines that the foregoing certification is false or if CONTRACTOR becomes a Nuclear Weapons Contractor.

12. NON-DISCRIMINATION COMPLIANCE:

- A. Professional Services and Employment. In connection with the execution of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate in the provision of professional services or against any employee or applicant for employment because of race, religion or religious creed, color, age (over forty (40) years of age), sex (including gender identity and expression, pregnancy, childbirth and related medical conditions), sexual

orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, marital status, medical condition (including cancer and genetic characteristics), mental or physical disability (including HIV status and AIDS), political affiliation, military service, denial of family care leave or any other classifications protected by local, state and federal laws and regulations. Nothing herein shall be construed to require employment of unqualified persons.

- B. Compliance with Anti-Discrimination Laws. CONTRACTOR further assures that it, and its subcontractors, will abide by the provisions of: Title VI and Title VII of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; the Food Stamp Act of 1977; Title II of the Americans with Disabilities Act of 1990; the California Fair Employment and Housing Act; California Civil Code Section 51 *et seq.*; California Government Code Section 4450 *et seq.*; California Welfare and Institutions Code Section 10000; Division 21 of the California Department of Social Services Manual of Policies and Procedures; United States Executive Order 11246, as amended and supplemented by United States Order 11375 and 41 C.F.R. Part 60; and any other applicable local, state and/or federal laws and regulations, all as may be amended from time. The applicable regulations of the California Fair Employment and Housing Commission implementing California Government Code Section 12990, set forth in Chapter 5, Division 4 of Title 2, of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full.

13. DRUG-FREE WORKPLACE:

By signing this Agreement, CONTRACTOR certifies that it will comply with the requirements of the Drug-Free Workplace Act of 1990 (California Government Code Sections 8350 *et seq.*) and will provide a drug-free workplace by doing all of the following:

- A. Drug-Free Policy Statement. Publish, as required by California Government Code Section 8355, subdivision (a)(1), a Drug-Free Policy Statement which notifies employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited, and specifies the actions to be taken against employees for violations.
- B. Drug-Free Awareness Program. Establish, as required by California Government Code Section 8355, subdivision (a)(2), a Drug-Free Awareness Program which informs employees about all of the following:
1. The dangers of drug abuse in the workplace;
 2. CONTRACTOR's policy of maintaining a drug-free workplace;
 3. Any available counseling, rehabilitation and employee assistance programs; and
 4. Penalties that may be imposed upon employees for drug abuse violations.
- C. Drug-Free Employment Agreement. Ensure, as required by California Government Code Section 8355, subdivision (a)(3), that every employee who provides services hereunder will:
1. Receive a copy of CONTRACTOR's Drug-Free Policy Statement; and

2. Agree to abide by the terms of CONTRACTOR's Drug-Free Policy as a condition of employment.

D. Effect of Noncompliance. Failure to comply with the above-referenced requirements may result in suspension of payments under this Agreement and/or termination thereof, and CONTRACTOR may be ineligible for award of future contracts if COUNTY determines that the foregoing certification is false or if CONTRACTOR violates the certification by failing to carry out the above-referenced requirements.

14. INDEMNIFICATION:

A. Hold Harmless, Defense, and Indemnification. CONTRACTOR shall hold harmless, defend and indemnify COUNTY and its agents, officers, officials, employees and volunteers from and against any and all claims, demands, losses, damages, liabilities, expenses and costs of any kind or nature, including, without limitation, attorneys' fees and other costs of litigation, arising out of, or in connection with, CONTRACTOR's performance of, or failure to comply with, any of the obligations contained herein, except such loss or damage which was caused by the sole negligence or willful misconduct of COUNTY.

B. Effect of Insurance. Acceptance of insurance, if required by this Agreement, does not relieve CONTRACTOR from liability under this provision. This provision shall apply to all damages or claims for damages related to the services performed by CONTRACTOR pursuant to the terms and conditions of this Agreement regardless if any insurance is applicable or not. The insurance policy limits set forth herein shall not act as a limitation upon the amount of indemnification or defense to be provided by CONTRACTOR hereunder.

15. INSURANCE REQUIREMENTS:

This Agreement shall not be executed by COUNTY, and CONTRACTOR is not entitled to any rights, unless certificates of insurance or other sufficient proof that the following provisions have been complied with, are filed with the Clerk of the Humboldt County Board of Supervisors.

A. General Insurance Requirements. Without limiting CONTRACTOR's indemnification obligations provided for herein, CONTRACTOR shall and shall require that all subcontractors take out and maintain, throughout the period of this Agreement and any extended term thereof, the following policies of insurance placed with insurers authorized to do business in California and with a current A.M. Best rating of no less than A: VII or its equivalent against injury/death to persons or damage to property which may arise from or in connection with the activities hereunder of CONTRACTOR, its agents, officers, directors, employees, licensees, invitees, assignees or subcontractors:

1. Comprehensive or Commercial General Liability Insurance at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence form CG 0001), in an amount of Two Million Dollars (\$2,000,000) per occurrence for any one incident, including, personal injury, death and property damage. If a general aggregate limit is used, such limit shall apply separately hereto or shall be twice the required occurrence limit.
2. Automobile/Motor Liability Insurance with a limit of liability of not less than One Million Dollars (\$1,000,000) combined single coverage. Such insurance shall include

coverage of specifically described or designated autos as set forth in symbol 7 auto policies.

3. Workers' Compensation Insurance, as required by the Labor Code of the State of California, with statutory limits, and Employers Liability Insurance with a limit of no less than One Million Dollars (\$1,000,000) per accident for bodily injury or disease. Said policy shall contain, or be endorsed to contain, a waiver of subrogation against COUNTY, its agents, officers, officials, employees and volunteers.
4. Professional Liability Insurance – Error and Omission Coverage including coverage in an amount no less than Two Million Dollars (\$2,000,000) for each occurrence (Five Million Dollars (\$5,000,000) general aggregate). Said insurance shall be maintained for the statutory period during which CONTRACTOR may be exposed to liability. CONTRACTOR shall require that such coverage be incorporated into its professional services agreements with any other entities.

B. Special Insurance Requirements. Said policies shall, unless otherwise specified herein, be endorsed with the following provisions:

1. The Comprehensive or Commercial General Liability Policy shall provide that COUNTY, its agents, officers, officials, employees and volunteers, are covered as additional insured for liability arising out of the operations performed by or on behalf of CONTRACTOR. The coverage shall contain no special limitations on the scope of protection afforded to COUNTY, its agents, officers, officials, employees and volunteers. Said policy shall also contain a provision stating that such coverage:
 - a. Includes contractual liability.
 - b. Does not contain exclusions as to loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to "XCU Hazards."
 - c. Is the primary insurance with regard to COUNTY.
 - d. Does not contain a pro-rata, excess only and/or escape clause.
 - e. Contains a cross liability, severability of interest or separation of insureds clause.
2. The above-referenced policies shall not be canceled, non-renewed or materially reduced in coverage without thirty (30) days prior written notice being provided to COUNTY in accordance with the notice provisions set forth herein. It is further understood that CONTRACTOR shall not terminate such coverage until COUNTY receives adequate proof that equal or better insurance has been secured.
3. The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the insurer's liability.

4. For claims related to this Agreement, CONTRACTOR's insurance is the primary coverage to COUNTY, and any insurance or self-insurance programs maintained thereby are excess to CONTRACTOR's insurance and will not be used to contribute therewith.
 5. Any failure to comply with the provisions of this Agreement, including breach of warranties, shall not affect coverage provided to COUNTY, its agents, officers, officials, employees and volunteers.
 6. CONTRACTOR shall furnish COUNTY with certificates and original endorsements effecting the required coverage prior to execution of this Agreement. The endorsements shall be on forms approved by the Humboldt County Risk Manager or County Counsel. Any deductible or self-insured retention over One Hundred Thousand Dollars (\$100,000) shall be disclosed to and approved by COUNTY. If CONTRACTOR does not keep all required policies in full force and effect, COUNTY may, in addition to other remedies under this Agreement, take out the necessary insurance, and CONTRACTOR agrees to pay the cost thereof. COUNTY is also hereby authorized with the discretion to deduct the cost of said insurance from the monies owed to CONTRACTOR under this Agreement.
 7. COUNTY is to be notified immediately if twenty-five percent (25%) or more of any required insurance aggregate limit is encumbered, and CONTRACTOR shall be required to purchase additional coverage to meet the above aggregate limits.
- C. Insurance Notices. Any and all insurance notices required to be given pursuant to the terms of this Agreement shall be sent to the addresses set forth below in accordance with the notice provisions described herein.

COUNTY: County of Humboldt
Attn: Risk Management
825 5th Street, Room 131
Eureka, CA 95501

CONTRACTOR: California Forensic Medical Group
Attention: Chief Financial Officer
2511 Garden Road Suite A160
Monterey, CA 93940

16. RELATIONSHIP OF PARTIES:

It is understood that this is an Agreement by and between two (2) independent contractors and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture, or any other similar association. Both parties further agree that CONTRACTOR shall not be entitled to any benefits to which COUNTY employees are entitled, including, but not limited to, overtime, retirement benefits, leave benefits or workers' compensation. CONTRACTOR shall be solely responsible for the acts or omissions of its agents, officers, employees, assignees, and subcontractors.

