



AGENDA

KERN COUNTY HOSPITAL AUTHORITY BOARD OF GOVERNORS

**Kern Medical
1700 Mount Vernon Avenue
Conference Room 1058
Bakersfield, California 93306**

**Regular Meeting
Wednesday, January 17, 2018**

11:30 A.M.

BOARD TO RECONVENE

Board Members: Berjis, Bigler, Lawson, McGauley, McLaughlin, Pelz, Sistrunk
Roll Call:

CONSENT AGENDA/OPPORTUNITY FOR PUBLIC COMMENT: ALL ITEMS LISTED WITH A "CA" ARE CONSIDERED TO BE ROUTINE AND NON-CONTROVERSIAL BY KERN COUNTY HOSPITAL AUTHORITY STAFF. THE "CA" REPRESENTS THE CONSENT AGENDA. CONSENT ITEMS WILL BE CONSIDERED FIRST AND MAY BE APPROVED BY ONE MOTION IF NO MEMBER OF THE BOARD OR AUDIENCE WISHES TO COMMENT OR ASK QUESTIONS. IF COMMENT OR DISCUSSION IS DESIRED BY ANYONE, THE ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND WILL BE CONSIDERED IN LISTED SEQUENCE WITH AN OPPORTUNITY FOR ANY MEMBER OF THE PUBLIC TO ADDRESS THE BOARD CONCERNING THE ITEM BEFORE ACTION IS TAKEN.

STAFF RECOMMENDATION SHOWN IN CAPS



PUBLIC PRESENTATIONS

- 1) This portion of the meeting is reserved for persons to address the Board on any matter not on this agenda but under the jurisdiction of the Board. Board members may respond briefly to statements made or questions posed. They may ask a question for clarification, make a referral to staff for factual information or request staff to report back to the Board at a later meeting. Also, the Board may take action to direct the staff to place a matter of business on a future agenda. **SPEAKERS ARE LIMITED TO TWO MINUTES. PLEASE STATE AND SPELL YOUR NAME BEFORE MAKING YOUR PRESENTATION. THANK YOU!**

BOARD MEMBER ANNOUNCEMENTS OR REPORTS

- 2) On their own initiative, Board members may make an announcement or a report on their own activities. They may ask a question for clarification, make a referral to staff or take action to have staff place a matter of business on a future agenda (Government Code section 54954.2(a)(2))

RECOGNITION

- 3) Presentation by the Chief Executive Officer recognizing Michael J. Eagan, M.D –
MAKE PRESENTATION

ITEMS FOR CONSIDERATION

CA

- 4) Minutes for Kern County Hospital Authority Board of Governors regular meeting on December 13, 2017 –
APPROVE
- 5) Proposed presentation regarding Kern Medical sexual harassment policies and employee education –
MAKE PRESENTATION; RECEIVE AND FILE

CA

- 6) Proposed Agreement with Matthew M. Malerich, M.D., Incorporated, an independent contractor, for professional medical services in the Department of Surgery from April 9, 2018 through April 8, 2021, in an amount not to exceed \$2,700,000 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 7) Proposed Agreement with Desert Hand and Plastic Surgery PC, an independent contractor, for professional medical services in the Department of Surgery from April 9, 2018 through April 8, 2021, in an amount not to exceed \$2,700,000 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 8) Proposed Agreement with Medtronic USA, Inc., an independent contractor, containing nonstandard terms and conditions, for the consigned purchase of Protégé carotid stent systems, effective January 17, 2018, in an annual amount estimated not to exceed \$52,320 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 9) Proposed retroactive Amendment No. 1 to Agreement 210-2016 with the County of Kern for employee benefit services, extending the provision of services, effective July 1, 2016 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 10) Proposed retroactive Resolution specifying the powers and duties of the Kern County Hospital Authority Chief Financial Officer, effective July 1, 2016 –
APPROVE; ADOPT RESOLUTION

CA

- 11) Proposed Agreement with HireRight, LLC, an independent contractor, containing nonstandard terms and conditions, for background screening products and services from January 17, 2018 through January 16, 2021, in an amount estimated not to exceed \$75,000 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 12) Proposed acceptance of donation from CSAC EIA for travel and related expenses to cover all costs for one or more Kern Medical employees to attend the Division of Workers' Compensation "25th Annual DWC Educational Conference" in Los Angeles, California, from February 12-13, 2018 –
APPROVE; ADOPT RESOLUTION