17. COMPLIANCE WITH APPLICABLE LAWS AND LICENSURE REQUIREMENTS:

CONTRACTOR agrees to comply with all local, state and/or federal laws, regulations, policies and procedures applicable to the services covered by this Agreement. CONTRACTOR further agrees to comply with all applicable local, state and federal licensure and certification requirements.

18. PROVISIONS REQUIRED BY LAW:

This Agreement is subject to any additional local, state and federal restrictions, limitations, or conditions that may affect the provisions, terms or funding of this Agreement. This Agreement shall be read and enforced as though all legally required provisions are included herein, and if for any reason any such provision is not included, or is not correctly stated, the parties agree to amend the pertinent section to make such insertion or correction.

19. REFERENCE TO LAWS AND RULES:

In the event any law, regulation, policy or procedure referred to in this Agreement is amended during the term hereof, the parties agree to comply with the amended provision as of the effective date of such amendment.

20. SEVERABILITY:

If any provision of this Agreement, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.

21. ASSIGNMENT:

CONTRACTOR shall not delegate its duties or assign its rights hereunder, either in whole or in part, without COUNTY's prior written consent. Any assignment by CONTRACTOR in violation of this provision shall be void, and shall be cause for immediate termination of this Agreement. This provision shall not be applicable to service agreements or other arrangements usually or customarily entered into by CONTRACTOR to obtain supplies, technical support or professional services.

22. AGREEMENT SHALL BIND SUCCESSORS:

All provisions of this Agreement shall be fully binding upon, and inure to the benefit of, the parties and to each of their heirs, executors, administrators, successors and assigns.

23. WAIVER OF DEFAULT:

The waiver by either party of any breach or violation of any requirement of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement. In no event shall any payment by COUNTY constitute a waiver of any breach of this Agreement or any default which may then exist on the part of CONTRACTOR. Nor shall such payment impair or prejudice any remedy available to COUNTY with respect to any breach or default. COUNTY shall have the right to demand repayment of, and CONTRACTOR shall promptly refund, any funds disbursed to CONTRACTOR, which in the judgment of COUNTY were not expended in accordance with the terms of this Agreement.

24. NON-LIABILITY OF COUNTY OFFICIALS AND EMPLOYEES:

No official or employee of COUNTY shall be personally liable for any default or liability under this Agreement.

25. AMENDMENT:

This Agreement may be amended at any time during the term of this Agreement upon the mutual consent of both parties. No addition to, or alteration of, the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto.

26. STANDARD OF PRACTICE:

CONTRACTOR warrants that it has the degree of learning and skill ordinarily possessed by reputable professionals practicing in similar localities in the same profession and under similar circumstances. CONTRACTOR's duty is to exercise such care, skill and diligence as professionals engaged in the same profession ordinarily exercise under like circumstances.

27. TITLE TO INFORMATION AND DOCUMENTS:

It is understood that any and all documents, information, and reports concerning the subject matter of this Agreement prepared by and/or submitted by CONTRACTOR shall become the property of COUNTY. In the event of termination of this Agreement, for any reason whatsoever, CONTRACTOR shall promptly turn over all information, writings and documents to COUNTY without exception or reservation.

28. JURISDICTION AND VENUE:

This Agreement shall be construed in accordance with the laws of the State of California. Any dispute arising hereunder or relating to this Agreement shall be litigated in the State of California and venue shall lie in the County of Humboldt, unless transferred by court order pursuant to California Code of Civil Procedure Sections 394 or 395.

29. ADVERTISING AND MEDIA RELEASE:

All informational material related to this Agreement shall receive approval from COUNTY prior to being used as advertising or released to the media (television, radio, newspapers and internet). CONTRACTOR shall inform COUNTY of all requests for interviews by media related to this Agreement before such interviews take place, and COUNTY is entitled to have a representative present at such interviews. All notices required by this provision shall be given to SHERIFF.

30. SUBCONTRACTS:

CONTRACTOR shall obtain prior written approval from COUNTY before subcontracting any of the services to be provided hereunder. Any and all subcontracts will be subject to all applicable provisions of this Agreement. CONTRACTOR shall remain legally responsible for the performance of all terms and conditions of this Agreement, including work performed by third parties under subcontracts whether approved by COUNTY or not.

31. ATTORNEYS' FEES:

If either party shall commence any legal action or proceeding, including an action for declaratory relief, against the other by reason of the alleged failure of the other to perform or keep any provision of this Agreement to be performed or kept, the party prevailing in said action or proceeding shall be entitled to recover court costs and reasonable attorneys' fees, including the reasonable value of services rendered by the Humboldt County Counsel's Office, to be fixed by the court, and such recovery shall include court costs and attorneys' fees on appeal, if applicable. As used herein, "prevailing party" means the party who dismisses an action or proceeding in exchange for payment of substantially all sums allegedly due, performance of provisions allegedly breached, or other considerations substantially equal to the relief sought by said party, as well as the party in whose favor final judgment is rendered.

32. SURVIVAL:

The duties and obligations of the parties set forth in Section 3(D) – Compensation Upon Termination, Section 8 – Record Retention and Inspection, Section 10 – Confidential Information and Section 14 – Indemnification shall survive the expiration or termination of this Agreement.

33. CONFLICTING TERMS OR CONDITIONS:

In the event of any conflict in the terms or conditions set forth in any other agreements in place between the parties hereto and the terms and conditions set forth in Sections 1 through 38 of this Agreement, Sections 1 through 38 of this Agreement shall have priority.

34. INTERPRETATION:

This Agreement, as well as its individual provisions, shall be deemed to have been prepared equally by both of the parties hereto, and shall not be construed or interpreted more favorably for one party on the basis that the other party prepared it.

35. INDEPENDENT CONSTRUCTION:

The titles of the sections, subsections, and paragraphs set forth in this Agreement are inserted for convenience of reference only, and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

36. FORCE MAJEURE:

Neither party hereto shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party and without fault or negligence of such party. Such events shall include, but not be limited to, acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism or other disasters, whether or not similar to the foregoing.

37. ENTIRE AGREEMENT:

This Agreement contains all of the terms and conditions agreed upon by the parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind either of the parties hereto. In addition, this Agreement shall supersede in its

entirety any and all prior agreements, promises, representations, understandings and negotiations, whether oral or written, concerning the same subject matter. Any and all acts which may have already been consummated pursuant to the terms and conditions of this Agreement are hereby ratified.

38. AUTHORITY TO EXECUTE:

Each person executing this Agreement represents and warrants that he or she is duly authorized and has legal authority to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such party's obligations hereunder have been duly authorized.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date written above.

TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS:

(1) CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; AND

(2) SECRETARY, ASSISTANT SECRETARY, CHIEF FINANCIAL OFFICER OR TREASURER.


CALIFORNIA FORENSIC MEDICAL GROUP

By: 

Date: 9/23/16

Name: DONALD MYLL

Title: CFO

By: 

Date: 9/23/16

Name: RAYMOND HERON MD

Title: CHAIRMAN

COUNTY OF HUMBOLDT

By: 

Date: 10-2-16

Mark Lovelace
Chair, Humboldt County Board of Supervisors

INSURANCE AND INDEMNIFICATION REQUIREMENTS APPROVED:

By: 
Risk Management

Date: 9/27/16

EXHIBIT A

SCOPE OF SERVICES

For the purposes of this Agreement, the following definitions shall apply:

- (a) CCR shall mean the California Code of Regulations.
- (b) CONTRACTOR shall mean California Forensic Medical Group (“CFMG”) and shall include, but is not limited to, its directors, officers, agents, representatives, subcontractors, employees, trainers, volunteers, medical personnel, and/or any other individuals who may be retained by CONTRACTOR to perform any of the terms and conditions of this Agreement.
- (c) COUNTY shall mean the County of Humboldt, a political subdivision of the State of California.
- (d) DHHS-ECC shall mean the Humboldt County Department of Health and Human Services – Social Services Eureka Call Center.
- (e) FACILITIES shall collectively mean the Humboldt County Correctional Facility, the Humboldt County Juvenile Hall, and the Northern California Regional Facility.
- (f) HCCF shall mean the Humboldt County Correctional Facility.
- (g) HCSO shall mean the Humboldt County Sheriff’s Office.
- (h) IMQ shall mean the Institute for Medical Quality, a subsidiary of the California Medical Association.
- (i) JH shall collectively mean the Humboldt County Juvenile Hall and the Northern California Regional Facility.
- (j) MH-SOC shall mean Humboldt County Mental Health Systems of Care.

Under the terms of the Agreement, CONTRACTOR shall perform the following services:

CONTRACTOR’S RESPONSIBILITIES AS A DESIGNATED HEALTH AUTHORITY:

A. Health Care Services

- 1) CONTRACTOR shall be the designated health authority responsible for health care services performed in the FACILITIES, as set forth in this Agreement. Final medical judgments rest with the Medical Director of CONTRACTOR, or his/her authorized designee.
- 2) All health care services provided by CONTRACTOR shall comply with any and all applicable local, state, and/or federal laws and regulations governing health care services provided in correctional and/or detention facilities, including but not limited to CCR, Title 15, as amended from time to time.
- 3) CONTRACTOR shall be the sole supplier and coordinator of all medical programs for the FACILITIES and, as such, shall have the authority and responsibility for the

implementation, modification, and continuation of any and all health care programs for the FACILITIES. "Modification" is defined as any alteration in an existing service or program that does not require staffing modifications, funding, or facilities.

- 4) CONTRACTOR shall develop and maintain up-to-date written policy and procedure, protocol, and reference manuals in compliance with IMQ accreditation standards and CCR, Title 15 requirements. These manuals shall reflect the current actual practice of CONTRACTOR performed at the FACILITIES and shall be signed by CONTRACTOR, CONTRACTOR'S on-site Medical Director, CONTRACTOR'S Medical Program Manager, and COUNTY'S Health Officer. CONTRACTOR shall review manuals annually and issue updates as appropriate. Upon termination of this Agreement, said policy and procedure manual shall become property of the COUNTY.
- 5) Any new medical programs, policies and/or procedures, or other changes in the provisions of or services required by this Agreement, proposed to be implemented after the date of this Agreement, shall be reduced to writing and shall be undertaken only upon mutual agreement of the COUNTY and CONTRACTOR.

B. Personnel Requirements

- 1) CONTRACTOR shall designate an on-site Medical Director who shall be responsible for assuring the quality of health care provided at the FACILITIES, and who shall also supervise the practice of nurse practitioners, physician assistants, and/or other medical personnel, should such personnel be utilized. The on-site Medical Director is expected to examine all patients referred to him/her. However, a portion of his/her time shall be spent teaching (medical/administrative), working with mid-level practitioners, medication and chart review, and establishing new and refining existing policies and procedures.
- 2) CONTRACTOR shall hire and maintain an on-site Medical Program Manager who shall be designated as the liaison between CONTRACTOR and COUNTY. The Medical Program Manager shall be responsible for the investigation of all complaints that relate to CONTRACTOR'S operations at the FACILITIES. Investigations on written complaints shall be summarized in writing and shall include CONTRACTOR'S findings, position, and corrective plan, as applicable. Such written summary shall be delivered to COUNTY, consistent with any applicable HCCF or JH policies.
- 3) CONTRACTOR shall engage only California licensed and qualified personnel to provide professional medical care coverage for the FACILITIES. CONTRACTOR shall obtain all licenses, accreditations, and/or certifications necessary to provide medical services in the FACILITIES. CONTRACTOR shall ensure that all of its employees who render medical services are fully compliant with any and all applicable licenses, accreditation, and/or certification.
- 4) Copies of licenses, accreditations, and/or records of certification for all medical personnel are to be furnished to the Medical Program Manager, who must at all times have them available for examination by COUNTY. Copies of these shall be maintained at the FACILITIES.

- 5) CONTRACTOR shall recruit and interview only candidates who have provided documentation of health care experience, licenses, and letters of recommendation. Each candidate will be interviewed by CONTRACTOR with special focus on technical expertise, emotional stability, and motivation.
- 6) CONTRACTOR shall ensure that all of its employees who are staffed at the FACILITIES are afforded an orientation period, sufficiently comprehensive and of adequate length, to allow the employee to be familiar with CONTRACTOR's obligations under this Agreement and to acquaint all personnel to the policies and procedures of the FACILITIES.
- 7) CONTRACTOR acknowledges and understands that it is essential that continuing education programs be provided to professional staff. CONTRACTOR shall provide in-service training for its personnel and shall ensure all full-time healthcare staff, except for physicians, will receive at least thirty (30) hours of in-service training every two (2) years. The Medical Program Manager shall identify the topics and maintain records on subject matter and employee participation.
- 8) CONTRACTOR personnel shall observe all applicable policies and procedures concerning the operation and security of the FACILITIES.
- 9) CONTRACTOR personnel shall be required to wear identification badges whenever they are present at the FACILITIES.
- 10) COUNTY, in its sole discretion, shall have the right to perform criminal background or security checks of any employee, agent, or subcontractor of CONTRACTOR who is staffed at the FACILITIES as a condition of granting access to the FACILITIES. COUNTY shall have the sole discretion to determine security acceptability of all CONTRACTOR personnel at any time during the contract period. At the discretion of COUNTY, and consistent with state and federal law, a voice stress analyzer test may be required. Any CONTRACTOR personnel found to be an unacceptable security risk will not be given access to the FACILITIES. No new employee shall be brought to the FACILITIES without the prior approval of the COUNTY.
- 11) COUNTY reserves the right to prior approval of all personnel who work in the FACILITIES as an employee of CONTRACTOR or under contract or subcontract with CONTRACTOR.
- 12) In recognition of the particular safety and security needs of correctional and detention facilities, CONTRACTOR shall agree that in the event COUNTY, at its discretion, is dissatisfied with any of the personnel provided under the Agreement, and if the problem cannot be resolved to the satisfaction of the COUNTY within thirty (30) days following notice by COUNTY to CONTRACTOR, CONTRACTOR shall remove the individual about which dissatisfaction has been expressed and provide replacement coverage by other appropriate personnel until an approved replacement can be found. COUNTY agrees to allow CONTRACTOR a reasonable amount of time to find a suitable replacement.

C. Staffing Hours

- 1) CONTRACTOR shall maintain the staffing pattern, hours, and availability described in Exhibit C as the minimum staffing level. The minimum staffing level shall not be considered proof that CONTRACTOR's level of staffing is, in fact, adequate to meet the actual medical staffing needs of the FACILITIES. The minimum staffing level maintained by CONTRACTOR shall ensure that the FACILITIES have 24-hour medical coverage and/or medical personnel available at the FACILITIES at all times.
- 2) Notwithstanding the minimum staffing level, it is the responsibility of the CONTRACTOR to supply adequate staff and other resources necessary to provide medical services at the FACILITIES in accordance with all federal, state, and local laws and regulations, as well as IMQ standards. Any significant change in law that affects the cost of providing services may require re-negotiation of the Agreement, and CONTRACTOR agrees to cooperate with COUNTY to amend the Agreement as necessary to ensure ongoing compliance with all applicable local, state, and federal laws and regulations.
- 3) It is incumbent upon CONTRACTOR to promptly report to COUNTY any issues which may or does affect CONTRACTOR's ability to meet the minimum staffing level required in Exhibit C. In any month in which CONTRACTOR does not meet the minimum staffing level and fails to provide adequate and qualified staff members at the staffing levels established hereunder, CONTRACTOR shall be assessed a daily penalty for each medical personnel position that was under-staffed or staffed with an unqualified person, as set forth in Exhibit D.
- 4) CONTRACTOR shall be responsible for keeping time and attendance accountability records of its personnel and provide appropriate records to COUNTY upon demand.

D. Training

- 1) CONTRACTOR shall prepare and provide a minimum of four (4) four-hour training sessions per year of in-service medical education programs for HCSO staff at the HCCF. CONTRACTOR shall work with the HCSO staff to identify appropriate topics for the training programs. CONTRACTOR shall schedule a sufficient number of training sessions to assure that all appropriate HCSO staff at the HCCF have participated in the training program.
- 2) CONTRACTOR shall provide a minimum of four (4) four-hour training sessions to COUNTY staff at the JH per year. Training provided by CONTRACTOR must be specific to children and youth, and shall cover such topics as suicide identification/prevention, medication reactions, gross identification of injury and illness, psychopharmacology issues, and/or any other topics requested by COUNTY. CONTRACTOR shall schedule a sufficient number of training sessions to assure that all appropriate COUNTY staff at the JH participates in the training program.

E. Quality Assurance Program and Reviews

- 1) CONTRACTOR shall maintain a comprehensive quality assurance plan.
- 2) CONTRACTOR shall provide COUNTY with a copy of said comprehensive quality assurance plan and any updates or revisions to the same. The comprehensive quality

assurance plan will be adopted with the mutual concurrence of CONTRACTOR and COUNTY on an annual basis.

- 3) CONTRACTOR shall provide COUNTY with a monthly statistical report prepared in a format prescribed by the COUNTY's Health Officer or designee, which includes health care activities, occurring both inside and outside the facility. This report shall summarize service by type and place performed. This report shall also include cost data for both in-patient and out-patient service, the status of any third-party cost recoveries, and actual number of staff hours to determine compliance with minimum staffing levels in Exhibit C.
- 4) CONTRACTOR shall confer regularly with the designated representatives of COUNTY concerning existing health-related procedures within the FACILITIES, any proposed changes in health-related procedures, and any other matter which either party deems appropriate.
- 5) CONTRACTOR shall, at least quarterly, provide an adequate Quality Assurance Review Meeting to assess, monitor, and improve, where possible, the care provided by CONTRACTOR's medical and dental staff at the FACILITIES. An adequate meeting shall, at a minimum, include CONTRACTOR's on-site Medical Director, CONTRACTOR's on-site medical and dental staff, the COUNTY's Health Officer, and one representative each from Adult System of Care, Children's System of Care, the Department of Health and Human Services – Public Health, Sheriff's Office, and Probation Department. Additionally, at least annually, a dentist provided by CONTRACTOR and a psychiatrist provided by the COUNTY shall attend. A written summary of each quarterly meeting shall be distributed to each member of the Quality Assurance Review Meeting. CONTRACTOR shall record this written summary and ensure a copy is delivered to COUNTY; however, individual medical peer review audits shall be distributed to medical personnel members only. In the event that a Quality Assurance Review Meeting does not meet the quarterly attendance requirements, another meeting will be scheduled and properly attended within thirty (30) days. In all cases, CONTRACTOR shall organize these meetings and COUNTY shall provide the meeting room.
- 6) A copy of all written audits, findings, corrective action plans, and summaries prepared by CONTRACTOR shall be provided to the COUNTY in a timely manner.
- 7) As set forth in Section 8 of the Agreement governing record retention and inspection, CONTRACTOR shall make all records reasonably required by the COUNTY to verify and monitor compliance with the terms of this Agreement.
 - a. Where a review of the medical records reveals that CONTRACTOR has failed to maintain a 90% compliance rate in completion of the histories and physicals for those inmates who are required to have such histories and physicals and who were reasonably available at the time that such medical services were due to have been completed for a one (1) calendar month period, a penalty of \$100 per inmate or minor who was not successfully assessed shall apply, except when beyond the control of CONTRACTOR.
 - b. Where sick call, as conducted during Monday through Friday has not been conducted, except for situations where the failure to conduct such sick call

is beyond the control of the CONTRACTOR, the penalty of \$300 per normal sick call day per facility shall apply.