- 13) Request to employ retired Kern County Hospital Authority employee Rose Bauer, as Extra Help Clinical Pharmacist, for the period ending June 30, 2018, or 960 hours, whichever occurs first, effective January 20, 2018 –
APPROVE

- 14) Kern County Hospital Authority Chief Financial Officer report –
RECEIVE AND FILE

- 15) Kern County Hospital Authority Chief Executive Officer report –
RECEIVE AND FILE

CA

- 16) Claims and Lawsuits Filed as of December 31, 2017 –
RECEIVE AND FILE

ADJOURN TO CLOSED SESSION

CLOSED SESSION

- 17) Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) –
- 18) Request for Closed Session for the purpose of discussion or taking action on authority trade secrets (Health and Safety Code Section 101855(e)(1)) –
- 19) CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Chief Executive Officer Russell V. Judd, and designated staff - Employee organizations: Service Employees International Union, Local 521 (Government Code Section 54957.6) –
- 20) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Farzin Tayefeh, M.D., et al. v. County of Kern, et al., Kern County Superior Court, Case No. BCV-15-100647 LHB
- 21) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Kern Emergency Physicians Medical Group, a California general partnership v. County of Kern, et al., Kern County Superior Court, Case No. S-1500-CV-283225 LHB –
- 22) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Brandy Hernandez aka Brandy Desrocher, an individual v. County of Kern, et al., Kern County Superior Court, Case No. BCV-17-102820 SDS –

RECONVENE FROM CLOSED SESSION

REPORT ON ACTIONS TAKEN IN CLOSED SESSION

ADJOURN TO WEDNESDAY, FEBRUARY 21, 2018, AT 11:30 A.M.

SUPPORTING DOCUMENTATION FOR AGENDA ITEMS

All agenda item supporting documentation is available for public review at Kern Medical Center in the Administration Department, 1700 Mount Vernon Avenue, Bakersfield, 93306 during regular business hours, 8:00 a.m. – 5:00 p.m., Monday through Friday, following the posting of the agenda. Any supporting documentation that relates to an agenda item for an open session of any regular meeting that is distributed after the agenda is posted and prior to the meeting will also be available for review at the same location.

AMERICANS WITH DISABILITIES ACT (Government Code Section 54953.2)

The Kern Medical Center Conference Room is accessible to persons with disabilities. Disabled individuals who need special assistance to attend or participate in a meeting of the Kern County Hospital Authority Board of Governors may request assistance at Kern Medical Center in the Administration Department, 1700 Mount Vernon Avenue, Bakersfield, California, or by calling (661) 326-2102. Every effort will be made to reasonably accommodate individuals with disabilities by making meeting material available in alternative formats. Requests for assistance should be made five (5) working days in advance of a meeting whenever possible.

- 15) CLAIMS AND LAWSUITS FILED AS OF DECEMBER 31, 2017 –
RECEIVE AND FILE
- A) Complaint for Damages in the matter of Brandy Hernandez aka Brandy Desrocher, an individual v. County of Kern, et al., Kern County Superior Court, Case No. BCV-17-102820 SDS
 - B) Complaint for Damages in the matter of Genoveva Robles and Melvin Robles v. Kern Medical Center, et al., Kern County Superior Court, Case No. BCV-17-102395 TSC
 - C) Complaint for Damages in the matter of Sara Ruiz v. Kern County Hospital Authority, et al., Kern County Superior Court, Case No. BCV-17-102789 DRL
 - D) Claim in the matter of Lois Dewater v. Kern County Hospital Authority



SUMMARY OF PROCEEDINGS

KERN COUNTY HOSPITAL AUTHORITY BOARD OF GOVERNORS

**Kern Medical
1700 Mount Vernon Avenue
Conference Room 1058
Bakersfield, California 93306**

**Regular Meeting
Wednesday, December 13, 2017**

11:30 A.M.

BOARD RECONVENED

Directors present: Berjis, Bigler, Lawson, McLaughlin, Sistrunk
Directors absent: McGauley, Pelz

NOTE: The vote is displayed in bold below each item. For example, Lawson-McLaughlin denotes Director Lawson made the motion and Vice Chair McLaughlin seconded the motion.

CONSENT AGENDA/OPPORTUNITY FOR PUBLIC COMMENT: ALL ITEMS LISTED WITH A "CA" WERE CONSIDERED TO BE ROUTINE AND APPROVED BY ONE MOTION.