- c. Where CONTRACTOR fails to conduct regularly scheduled medication administration rounds (for medications prescribed by a licensed physician or dentist under contract to CONTRACTOR) to inmates and minors covered by this Agreement, the COUNTY may apply a penalty of \$300 per missed round per facility, but only after providing CONTRACTOR an opportunity to discuss with COUNTY the reason for the missed shift. Thereafter, COUNTY, in its sole discretion, shall determine whether a penalty is warranted.

F. IMQ Accreditation

- 1) CONTRACTOR shall obtain IMQ accreditation as soon as reasonably possible for the FACILITIES and thereafter maintain such accreditation during the term of this Agreement. Application shall be made at such time as mutually agreed upon by the parties. Any fees required by IMQ to be paid in connection with obtaining accreditation shall be paid by CONTRACTOR.
- 2) CONTRACTOR shall comply with all applicable IMQ standards at the FACILITIES and shall cooperate with and assist COUNTY in meeting its responsibilities in the effort to obtain accreditation. COUNTY shall make all reasonable effort to cooperate with CONTRACTOR in obtaining accreditation. If any one of the FACILITIES fails to receive accreditation within one year from the date of execution of this Agreement because of CONTRACTOR's failure to comply with IMQ standards for which it is responsible, CONTRACTOR shall pay to COUNTY the sum of Six Thousand Dollars (\$6,000.00) for each facility not accredited. This penalty is due within thirty (30) days after the receipt of notice by the COUNTY. For each subsequent month past one year, the penalty per month shall be Six Hundred Dollars (\$600.00) per month, due and payable within thirty (30) days of notification.
- 3) The financial penalties set forth above shall not be imposed for any delays beyond the control of the CONTRACTOR, or for any failure to receive accreditation which is beyond the control of CONTRACTOR.

G. Provision of Equipment and Equipment Security

- 1) COUNTY will provide the space, housekeeping, fixtures, utilities, telephone, security, and other similar items necessary for the efficient operation of the health care system in the FACILITIES.
- 2) CONTRACTOR shall be responsible for the purchase and provision of required pharmaceuticals, medical supplies, instruments, equipment, and medical record supplies to be used at the FACILITIES, including but not limited to medicines, drugs, dressings, instruments, gloves, and medical/dental personnel wearing apparel.
- 3) CONTRACTOR shall be responsible for purchasing required laboratory services and x-ray services to be used at the FACILITIES.

- 4) CONTRACTOR shall provide its own computers and internet, excepting network connections required to connect with the certain management systems which will be provided by COUNTY.
- 5) CONTRACTOR shall maintain all medical and office equipment, regardless of ownership, that is used for the performance of this Agreement.
- 6) CONTRACTOR is authorized to use the medical and other equipment of COUNTY currently on the premises. CONTRACTOR agrees to safeguard said equipment and all property of the COUNTY. Said equipment is to be used only by those trained and qualified in its use. CONTRACTOR will be held responsible for damage to or loss of equipment and shall reimburse COUNTY for all losses resulting from the negligent or careless use of said equipment or other COUNTY property or facilities by CONTRACTOR personnel.

H. Medical Records

- 1) CONTRACTOR shall be the custodian of record and shall be responsible for the care, custody, maintenance and security of all medical records, active or inactive, paper or electronic, at the FACILITIES during the term of this Agreement.
- 2) Existing medical records and medical records prepared by CONTRACTOR shall be the property of the COUNTY.
- 3) CONTRACTOR shall be the custodian of record of the active and inactive medical records generated after CONTRACTOR began operations at the FACILITIES. In accordance with existing law and standard medical practice, CONTRACTOR shall retain all medical records for a period of seven (7) years from the last date of contact with the inmate or minor, or one year past the age of majority, whichever is longer. Records related to pregnancies shall be retained until the child's age is one (1) year past majority.
- 4) CONTRACTOR shall return all inactive and/or active medical records in its possession to the COUNTY at the termination of this Agreement or at the conclusion of the retention period, whichever occurs sooner. CONTRACTOR shall prepare and retain a comprehensive list of any and all medical records that are returned to the COUNTY, and further agrees to work with the COUNTY in good faith to ensure all medical records are returned to COUNTY in an orderly manner and with due care to avoid any inadvertent disclosures of confidential patient information. COUNTY shall be responsible for record destruction.
- 5) CONTRACTOR shall adhere to all local, state and federal requirements relating to confidentiality of patient information including, but not limited to, Welfare and Institutions Code Section 5328 and Title 45, Code of Federal Regulations, and Section 205.50 for Medi-Cal eligible patients, and as set forth in this Agreement and the Business Associate Agreement attached hereto.
- 6) CONTRACTOR shall maintain all records in accordance with CCR, Title 15, Section 1205, Medical/Mental Health Records, IMQ Standards, as well as any and all local federal and state medical confidentiality and privacy laws and regulations.
- 7) CONTRACTOR shall ensure that pertinent medical information is prepared to accompany all inmates or minors when transferring to other detention/correctional facilities.

- 8) CONTRACTOR shall ensure that its staff documents all health care contacts in the inmate's or minor's medical record using the Problem Oriented Medical Record format.
- 9) Upon COUNTY's request, CONTRACTOR shall assist COUNTY in transitioning all traditional paper medical files to an electronic medical record system.

I. Reporting Requirements

- 1) CONTRACTOR shall prepare a monthly statistical report in a format acceptable to COUNTY, which includes health care activities occurring both inside and outside of the FACILITIES. This report shall summarize service by type and place performed, work hours by classification, and include the status of any third-party cost recoveries. The monthly statistical report shall be delivered to the COUNTY by the tenth (10th) day of the following month.
- 2) CONTRACTOR shall provide COUNTY a report that is consistent with the information required for the daily jail rate report. This report shall separate routine from non-routine medical services, in a format acceptable to COUNTY and State. The information provided by CONTRACTOR shall be sufficient to allow COUNTY to successfully claim reimbursements from the State of California for related services, and to bill individuals, if appropriate. CONTRACTOR shall submit this report to COUNTY by December 31st for the preceding fiscal year.
- 3) CONTRACTOR shall be responsible for ensuring that its staff reports any problems and/or incidents to COUNTY as required by this Agreement.

J. Medical Waste Management

CONTRACTOR shall ensure compliance with any and all applicable local, state, and federal requirements for medical waste management, including but not limited to, security, storage, and disposal of medical waste.

K. Participation in Administrative or Legal Proceedings

- 1) CONTRACTOR shall make its personnel available to testify as necessary and as permitted by law, to allow COUNTY to adequately respond to any administrative or legal action relating to health care services provided at the FACILITIES, including, but not limited to, civil rights suits or writs of habeas corpus filed by inmates or minors where the inmate or minor puts his/her medical history, medical condition, or medical status at issue. CONTRACTOR shall also promptly respond in writing to COUNTY's requests for information to allow COUNTY to timely respond to any administrative or legal action brought against COUNTY relating to health care services provided at the FACILITIES.
- 2) CONTRACTOR shall make appropriate medical personnel available to attend any court proceeding, as requested by COUNTY, involving any inmate or minor whose medical history, condition, problem, or status is at issue.
- 3) CONTRACTOR shall cooperate fully in aiding COUNTY to investigate, adjust, settle, or defend any claim, action, or proceeding, including writs of habeas corpus, brought against COUNTY in connection with the operation of health care services provided at the FACILITIES with which CONTRACTOR may be connected. Nothing in this provision

shall affect the parties' respective obligations regarding indemnification, defense, and hold harmless, as described in Section 14 of the Agreement.

L. Third-Party Funds

Upon COUNTY's request, CONTRACTOR shall cooperate with COUNTY on any effort by COUNTY to apply, request, and/or receive third-party funding for the provision of health care services at the FACILITIES. CONTRACTOR shall provide appropriate consultation, information, review, or any other appropriate service to COUNTY to assist COUNTY in obtaining additional or new funding for the provision of health care services at the FACILITIES.

M. Transition Assistance

Upon expiration, termination, or cancellation of the Agreement, CONTRACTOR shall assist COUNTY to ensure an orderly transfer of responsibility and/or continuity of those services required under the terms of the Agreement to an organization designated by COUNTY, if requested in writing to provide such assistance. If so requested, CONTRACTOR shall continue providing any part or all of the services in accordance with the terms and conditions of the Agreement for a period not to exceed thirty (30) calendar days after the expiration, termination, or cancellation date of the Agreement, for a price not to exceed those prices set forth in the Agreement.

SPECIFIC SERVICES TO BE PROVIDED AT HCCF:

A. Receiving Screening

- 1) CONTRACTOR shall timely conduct an initial evaluation and Pre-booking Screening/Medical History Questionnaire with all detainees. CONTRACTOR shall timely conduct an evaluation to determine if a detainee is intoxicated and/or suffering from withdrawal or at high risk for withdrawal, or at high risk due to a medical condition.
- 2) CONTRACTOR nursing staff shall timely involve physicians, physician assistants, and/or nurse practitioners to assess and treat detainees potentially undergoing withdrawal or at serious risk due to a medical condition, and shall timely refer to a provider those detainees undergoing withdrawals or at serious risk due to a medical condition when clinically indicated.
- 3) When medically appropriate, CONTRACTOR shall provide medical services on-site.
- 4) CONTRACTOR may, at its option, require detainees to receive outside medical evaluation and treatment prior to being booked as an inmate in the correctional facility. CONTRACTOR will not be financially responsible for pre-booking costs not done by its option.
- 5) CONTRACTOR shall ensure that all inmates newly booked into the jail, who at the time of booking are prescribed medications in the community, are timely continued on those medications or prescribed comparable appropriate medication, unless a medical provider makes a clinical determination that medications are contraindicated or not necessary for treatment.
- 6) Inmates who, at the time of booking, report to CONTRACTOR that they are taking community prescribed medications, but whose medications cannot be verified, shall be timely assessed by a medical provider and timely prescribed medications necessary to treat their health needs.

- 7) If appropriate, CONTRACTOR shall contact DHHS-ECC when an inmate is housed at HCCF to determine the inmate's current Medi-Cal status. CONTRACTOR shall contact DHHS-ECC when an inmate is transferred to an off-site treatment facility to inform DHHS-ECC of the transfer. DHHS-ECC will initiate an application request, if necessary, based on information provided by CONTRACTOR. DHHS-ECC will determine eligibility and will coordinate with the treatment facility and CONTRACTOR as needed, and CONTRACTOR shall assist DHHS-ECC to the extent necessary for DHHS-ECC to make its eligibility determination.

B. Health Inventory and Communicable Disease Screening

- 1) CONTRACTOR shall perform a Health Inventory and Communicable Disease Screening on all inmates within fourteen (14) days of incarceration.
- 2) CONTRACTOR shall ensure that a physician, family nurse practitioner, physician assistant, licensed vocational nurse, or registered nurse specifically trained to conduct health appraisals shall complete the Health Inventory and Communicable Disease Screening.
- 3) CONTRACTOR shall ensure that lab tests are performed as medically indicated under IMQ standards.
- 4) CONTRACTOR shall develop a set of procedures for immunizations (measles, mumps, rubella, etc.) to address the needs of any special inmate populations.
- 5) CONTRACTOR shall initiate treatment of persons in custody who have been exposed to and/or are presumed to have an infectious disease, scabies, or lice.
- 6) CONTRACTOR shall perform HIV/AIDS screening and diagnostic testing and treatment of persons in custody, who are at high risk for AIDS and/or as is medically indicated.

C. Detoxification from Drugs and/or Alcohol

- 1) CONTRACTOR shall ensure that detoxification services are performed at the direction of and under the supervision of qualified medical personnel.
- 2) CONTRACTOR shall assess each inmate upon intake to determine if an inmate is intoxicated and/or suffering from withdrawal or at high risk of withdrawal.
- 3) CONTRACTOR, and not COUNTY, shall determine if it is medically appropriate for an inmate to be placed in a sobering cell and determine when an inmate shall be transferred to the hospital to be treated for possible or actual withdrawal.
- 4) CONTRACTOR shall monitor inmates placed in sobering cells using the Clinical Institute Withdrawal Assessment for Alcohol ("CIWA") protocol or equivalent validated monitoring protocol. Inmates shall receive pharmacological treatment as indicated and be appropriately housed based on their clinical conditions.
- 5) CONTRACTOR shall, along with the correctional deputy, conduct regular observations of inmates who have been placed in sobering cells. HCSO staff shall conduct regular observations of inmates who have been placed in sobering cells twice every 30 minutes, pursuant to HCCF Policy and Procedures Manual, Procedure No. B-007. CONTRACTOR's medical staff, accompanied by the correctional deputy, shall conduct regular observations of inmates who have been placed in sobering cells once every hour.

If CONTRACTOR, as a result of the observation, determines that further evaluation, monitoring, or treatment of an inmate in a sobering cell is needed, CONTRACTOR shall coordinate with HCSO staff to ensure that the appropriate monitoring, evaluation, and treatment is rendered to the inmate.

- 6) CONTRACTOR shall document the date and time and shall initial the special housing log used by COUNTY when they observe an inmate held in a sobering cell.
- 7) CONTRACTOR shall administer separate treatment protocols for opiate, alcohol, and benzodiazepine withdrawal.
- 8) CONTRACTOR shall provide individual treatment plans and treatment for all persons in custody with a need for drug and/or alcohol detoxification services.

D. Sick Call

- 1) CONTRACTOR shall conduct sick call daily except for weekends and holidays. Sick call shall be conducted in designated areas of the correctional facility, providing the inmate with as much privacy as security concerns may allow.
- 2) CONTRACTOR shall ensure that a physician, family nurse practitioner, physician assistant, or registered nurse shall conduct sick call pursuant to CONTRACTOR's applicable policies and procedures, as well as HCCF Policy and Procedures Manual, Procedure No. H-003. In the event of any conflict in policies and procedures between CONTRACTOR and HCCF, the policies and procedures set forth in HCCF Policy and Procedures Manual, Procedure No. H-003, shall take precedence and shall control, except in situations where it is determined that adherence to the HCCF Policy and Procedures Manual will compromise the health and safety of the inmate. CONTRACTOR shall further ensure that a physician provides consultation to medical staff at least weekly, and as needed on weekends and holidays.
- 3) CONTRACTOR shall schedule inmates requesting sick call as soon as possible and/or as medically indicated.

E. Off-Site Services

- 1) CONTRACTOR shall provide required medical/surgical inpatient hospital care, off-site medical specialty care, off-site medical clinic care, emergency room care, diagnostic services such as laboratory, radiology, etc., which cannot be provided on-site, and other health-related ancillary services for those inmates who have been medically cleared or booked and physically placed in the correctional facility.
- 2) All such care as described in paragraph E(1) above must be approved and referred by CONTRACTOR.
- 3) CONTRACTOR will not provide or make referrals for elective medical care that can safely be provided when an inmate is released from custody.
- 4) CONTRACTOR shall furnish outside providers with other third-party payor information when available.
- 5) CONTRACTOR shall make all referral arrangements for treatment of inmates with problems that may extend beyond the scope of services provided on-site.

- 6) CONTRACTOR shall make referrals for follow-up care in the inmate's county of residence.
- 7) CONTRACTOR'S responsibility in cases where extensive medical treatment is necessary shall be limited to Fifteen Thousand Dollars (\$15,000.00) net liability in outside medical expenses per individual inmate medical/surgical inpatient episode. CONTRACTOR is not responsible for costs related to psychiatric inpatient admissions. Episode means a single admission and discharge from a hospital.
- 8) CONTRACTOR'S responsibility for HIV/AIDS medications shall be subject to an annual aggregate limit of Ten Thousand Dollars (\$10,000).
- 9) CONTRACTOR shall ensure that the health care status of inmates admitted to off-site facilities is reviewed to ensure that the duration and cost of this stay is no longer or more intensive than medically necessary.
- 10) To the extent any inmate requires off-site non-emergency health care treatment including, but not limited to, hospitalization care and specialty services, for which care and services CONTRACTOR is obligated to pay under this Agreement, the COUNTY will, upon prior request by CONTRACTOR, provide transportation as reasonably available, provided such transportation is scheduled in advance. When medically necessary, CONTRACTOR shall provide all emergency transportation of inmates in accordance with the provisions of this Agreement.

F. Inmates Outside The Facilities

- 1) Health care services to be provided by CONTRACTOR are intended only for those inmates in the actual physical custody of the HCSO, including inmates in the HCCF and inmates under guard and/or HCSO jurisdiction in outside hospital (with the exception of inmates booked in absentia). Such inmates shall be included in the daily population count.
- 2) Inmates in the custody of other police or penal jurisdictions accepted for housing by either facility are included in the population count and are the responsibility of CONTRACTOR for furnishing or payment of health care services.

G. Medication Administration

- 1) CONTRACTOR shall be responsible for administering medications at the correctional facility.
- 2) During those times when an inmate is transported to court and needs to receive his/her medication, CONTRACTOR shall ensure medication is packaged in a manner allowing COUNTY to deliver the medication to the inmate in compliance with all applicable regulations.
- 3) Medications shall principally be administered twice daily, on a BID (*bis in die*) regime.
- 4) PRN (*pro re neata*, or as needed) medications shall principally be administered on a BID regime.
- 5) CONTRACTOR shall respond to requests for PRN medications at other times on an emergency basis as medically required.