BOARD ACTION SHOWN IN CAPS

PUBLIC PRESENTATIONS

- 1) This portion of the meeting is reserved for persons to address the Board on any matter not on this agenda but under the jurisdiction of the Board. Board members may respond briefly to statements made or questions posed. They may ask a question for clarification, make a referral to staff for factual information or request staff to report back to the Board at a later meeting. Also, the Board may take action to direct the staff to place a matter of business on a future agenda. **SPEAKERS ARE LIMITED TO TWO MINUTES. PLEASE STATE AND SPELL YOUR NAME BEFORE MAKING YOUR PRESENTATION. THANK YOU!**

NO ONE HEARD

BOARD MEMBER ANNOUNCEMENTS OR REPORTS

- 2) On their own initiative, Board members may make an announcement or a report on their own activities. They may ask a question for clarification, make a referral to staff or take action to have staff place a matter of business on a future agenda (Government Code section 54954.2(a)(2))

CHAIRMAN BIGLER CONGRATULATED DIRECTOR LAWSON ON HER REAPPOINTMENT TO THE KERN COUNTY HOSPITAL AUTHORITY BOARD OF GOVERNORS BY THE KERN COUNTY BOARD OF SUPERVISORS

RECOGNITION

- 3) Presentation by the Associate Hospital Administrator recognizing the Kern Medical Epilepsy Monitoring Unit –
MADE PRESENTATION

PUBLIC REQUEST

- 4) Request of Erica Easton, Executive Director, Kern Medical Foundation, to address the Board regarding Foundation programs and services and the Kern Medical Auxiliary –
MADE PRESENTATION

ITEMS FOR CONSIDERATION

CA

- 5) Minutes for Kern County Hospital Authority Board of Governors regular meeting on November 15, 2017 –
APPROVED
Lawson-McLaughlin: 5 Ayes; 2 Absent - McGauley, Pelz

CA

- 6) Proposed retroactive Agreement with Compass Group USA, Inc., by and through its subsidiary, Crothall Healthcare, Inc., an independent contractor, for management of the environmental services departments from December 1, 2017 through November 30, 2023, in an amount not to exceed \$3,263,690 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 092-2017
Lawson-McLaughlin: 5 Ayes; 2 Absent - McGauley, Pelz

CA

- 7) Proposed Amendment No. 1 to Agreement 390-2015 with Bao Quynh N. Huynh, M.D., a contract employee, for professional medical services in the Department of Medicine, for the period July 8, 2015 through July 7, 2018, extending the term from July 8, 2018 through December 13, 2020, revising the compensation methodology, and increasing the maximum payable by \$1,575,000, from \$1,228,000 to \$2,803,000, to cover the extended term –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 093-2017
Lawson-McLaughlin: 5 Ayes; 2 Absent - McGauley, Pelz

CA

- 8) Proposed Agreement with Kern Vascular Call Group, Inc., an independent contractor, for professional medical services in the Department of Surgery from January 15, 2018 through January 14, 2019, in an amount not to exceed \$600,000 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 094-2017
Lawson-McLaughlin: 5 Ayes; 2 Absent - McGauley, Pelz

CA

- 9) Proposed Amendment No. 1 to Agreement 909-2015 with Eugene H. Roos, D.O., an independent contractor, for professional medical services in the Department of Radiology, for the period December 17, 2015 through December 16, 2017, extending the term for one year from December 17, 2017 through December 16, 2018, and increasing the maximum payable by \$385,000, from \$730,000 to \$1,115,000, to cover the extended term –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 095-2017
Lawson-McLaughlin: 5 Ayes; 2 Absent - McGauley, Pelz

CA

- 10) Request to employ retired Kern County Hospital Authority employee Rosa Martinez, as Extra Help Physician Assistant, for the period ending June 30, 2018, or 960 hours, whichever occurs first, effective December 14, 2017 –
APPROVED
Lawson-McLaughlin: 5 Ayes; 2 Absent - McGauley, Pelz

CA

- 11) Proposed rescission of Agreements 088-2017, 089-2017, 090-2017 and 091-2017 with McKesson Technologies LLC, an independent contractor, and proposed approval of Agreements (IWS-249098, IWS-249089, IWS-248055, IWS-166248) with McKesson Technologies LLC, containing nonstandard terms and conditions, for purchase of the picture archiving and communication system (PACS) from December 13, 2017 through December 12, 2024, in an amount not to exceed \$4,544,192 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENTS 096-2017, 097-2017, 098-2017 AND 099-2017
Lawson-McLaughlin: 5 Ayes; 2 Absent - McGauley, Pelz