- 6) CONTRACTOR shall ensure that all pharmaceuticals be used, stored, inventoried, and administered in accordance with all applicable laws, regulations, policies, and procedures.

H. Special Medical Diets

- 1) CONTRACTOR shall evaluate the need for and prescribe medically required special diets for inmates, as appropriate.
- 2) CONTRACTOR shall coordinate with COUNTY Food Service management staff regarding the types of special medical diets that can be offered to the inmate population.

I. Dental Services

- 1) CONTRACTOR shall be responsible for providing emergency dental services at HCCF in accordance with IMQ standards and any applicable HCCF policy and procedure.
- 2) The dental services shall be provided on-site at HCCF. This includes emergencies, except for life-threatening emergencies requiring the inmate to be transported to an emergency room.

J. Inmate Grievances

Upon COUNTY's request, and consistent with applicable HCCF policy and procedure, CONTRACTOR shall cooperate with COUNTY to promptly respond to any grievances made by any inmate concerning any provision of health care services provided at HCCF.

K. Confinement Records

COUNTY shall allow CONTRACTOR personnel access to inmate confinement records or other data only on a need-to-know basis if necessary to further the medical care of the inmate. CONTRACTOR personnel shall honor any and all COUNTY and HCSO rules and/or establish procedures for safeguarding the confidentiality of such records or data.

L. Discharge or Release From Custody

- 1) When an inmate is released from custody, CONTRACTOR shall provide sufficient information to the inmate and/or his/her authorized representative to ensure continuity of care, including providing information relating to an inmate's current treatment plan and ordering any required prescriptions from the pharmacy of the inmate's choosing.
- 2) CONTRACTOR and COUNTY shall utilize the following procedure when discharging inmates who are clients of the COUNTY's MH-SOC:
 - i. COUNTY shall notify CONTRACTOR of pending inmate discharge.
 - ii. CONTRACTOR shall obtain a release of medical information from the inmate prior to discharge.
 - iii. At the time of discharge, CONTRACTOR shall fax a list of essential medications to MH-SOC, as well as a list of the essential medications the inmate received while in custody.

SPECIFIC SERVICES TO BE PROVIDED AT JH:

A. Receiving Screening

- 1) COUNTY will complete intake health screenings forms seven (7) days per week.
- 2) CONTRACTOR shall respond to requests for consultation on screenings as required.
- 3) CONTRACTOR may, at its option, require minors to receive outside medical evaluation and treatment prior to being admitted into the detention facility.

B. Health Inventory and Communicable Disease Screening

- 1) CONTRACTOR shall perform a Health Inventory and Communicable Disease Screening on all minors within 96 hours of initial admission to the detention facility.
- 2) CONTRACTOR shall ensure that a physician, family nurse practitioner, physician assistant, licensed vocational nurse, or registered nurse specifically trained to conduct health appraisals shall complete the Health Inventory and Communicable Disease Screening.
- 3) CONTRACTOR shall ensure that lab tests are performed as medically indicated under IMQ standards.
- 4) CONTRACTOR shall perform a medical examination on every minor who is admitted to the detention facility following admission, in accordance with CCR Title 15, Article 8, Section 4300.
- 5) CONTRACTOR shall develop a set of procedures for immunizations (measles, mumps, and rubella, etc.) to address the needs of any minors with special healthcare issues.
- 6) CONTRACTOR shall initiate treatment of minors in custody who have been exposed to and/or are presumed to have an infectious disease, scabies, or lice.
- 7) CONTRACTOR shall perform HIV/AIDS screening and diagnostic testing and treatment of minors in custody, who are at high risk for AIDS and/or as is medically indicated.

C. Detoxification from Drugs and/or Alcohol

- 1) CONTRACTOR shall confirm that a medical clearance has been obtained from an Emergency Room physician, or other hospital-based emergency medical care provider, prior to assessing or evaluating any minor who displays outward signs of intoxication, or is known or suspected to have ingested any substance that could result in a medical emergency.
- 2) CONTRACTOR shall cooperate with COUNTY's Chief Probation Officer or his/her designee to ensure policies and procedures are appropriate, and a safe setting exists at the detention facility to accept and monitor medically cleared intoxicated minors.
- 3) CONTRACTOR shall determine when the minor is no longer considered intoxicated and shall advise COUNTY when the monitoring requirements for intoxicated minors are no longer required.

D. Sick Call

- 1) CONTRACTOR shall conduct sick call daily, except for weekends and holidays. Sick call shall be conducted in designated areas of the detention facility, providing the minor with as much privacy as security concerns allow.

- 2) CONTRACTOR shall ensure that a physician, family nurse practitioner, physician assistant, or registered nurse shall conduct sick call. CONTRACTOR shall further ensure that a physician provide consultation to medical staff at least weekly, and as needed on weekends and holidays.
- 3) CONTRACTOR shall schedule minors requesting sick call as soon as possible and/or as medically indicated.

E. Off-Site Services

- 1) CONTRACTOR shall provide required medical/surgical inpatient hospital care, off-site medical specialty care, off-site medical clinic care, emergency room care, diagnostic services such as laboratory, radiology, etc., which cannot be performed on-site, and other health-related ancillary services for those minors who have been booked, medically cleared, admitted and physically placed in the detention facility.
- 2) All such care as described in paragraph E(1) above must be approved and referred by CONTRACTOR.
- 3) CONTRACTOR will not provide or make referrals for elective medical care that can safely be provided when a minor is released from custody.
- 4) CONTRACTOR shall provide outside providers with other third-party payor information when available.
- 5) CONTRACTOR shall make all referral arrangements for treatment of minors with problems that may extend beyond the scope of services provided on-site.
- 6) CONTRACTOR shall make referrals for follow-up care in the minor's county of residence.
- 7) CONTRACTOR's responsibility in cases where extensive medical treatment is necessary shall be limited to Fifteen Thousand Dollars (\$15,000.00) net liability in outside medical expenses per individual inmate medical/surgical inpatient episode. CONTRACTOR is not responsible for costs related to psychiatric inpatient admissions. Episode means a single admission and discharge from a hospital.
- 8) CONTRACTOR'S responsibility for HIV/AIDS medications shall be subject to an annual aggregate limit of Ten Thousand Dollars (\$10,000).
- 9) CONTRACTOR shall ensure that the health care status of minors admitted to off-site facilities is reviewed to ensure that the duration and cost of this stay is no longer or more intensive than medically necessary.
- 10) To the extent any minor requires off-site non-emergency health care treatment including, but not limited to, hospitalization care and specialty services, for which care and services CONTRACTOR is obligated to pay under this Agreement, the COUNTY will, upon prior request by CONTRACTOR, provide transportation as reasonably available, provided such transportation is scheduled in advance. When medically necessary, CONTRACTOR shall provide all emergency transportation of minors in accordance with the provisions of this Agreement.

F. Medication Administration

CONTRACTOR shall be available to administer all medications, including over-the-counter medications during regular CONTRACTOR staff shifts.

G. Special Medical Diets

- 1) CONTRACTOR shall evaluate the need for and prescribe medically required special diets for minors, as appropriate.
- 2) CONTRACTOR shall coordinate with COUNTY Food Service management staff regarding the types of special medical diets that can be offered to the minor population.

H. Dental Services

CONTRACTOR shall be responsible for providing emergency dental services in accordance with IMQ standards and any applicable JH policy and procedure, including but not limited to the administration of medication for pain management. CONTRACTOR shall make appropriate referrals for dental services to be performed off-site, as necessary, and shall coordinate and manage any and all dental services provided to minors either onsite or off-site.

I. Grievances By Minors

Upon COUNTY's request, and consistent with applicable JH policy and procedure, CONTRACTOR shall cooperate with COUNTY to promptly respond to any grievances made by any minor concerning any provision of health care services provided at JH.

J. Discharge or Release From Custody

- 1) When a minor is released from custody, CONTRACTOR shall provide sufficient information to the minor and/or his/her authorized representative/guardian to ensure continuity of care, including providing information relating to the minor's current treatment plan and ordering any required prescriptions from the pharmacy of the minor's choosing.
- 2) CONTRACTOR and COUNTY shall utilize the following procedure when discharging minors who are clients of the COUNTY's MH-SOC:
 - iv. COUNTY shall notify CONTRACTOR of pending minor discharge.
 - v. CONTRACTOR shall obtain a release of medical information from the minor's authorized representative or guardian prior to discharge.
 - vi. At the time of discharge, CONTRACTOR shall fax a list of essential medications to MH-SOC, as well as a list of the essential medications the minor received while in custody.

EXHIBIT B

SCHEDULES OF RATES

For the contractual term period of October 1, 2016 to September 30, 2017, the annual maximum Base Amount payable by COUNTY for services rendered by CONTRACTOR, and costs and expenses incurred, is Two Million, Nine Hundred Eight Thousand, Eighty Dollars (2,908,080), or Two Hundred Forty-Two Thousand Three, Hundred Forty Dollars (\$242,340) per month.

Beginning December 1, 2016, in anticipation of CONTRACTOR expanding nursing staff to add a Receiving Nurse on a twenty-four hour, seven-day per week basis, the annual maximum Base Amount payable by COUNTY for services rendered by CONTRACTOR, and costs and expenses incurred, will increase to Three Million, Five Hundred Sixty Thousand, Nine Hundred Fifty-Two Dollars (\$3,560,952), or Two Hundred Ninety-Six Thousand, Seven Hundred Forty-Six Dollars (\$296,746) per month. The annual maximum Base Amount will not be increased unless and until CONTRACTOR has satisfactorily added the personnel described above.

In the event CONTRACTOR is able to provide the additional personnel prior to December 1, 2016, the monthly Base Amount of Two Hundred Forty-Two Thousand, Three Hundred Forty Dollars (\$242,340) will increase by One Thousand, Seven Hundred Eighty-Nine Dollars (\$1,789) per day. CONTRACTOR agrees to perform all services required by this Agreement for an amount not to exceed such annual maximum dollar base amount.

In addition to the Base Amount, a Per Diem charge of \$5.11 per inmate per day will be imposed when the combined average daily inmate population (ADIP) at HCCF exceeds 444 inmates. Per Diem payments, if any, will be billed separately by CONTRACTOR on a quarterly basis as of March 31st, June 30th, September 30th and December 31st determined by the three (3) previous month's average ADIP.

The Base Amount will be adjusted annually on the anniversary of the initial contract term by an annual price adjustment based upon the percentage change in the annual Consumer Price Index (CPI), for All Urban Consumers, Western Urban Region, Medical Care, as determined on the last day of February. This Agreement shall be promptly amended to reflect any such price adjustment.

EXHIBIT C

HUMBOLDT COUNTY MINIMUM STAFFING LEVELS

CONTRACTOR shall staff the FACILITIES with medical and dental professionals commensurate with their job duties at the full time equivalent level and classification as required for CONTRACTOR to fulfill their responsibilities under this Agreement. CONTRACTOR's staffing pattern shall comply with Title 15 of the California Code of Regulations. At a minimum, CONTRACTOR must provide staffing as follows:

<p>HUMBOLDT COUNTY, CA STAFFING PATTERN</p> <p>ADIP 444</p> <p>October 1, 2016</p>
--

POSITION	S	M	T	W	T	F	S	HRS	FTE	FAC
Program Manager		8-4	8-4	8-4	8-4	8-4		40	1.0	All
P.A./F.N.P.		8-4	8-4	8-4	8-4	8-4		40	1.0	All
Receiving RN	8-4	8-4	8-4	8-4	8-4	8-4	8-4	56	1.4	HCCF
Charge RN		8-4	8-4	1-9	1-9			32	0.8	All
L.V.N.	8-4	8-4	8-4	8-4	8-4	8-4	8-4	56	1.4	HCCF
Pill Pass L.V.N.	a.m.						a.m.	4	0.1	JH/RF
Clerk		7-3	7-3	7-3	7-3	7-3		40	1.0	All
R.N.	3-11	3-11	3-11	3-11	3-11	3-11	3-11	56	1.4	HCCF
Receiving RN	4-12	4-12	4-12	4-12	4-12	4-12	4-12	56	1.4	HCCF
L.V.N.	4-12	4-12	4-12	4-12	4-12	4-12	4-12	56	1.4	HCCF
Pill Pass L.V.N.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	14	0.4	JH/RF
L.V.N.	12-8	12-8	12-8	12-8	12-8	12-8	12-8	56	1.4	HCCF
R.N.	12-8	12-8	12-8	12-8	12-8	12-8	12-8	56	1.4	HCCF
Receiving RN	12-8	12-8	12-8	12-8	12-8	12-8	12-8	56	1.4	HCCF
R.N.		8-2	8-2	8-2	8-4	8-2		32	0.8	JH
R.N.	8 hours per week							8	0.2	RF
Nursing Relief/OT/Training								125	3.1	All

Medical Director/Physician	8 hours per week To Be Determined	8	0.2	All
Dentist	8 hours per week To Be Determined	8	0.2	HCCF
Dental Assistant	8 hours per week To Be Determined	8	0.2	HCCF
Medical On-Call	24 hours a day, 7 days a week			All

NOTE: Physician hours may be substituted for FNP/PA hours on a one for two basis and must be provided in the facilities.

Days	7-3, 8-4, 8-2
Evenings	4-12
Nights	12-8

PA = Physician Assistant

HCCF = Humboldt County Correctional Facility

FNP = Family Nurse Practitioner

JH = Humboldt County Juvenile Hall

L.V.N. = License Vocational Nurse

RF = Northern California Regional Facility

R.N. = Registered Nurse

EXHIBIT D

PENALTIES FOR FAILURE TO COMPLY WITH MINIMUM STAFFING LEVELS

In the event CONTRACTOR fails to maintain staffing at the minimum levels outlined in Exhibit C of this Agreement, and to the extent the vacancies exist or positions are filled with unqualified staff for more than three (3) days, a penalty shall be imposed. CONTRACTOR shall be assessed a penalty in an amount equal to the prevailing daily rate for each position that is vacant or filled with unqualified staff. Penalties shall continue to accrue daily for each position that remains vacant or filled with unqualified staff.

Positions subject to the penalty assessment include:

- Medical Program Manager
- Family Nurse Practitioner
- Physician Assistant
- Registered Nurse
- Licensed Vocational Nurse
- Medical Director/Physician
- Dentist
- Dental Assistant

CONTRACTOR shall notify the COUNTY within eight (8) hours if any such vacancy exists or positions are filled with unqualified staff for more than three (3) days.

After determining penalty assessments, COUNTY will deduct this amount from the next payment due to CONTRACTOR.

EXHIBIT E
COUNTY OF HUMBOLDT
HIPAA BUSINESS ASSOCIATE AGREEMENT

Recitals:

- A. COUNTY, as a “Covered Entity” (defined below) wishes to disclose certain information to CONTRACTOR, hereafter known as the “BUSINESS ASSOCIATE” (defined below) pursuant to the terms of the Agreement, some of which may constitute Protected Health Information (“PHI”) (defined below).
- B. COUNTY and BUSINESS ASSOCIATE intend to protect the privacy and provide for the security of PHI disclosed to BUSINESS ASSOCIATE pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), the Health Information and Technology for Economic and Clinical Health Act, Public Law 111-005 (“the HITECH Act”), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the “HIPAA Regulations”) and other applicable laws.
- C. As part of the HIPAA Regulations, the Privacy Rule and Security Rule (defined below) requires COUNTY to enter into an Agreement containing specific requirements with BUSINESS ASSOCIATE prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e), and 164.504(e) of the Code of Federal Regulations (“C.F.R”) and contained in this Agreement.

The parties agree as follows:

1. Definitions

- a. **Breach** shall have the meaning given to such term under the HITECH Act and HIPAA Regulations [42 U.S.C. Section 17921 and 45 C.F.R. Section 164.402].
- b. **Breach Notification Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and D.
- c. **Business Associate** shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including, but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.
- d. **Covered Entity** shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.
- e. **Designated Record Set** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- f. **Electronic Protected Health Information** means Protected Health Information that is maintained in or transmitted by electronic media.
- g. **Electronic Health Record** shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921.
- h. **Health Care Operations** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- i. **Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.
- j. **Protected Health Information or PHI** means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect

to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to the term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501. Protected Health Information includes Electronic Protected Health Information [45 C.F.R. Sections 160.103, 164.501].

- k. **Protected Information** shall mean PHI provided by COUNTY to BUSINESS ASSOCIATE or created, maintained, received, or transmitted by BUSINESS ASSOCIATE on COUNTY's behalf.
- l. **Security Incident** shall have the same meaning given to such term under the Security Rule, including, but not limited to, 45 C.F.R. Section 164.304.
- m. **Security Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.
- n. **Unsecured PHI** shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h) and 45 C.F.R. Section 164.402.

2. **Obligations of Business Associate**

- a. **Permitted Uses.** BUSINESS ASSOCIATE shall use Protected Information only for the purpose of performing BUSINESS ASSOCIATE's obligations under the Agreement and as permitted or required under the Agreement, or as required by law. Further, BUSINESS ASSOCIATE shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by COUNTY. However, BUSINESS ASSOCIATE may use Protected Information as necessary (i) for the proper management and administration of BUSINESS ASSOCIATE; (ii) to carry out the legal responsibilities of BUSINESS ASSOCIATE; or (iii) as required by law. [45 C.F.R. Sections 164.504(e)(2), 164.504(e)(4)(i)].
- b. **Permitted Disclosures.** BUSINESS ASSOCIATE shall disclose Protected Information only for the purpose of performing BUSINESS ASSOCIATE's obligations under the Agreement and as permitted or required under the Agreement, or as required by law. BUSINESS ASSOCIATE shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by COUNTY. However, BUSINESS ASSOCIATE may disclose Protected Information as necessary (i) for the proper management and administration of BUSINESS ASSOCIATE; (ii) to carry out the legal responsibilities of BUSINESS ASSOCIATE; or (iii) as required by law. If BUSINESS ASSOCIATE discloses Protected Information to a third party, BUSINESS ASSOCIATE must obtain, prior to making any such disclosure, (i) reasonable *written* assurances from such third party that such Protected Information will be held confidential as provided pursuant to this Agreement and used or disclosed only as required by law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify BUSINESS ASSOCIATE of any breaches, suspected breaches, security incidents, or unauthorized uses or disclosures of the Protected Information in accordance with paragraph 2.1. of the Agreement, to the extent it has obtained knowledge of such occurrences [42 U.S.C. Section 17932; 45 C.F.R. Section 164.504(e)].
- c. **Prohibited Uses and Disclosures.** BUSINESS ASSOCIATE shall not use or disclose PHI other than as permitted or required by the Agreement, or as required by law. BUSINESS ASSOCIATE shall not use or disclose Protected Information for fundraising or marketing purposes. BUSINESS ASSOCIATE shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which PHI solely relates [42 U.S.C. Section 17935(a) and 45 C.F.R. Section 164.522(a)(vi)]. BUSINESS ASSOCIATE shall not directly or indirectly receive remuneration in exchange for Protected Information, except with prior written consent of COUNTY and as permitted by the HITECH Act, 42 U.S.C. Section 17935(d)(2), and the HIPAA regulations, 45 C.F.R. Section 164.502(a)(5)(ii); however this prohibition shall not affect payment by COUNTY to BUSINESS ASSOCIATE for services provided pursuant to the Agreement.