- 12) Request to employ retired Kern County Hospital Authority employee Scott Cote, as Extra Help Clinical Pharmacist, for the period ending June 30, 2018, or 960 hours, whichever occurs first, effective December 14, 2017 –
APPROVED
Berjis-Sistrunk: 5 Ayes; 2 Absent - McGauley, Pelz
 - 13) Kern County Hospital Authority Chief Financial Officer report –
RECEIVED AND FILED
Lawson-McLaughlin: 5 Ayes; 2 Absent - McGauley, Pelz
 - 14) Kern County Hospital Authority Chief Executive Officer report –
RECEIVED AND FILED
Sistrunk-Berjis: 5 Ayes; 2 Absent - McGauley, Pelz
- CA
- 15) Claims and Lawsuits Filed as of November 30, 2017 –
RECEIVED AND FILED
Lawson-McLaughlin: 5 Ayes; 2 Absent - McGauley, Pelz

ADJOURNED TO CLOSED SESSION

Lawson-Sistrunk

CLOSED SESSION

- 16) Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) – SEE RESULTS BELOW
- 17) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Faried Banimahd, M.D. v. County of Kern, et al., Kern County Superior Court, Case No. S-1500-CV-283225 LHB – SEE RESULTS BELOW
- 18) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Ms. Tammy Arroyo v. County of Kern, et al., Kern County Superior Court, Case No. BCV-17-101712 SDS – SEE RESULTS BELOW
- 19) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Farzin Tayefeh, M.D., et al. v. County of Kern, et al., Kern County Superior Court, Case No. BCV-15-100647 LHB – SEE RESULTS BELOW

RECONVENED FROM CLOSED SESSION

Berjis-Sistrunk

REPORT ON ACTIONS TAKEN IN CLOSED SESSION

Item No. 16 concerning Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) – HEARD; BY A UNANIMOUS VOTE OF THOSE DIRECTORS PRESENT (MOTION BY DIRECTOR LAWSON, SECOND BY DIRECTOR SISTRUNK; 2 ABSENT - DIRECTORS MCGAULEY AND PELZ), THE BOARD APPROVED ALL PROVIDERS RECOMMENDED FOR INITIAL APPOINTMENT, REAPPOINTMENT, RELEASE OF PROCTORING, CHANGE IN STAFF STATUS, AND VOLUNTARY RESIGNATION OF PRIVILEGES; NO OTHER REPORTABLE ACTION TAKEN

Item No. 17 concerning CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Faried Banimahd, M.D. v. County of Kern, et al., Kern County Superior Court, Case No. S-1500-CV-283225 LHB – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 18 concerning CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Ms. Tammy Arroyo v. County of Kern, et al., Kern County Superior Court, Case No. BCV-17-101712 SDS – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 19 concerning CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Farzin Tayefeh, M.D., et al. v. County of Kern, et al., Kern County Superior Court, Case No. BCV-15-100647 LHB – HEARD; NO REPORTABLE ACTION TAKEN

ADJOURNED TO WEDNESDAY, JANUARY 17, 2018, AT 11:30 A.M.

Lawson

/s/ Mona A. Allen
Authority Board Coordinator

/s/ Russell E. Bigler
Chairman, Board of Governors
Kern County Hospital Authority

**BOARD OF GOVERNORS
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

January 17, 2018

Subject: Proposed presentation regarding Kern Medical Sexual Harassment Policies and Employee Education

Recommended Action: Hear presentation; receive and file

Summary:

It is the policy of Kern Medical to provide employees a workplace free from any form of sexual harassment. Sexual harassment in any manner or form is expressly prohibited. All employees are to be treated with respect and dignity. Alleged violations of this policy are timely and thoroughly investigated, and if substantiated result in appropriate disciplinary action.

The attached presentation provides a review of California employer requirements related to sexual harassment, notes changes to the law effective January 2018, and summarizes Kern Medical's training and education efforts to mitigate sexual harassment in the workplace.

A summary of formal investigations and the outcomes is provided for the past 12 months for review by your Board.

The Harassment Prevention Presentation
is available for review
in the Administrative Office of Kern Medical

Kern Medical
1700 Mt. Vernon Avenue
Bakersfield, CA 93306
661-326-2102



**BOARD OF GOVERNORS
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

January 17, 2018

Subject: Proposed Agreement with Matthew M. Malerich, M.D., Incorporated, for Professional Medical Services in the Department of Surgery

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical requests your Board to approve the proposed Agreement with Matthew M. Malerich, M.D., Incorporated, an independent contractor, for orthopedic hand and related surgery services at Kern Medical as well as call coverage, clinic time, and supervision of residents and medical students assigned to the hand surgery service.

The term of this proposed agreement commences on April 9, 2018 and ends April 8, 2021. The maximum payable under this Agreement will not exceed \$2,700,000 over the three-year term.

**AGREEMENT FOR PROFESSIONAL SERVICES
INDEPENDENT CONTRACTOR
(Kern County Hospital Authority – Matthew M. Malerich, M.D., Incorporated)**

This Agreement is made and entered into this ____ day of _____, 2018, between the Kern County Hospital Authority, a local unit of government (“Authority”), which owns and operates Kern Medical Center (“KMC”), and Matthew M. Malerich, M.D., Incorporated, a California professional medical corporation (“Contractor”), with its principal place of business located at 2634 G Street, Bakersfield, California 93301.

**I.
RECITALS**

(a) Authority is authorized, pursuant to section 101852 of Part 4 of Division 101 of the Health and Safety Code, to contract for special services with individuals specially trained, experienced, expert, and competent to perform those services; and

(b) Authority owns and operates KMC, a general acute care hospital located at 1700 Mount Vernon Avenue, Bakersfield, California, and affiliated clinics (collectively, the “Premises”), in which is located the Department of Surgery (the “Department”); and

(c) Contractor is a California professional medical corporation with medical doctors (collectively, “Group Physicians” or individually, “Group Physician”) who provide services on behalf of Contractor; and

(d) Authority requires the assistance of Contractor to provide professional medical services to patients of KMC and teaching services to resident physicians employed by Authority, as such services are unavailable from Authority resources, and Contractor desires to provide such services on the terms and conditions set forth in this Agreement; and

(e) Contractor has special knowledge, training and experience, and is qualified to render such services;

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth and incorporating by this reference the foregoing recitals, the parties hereto agree as follows:

**II.
TERMS AND CONDITIONS**

1. **Term.** The initial term of this Agreement (“Initial Term”) shall be for a period of three (3) years, commencing as of April 9, 2018 (the “Commencement Date”). At the end of the Initial Term and each Renewal Term (as hereinafter defined), if any, this Agreement may be renewed for additional terms of two (2) years each (“Renewal Term”), but only upon mutual written agreement of the parties. As used herein, the “Term” of this Agreement shall mean the Initial Term and all Renewal Terms.

2. Obligations of Contractor.

2.1 Specified Services. Contractor agrees to provide orthopedic hand and related surgery services through Group Physicians at KMC, including but not limited to the services set forth below. Such services may be changed from time to time by agreement of the parties in accordance with the provisions of this Agreement.

2.1.1 Clinical Responsibilities. Contractor through Group Physicians shall: (i) provide coverage for hand-related clinic, surgical, and emergency call services; (ii) provide a minimum of six (6) half-day clinics at the Stockdale clinic; (iii) provide a minimum of one (1) full day per week in the operating room at KMC or a KMC-designated surgery center; (iv) in coordination with specialists providing hand-related services, arrange and ensure provision of on-call professional services for hand clinic patients 24/7, including holidays; (v) respond to KMC for emergency hand-related services when on call; (vi) perform emergency hand-related surgery procedures when on call; (vii) supervise mid-level providers; (viii) supervise residents and medical students assigned to the hand surgery service; (ix) supervise procedures performed by residents and mid-level providers; (x) perform therapeutic and diagnostic procedures within the scope of practice for a hand specialist; (xi) assist in the evaluation and, if feasible, the development of a fresh fracture clinic at the Stockdale clinic.

2.1.2 Teaching. Contractor through Group Physicians shall provide didactic lectures as mutually agreed upon between Contractor and the Department residency program director.

2.1.3 Medical Education; Academic Responsibilities. Contractor through Group Physicians shall: (i) provide clinical mentoring to and evaluation of residents and medical students; (ii) maintain board certification in orthopedic surgery; and (iii) maintain an academic appointment at one or more approved California-based medical schools.

2.1.4 Committee Assignments. Contractor and Group Physicians shall: (i) attend Department staff meetings and the annual medical staff meeting; and (ii) participate in medical staff committees as assigned by the president of the medical staff.