- d. **Appropriate Safeguards.** BUSINESS ASSOCIATE shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information otherwise than as permitted by the Agreement, including, but not limited to, administrative, physical and technical safeguards in accordance with the Security Rule, including but not limited to, 45 C.F.R. Sections 164.308, 164.310, and 164.312. [45 C.F.R. Section 164.504(e)(2)(ii)(B); 45 C.F.R. Section 164.308(b)]. BUSINESS ASSOCIATE shall comply with the policies, procedures and documentation requirements of the Security Rule, including, but not limited to, 45 C.F.R. Section 164.316. [42 U.S.C. Section 17931].
- e. **Business Associate's Subcontractors and Agents.** BUSINESS ASSOCIATE shall ensure that any agents and subcontractors that create, receive, maintain or transmit Protected Information on behalf of COUNTY, agree in writing to the same restrictions and conditions that apply to COUNTY with respect to such Protected Information and implement the safeguards required by paragraph 2.d. above with respect to Electronic PHI [45 C.F.R. Section 164.504(e)(2)(ii)(D); 45 C.F.R. Section 164.308(b)]. BUSINESS ASSOCIATE shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation (see 45 C.F.R. Sections 164.530(f) and 164.530(e)(1)).
- f. **Access to Protected Information.** If BUSINESS ASSOCIATE maintains a designated record set on behalf of COUNTY, BUSINESS ASSOCIATE shall make Protected Information maintained by BUSINESS ASSOCIATE or its agents or subcontractors in Designated Record Sets available to COUNTY for inspection and copying within five (5) days of a request by COUNTY to enable COUNTY to fulfill its obligations under state law [California Health and Safety Code Section 123110] and the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.524 [45 C.F.R. Section 164.504(e)(2)(ii)(e)]. If BUSINESS ASSOCIATE maintains Protected Information in electronic format, BUSINESS ASSOCIATE shall provide such information in electronic format as necessary to enable COUNTY to fulfill its obligations under the HITECH Act and HIPAA Regulations, including, but not limited to, 42 U.S.C. Section 17935(e) and 45 C.F.R. Section 164.524.
- g. **Amendment of PHI.** If BUSINESS ASSOCIATE maintains a designated record set on behalf of COUNTY, within ten (10) days of a request by COUNTY for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, BUSINESS ASSOCIATE and its agents and subcontractors shall make such Protected Information available to COUNTY for amendment and incorporate any such amendment or other documentation to enable COUNTY to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.526. If an individual requests an amendment of Protected Information directly from BUSINESS ASSOCIATE or its agents or subcontractors, BUSINESS ASSOCIATE must notify COUNTY in writing within five (5) days of the request and of any approval or denial of amendment of Protected Information maintained by BA or its agents or subcontractors [45 C.F.R. Section 164.504(e)(2)(ii)(F)].
- h. **Accounting of Disclosures.** Within ten (10) days of a request by COUNTY for an accounting of disclosures of Protected Information, BUSINESS ASSOCIATE and its agents and subcontractors shall make available to COUNTY the information required to provide an accounting of disclosures to enable COUNTY to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.528, and the HITECH Act, including but not limited to 42 U.S.C. Section 17935(c), as determined by COUNTY. BUSINESS ASSOCIATE agrees to implement a process that allows for an accounting to be collected and maintained by BUSINESS ASSOCIATE and its agents and subcontractors for at least six (6) years prior to the request. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that BUSINESS ASSOCIATE maintains an Electronic Health Record. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii)

the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed; and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure. If a patient submits a request for an accounting directly to BUSINESS ASSOCIATE or its agents or subcontractors, BUSINESS ASSOCIATE shall within five (5) days of the request forward it to COUNTY in writing.

- i. **Governmental Access to Records.** BUSINESS ASSOCIATE shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to COUNTY and to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of determining BUSINESS ASSOCIATE's compliance with HIPAA [45 C.F.R. Section 164.504(e)(2)(ii)(I)]. BUSINESS ASSOCIATE shall provide COUNTY a copy of any Protected Information and other documents and records that BUSINESS ASSOCIATE provides to the Secretary concurrently with providing such Protected Information to the Secretary.
- j. **Minimum Necessary.** BUSINESS ASSOCIATES, its agents and subcontractors shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request, use or disclosure. [42 U.S.C. Section 17935(b); 45 C.F.R. Section 164.514(d)]. BUSINESS ASSOCIATE understands and agrees that the definition of "minimum necessary" is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes "minimum necessary."
- k. **Data Ownership.** BUSINESS ASSOCIATE understands that BUSINESS ASSOCIATE has no ownership rights with respect to the Protected Information.
- l. **Notification of Possible Breach.** BUSINESS ASSOCIATE shall notify COUNTY within twenty-four (24) hours of any suspected or actual breach of Protected Information; any use or disclosure of Protected Information not permitted by the Agreement; any security incident (i.e., any attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system) related to Protected Information, and any actual or suspected use or disclosure of data in violation of any applicable federal or state laws by BUSINESS ASSOCIATE or its agents or subcontractors. The notification shall include, to the extent possible, the identification of each individual whose unsecured Protected Information has been, or is reasonably believed by the BUSINESS ASSOCIATE to have been accessed, acquired, used, or disclosed, as well as any other available information that COUNTY is required to include in notification to the individual, the media, the Secretary, and any other entity under the Breach Notification Rule and any other applicable state or federal laws, including, but not limited, to 45 C.F.R. Section 164.404 through 45 C.F.R. Section 164.408, at the time of the notification required by this paragraph or promptly thereafter as information becomes available. BUSINESS ASSOCIATE shall take (i) prompt corrective action to cure any deficiencies and (ii) any action pertaining to unauthorized uses or disclosures required by applicable federal and state laws. [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)].
- m. **Breach Pattern or Practice by Business Associate's Subcontractors and Agents.** Pursuant to 42 U.S.C. Section 17934(b) and 45 C.F.R. Section 164.504(e)(1)(ii), if BUSINESS ASSOCIATE knows of a pattern or activity or practice of a subcontractor or agent that constitutes a material breach or violation of the subcontractor or agent's obligations under the Agreement or other arrangement, BUSINESS ASSOCIATE must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, BUSINESS ASSOCIATE must terminate the Agreement or other arrangement if feasible. BUSINESS ASSOCIATE shall provide written notice to COUNTY of any pattern of activity or practice of a subcontractor or agent that BUSINESS ASSOCIATE believes constitutes a material breach or violation of the subcontractor or agent's

obligations under the Agreement or other arrangement within five (5) days of discovery and shall meet with COUNTY to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.

- n. **Audits, Inspection and Enforcement.** Within ten (10) days of a request by COUNTY, BUSINESS ASSOCIATE and its agents and subcontractors shall allow COUNTY or its agents or subcontractors to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of Protected Information pursuant to this Agreement for the purpose of determining whether BUSINESS ASSOCIATE has complied with this Agreement or maintains adequate security safeguards. BUSINESS ASSOCIATE shall notify COUNTY within five (5) days of learning that BUSINESS ASSOCIATE has become the subject of an audit, compliance review, or complaint investigation by the Office for Civil Rights or other state or federal government entity.

3. Termination

- a. **Material Breach.** A breach by BUSINESS ASSOCIATE of any provision of this Agreement, as determined by COUNTY, shall constitute a material breach of the Agreement and shall provide grounds for *immediate* termination of the Agreement, any provision in the Agreement to the contrary notwithstanding. [45 C.F.R. Section 164.504(e)(2)(iii)].
 - b. **Effect of Termination.** Upon termination of the Agreement for any reason, BUSINESS ASSOCIATE shall, at the option of COUNTY, return or destroy all Protected Information that BUSINESS ASSOCIATE or its agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by COUNTY, BUSINESS ASSOCIATE shall continue to extend the protections of Section 2 of this Agreement to such information, and limit further use and disclosure of such PHI to those purposes that make the return or destruction of the information infeasible [45 C.F.R. Section 164.504(e)(ii)(2)(J)]. If COUNTY elects destruction of the PHI, BUSINESS ASSOCIATE shall certify in writing to COUNTY that such PHI has been destroyed in accordance with the Secretary's guidance regarding proper destruction of PHI.
4. **Interpretation.** Any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act, and the HIPAA regulations.