2.2 Representations. Contractor makes the following representations which are agreed to be material to and form a part of the inducement for this Agreement: (i) Contractor has the expertise and support staff necessary to provide the services described in this Agreement; and (ii) Contractor does not have any actual or potential interests adverse to Authority nor does Contractor represent a person or firm with an interest adverse to Authority with reference to the subject of this Agreement; and (iii) Contractor shall diligently provide all required services in a timely and professional manner in accordance with the terms and conditions set forth in this Agreement.

2.3 Standard of Care. Authority has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor hereby agrees that all of its work will be performed and that its operations shall be conducted in accordance with generally accepted and applicable professional practices and standards as well as the

requirements of applicable federal, state and local laws, it being understood that acceptance of Contractor's work by Authority shall not operate as a waiver or release.

2.4 Performance Standard. Contractor shall perform all services hereunder in a manner consistent with the level of competency and standard of care normally observed by a person practicing in Contractor's profession. If Authority determines that any of Contractor's work is not in accordance with such level of competency and standard of care, Authority, in its sole discretion, shall have the right to do any or all of the following: (a) require Contractor to meet with Authority to review the quality of the work and resolve matters of concern; (b) require Contractor to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of section 36; or (d) pursue any and all other remedies at law or in equity.

2.5 Assigned Personnel. Contractor shall assign only competent personnel to perform the Services hereunder. In the event that at any time Authority, in its sole discretion, desires the removal of any person or persons assigned by Contractor to perform the services hereunder, Contractor shall remove such person or persons immediately upon receiving written notice from Authority. Group Physicians providing services under this Agreement include, without limitation, Matthew M. Malerich, M.D.

2.6 Qualifications of Group Physicians.

2.6.1 Licensure/Board Certification. Group Physicians shall at all times during the Term of this Agreement be duly licensed physicians and surgeons in the state of California, practicing in the medical specialty of orthopedic surgery, and certified by the American Board of Orthopaedic Surgery in orthopedic surgery-general, and maintain such certification at all times during the Term of this Agreement.

2.6.2 Medical Staff Status. Each Group Physician shall at all times during the Term of this Agreement be a member in good standing of the KMC medical staff with "active" or "courtesy" staff status and hold all clinical privileges on the active or courtesy medical staff appropriate to the discharge of his or her obligations under this Agreement.

2.6.3 TJC and ACGME Compliance. Each Group Physician shall observe and comply with all applicable standards and recommendations of The Joint Commission and Accreditation Council for Graduate Medical Education.

2.6.4 Training/Experience. Each Group Physician shall have (i) major trauma experience at a level I or II trauma center, (ii) general orthopedic surgery experience in trauma, (iii) experience with severe trauma cases, (iv) an academic background to include teaching and working in an academic medical center, experience working with other clinical departments, teaching residents and medical students, participating in hospital committees, and working on pathways and evidence-based guidelines, and (v) ongoing acute care hospital experience.

2.7 Rights and Duties. Matthew M. Malerich, M.D. shall act as the authorized agent for Contractor in all matters relating to the performance of Group Physicians under this Agreement. Contractor shall, by contract, obligate Group Physicians to comply fully with all duties, obligations and restrictions imposed upon Contractor under this Agreement.

2.8 Loss or Limitation. Contractor shall notify KMC promptly of any loss, sanction, suspension or material limitations of any Group Physician's license to practice in the state of California, Controlled Substance Registration Certificate issued by the Drug Enforcement Administration, right to participate in the Medicare or Medicaid programs, or specialty qualifications for medical staff membership or clinical privileges.

2.9 Standards of Medical Practice. The standards of medical practice and professional duties of all Group Physicians providing services under this Agreement shall be in accordance with the KMC medical staff bylaws, rules, regulations, and policies, the standards for practice established by the state Department of Public Health and all other state and federal laws and regulations relating to the licensure and practice of physicians, and The Joint Commission.

2.10 Medical Record Documentation. Contractor shall cause a complete medical record to be timely prepared and maintained for each patient seen by each Group Physician providing services under this Agreement. This record shall be prepared in compliance with all state and federal regulations, standards of The Joint Commission, and the KMC medical staff bylaws, rules, regulations, and policies. Documentation by Group Physicians will conform to the requirements for evaluation and management (E/M) services billed by teaching physicians set forth in the Medicare Carriers Manual, Part 3, sections 15016–15018, inclusive.

2.11 Quality Improvement and Risk Management. Contractor agrees that all Group Physicians shall participate in (i) the quality improvement and risk management programs of KMC and serve on such committees as may be required; (ii) ongoing quality improvement activities, such as audits, which will be conducted annually in the Department in order to evaluate and enhance the quality of patient care; and (iii) risk management activities designed to identify, evaluate and reduce the risk of patient injury associated with care. At a minimum, Contractor shall ensure that the quality improvement program consists of the following integrated components: (i) professional development that provides continuous performance feedback that is benchmarked, evaluated, and rated individually and collectively; (ii) clinical standards that are evidence-based and grounded in industry best practices; (iii) performance improvement that is outcomes-focused and based on quality indicators/metrics with quarterly reporting of same; and (iv) customer satisfaction that is feedback/survey-driven and objectively and comparatively measured, tracked/trended, and analyzed. The appropriate review mechanism will be applied in accordance with the provisions of the KMC medical staff bylaws, The Joint Commission, and applicable law.

2.12 Taxes. Contractor agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Contractor agrees to indemnify and hold Authority harmless from any liability which it may incur to the United States or to the state of California as a

consequence of Contractor's failure to pay, when due, all such taxes and obligations. In case Authority is audited for compliance regarding any withholding or other applicable taxes, Contractor agrees to furnish Authority with proof of payment of taxes on these earnings.

2.13 Nonexclusive Services. Contractor understands and agrees that Authority will utilize the services of Contractor pursuant to the terms of this Agreement on a non-exclusive basis. Contractor further agrees that Authority shall retain the option to enter into agreements with other organizations for purposes of securing the services, in its sole discretion.

3. Obligations of Authority.

3.1 Authority Designee. Authority shall designate a primary contact, who will arrange for KMC staff assistance as may be required.

3.2 Space. KMC shall furnish for the use of Contractor such space and facilities as may be deemed necessary by KMC for the proper operation and conduct of the Department. KMC shall, in its sole discretion, determine the amount and type of space and facilities to be provided herein. Contractor shall use the space and equipment solely for the performance of the services required under this Agreement. Neither Contractor nor Group Physicians shall use such space or equipment for other business or personal use.

3.3 Use Limitations on Space. The use of any part of the space occupied by the Department for the general or private practice of medicine is prohibited. Contractor shall use the items furnished under this Agreement only for the performance of services required by this Agreement. This Agreement shall not be construed to be a lease to Contractor or any Group Physician of any portion of the Premises, and insofar as Contractor or Group Physicians may use a portion of said Premises, Contractor and Group Physicians do so as licensees only, and Authority and KMC shall, at all times, have full and free access to the same.

3.4 Equipment. KMC shall furnish for the use of the Department such equipment as is deemed necessary by KMC for the proper operation and conduct of the Department consistent with community standards. KMC shall keep and maintain this equipment in good order and repair and replace such equipment, as is reasonably necessary and subject to the usual purchasing practices of Authority and KMC and budget constraints.

3.5 Services and Supplies. KMC shall provide or arrange for the provision of janitorial services, housekeeping services, laundry and utilities, together with such other hospital services, including medical records, administrative and engineering services, and expendable supplies as KMC deems necessary for the proper operation and conduct of the Department.

3.6 Control Retained in KMC. In compliance with title 22, California Code of Regulations, section 70713 KMC will retain professional and administrative responsibility for services rendered under this Agreement. Contractor shall apprise KMC of recommendations, plans for implementation and continuing assessment through dated and signed reports which shall be retained by KMC for follow-up action and evaluation of performance.

4. **Payment for Services.**

4.1 **Compensation.** As consideration for the services provided by Contractor hereunder, Authority will pay Contractor in accordance with the fee schedule set forth in this paragraph 4.1. All services are payable in arrears.

4.1.1 **April 9, 2018 through October 8, 2019.**

1) **Methodology.** For the period April 9, 2018 through and including October 8, 2019 (the "Commitment Period"), Authority shall pay Contractor a guarantee payment ("Guarantee Payment") in the amount of the greater of \$50,000 per month ("Minimum Amount") or \$65.27 per worked relative value unit ("Worked RVU") for all teaching and administrative services and payment for care of KMC patients ("RVU Effort"). Contractor understands and agrees that (i) the compensation set forth in this subparagraph 4.1.1 is calculated based on the current Medical Group Management Association Physician Compensation and Production Survey ("MGMA Survey") for specialty and (ii) Contractor will maintain a median level of Worked RVU based on the current MGMA Survey and fulfill all the obligations set forth in this Agreement during the Term.

2) **Reconciliation of Guarantee Payment.** Within 30 days after the end of each quarter during the Commitment Period, KMC will calculate the RVU Effort for such immediately preceding quarter, taking into account the RVU Effort from April 9, 2018, through the end of the subject quarter, and the RVU Effort generated from the Commitment Period shall be determined (the "Actual Amount"). KMC will undertake a reconciliation of the RVU Effort, for services provided by Contractor during the Commitment Period, no later than the end of 120 days from the conclusion of the Commitment Period. If the prorated Minimum Amount is lower than the Actual Amount, then such difference shall be paid to Contractor as Guarantee Payment within 30 days after such calculation has been completed.

4.1.2 **October 9, 2019 through April 8, 2021.**

1) **Methodology.** For the period October 9, 2019 through and including April 8, 2021, Authority shall pay Contractor for all teaching and administrative services and payment for care of KMC patients using the current MGMA Survey. KMC has chosen to use the full time physician compensation with more than one year in the specialty for all physicians section. This section is divided into four categories: 25th percentile, median, 75th percentile and 90th percentile. A conversion factor will be established by taking each category and dividing the physician compensation in that category by the Worked RVU in that category. Contractor will be compensated for each Worked RVU by multiplying the Worked RVU by the median conversion factor for each KMC patient ("RVU Effort").

2) **Payment Adjustment.** KMC will establish an estimate ("Estimate") of Contractor's RVU Effort using Contractor's RVU Effort for the immediately preceding 12-month period annualized. The Estimate will be divided by the number of months in a

calendar year in order to calculate the amount of RVU Effort to be paid to Contractor each month (the "Warrant Amount"). Within 30 days after the end of each quarter, KMC will calculate the RVU Effort for such immediately preceding quarter, and adjust the payment for RVU Effort accordingly (the "Actual Amount"). If the Estimate is lower than the Actual Amount, then such difference shall be paid to Contractor within 30 days after such calculation has been completed, or as of the effective date of any termination of this Agreement, whichever occurs sooner. If the Estimate exceeds the Actual Amount, then Contractor shall pay such difference to KMC: (i) in a lump sum within 30 days after such calculation has been completed; or (ii) through a reduction in the Warrant Amount during the next quarter; or (iii) in a lump sum as of the effective date of any termination of this Agreement, whichever occurs sooner. The Estimate shall be reestablished as of each contract year. **Contractor hereby expressly grants to KMC the right to offset any amounts owed to KMC against any payment to be made to Contractor by KMC pursuant to this paragraph if Contractor fails to pay such excess to KMC.**

4.2 Call Coverage. Authority shall pay Contractor for emergency hand call coverage (excluding established patients) as follows: (i) Contractor shall be paid a fixed fee in the amount of \$750 per 24-hour day for call coverage that does not exceed one (1) in four (4) weeks; and (ii) Contractor shall be paid a fixed fee in the amount of \$2,000 per 24-hour day for call coverage that exceeds one (1) in four (4) weeks.

4.3 Compensation All-inclusive. The compensation paid to Contractor is inclusive of all expenses, including without limitation, lodging, mileage reimbursement, car rental, meals, and incidental expenses.

4.4 Limitations on Compensation. Except as expressly stated herein, neither Contractor nor Group Physicians shall receive any benefits from Authority, including without limitation, health benefits, sick leave, vacation, holidays, deferred compensation or retirement.

4.5 Invoices. Invoices for payment shall be submitted in a form approved by KMC and list each service performed. Invoices and receipts shall be sent to KMC for review and processing within 60 days of the date of service or payment will not be made. Payment shall be made to Contractor within 30 days of receipt and approval of each invoice by KMC.

4.6 Maximum Payable. The maximum payable under this Agreement will not exceed \$2,700,000 over the three-year Initial Term of this Agreement.

4.7 Taxpayer Identification. To ensure compensation is reported as paid to the proper party, Contractor will complete and execute IRS Form W-9 (Exhibit "A," attached hereto and incorporated herein by this reference), which identifies the taxpayer identification number for Contractor.

4.8 Professional Fee Billing. KMC shall have the exclusive right to set, bill, collect and retain all fees, including professional fees, for all direct patient care services provided by Contractor to KMC patients during the Term of this Agreement. All professional fees generated by Contractor for services rendered to KMC patients at KMC or a KMC location during the

Term of this Agreement, including both cash collections and accounts receivable, will be the sole and exclusive property of KMC, whether received by KMC or by Contractor and whether received during the Term of this Agreement or anytime thereafter. Contractor hereby assigns all rights to said fees and accounts to KMC and shall execute all documents required from time to time by KMC and otherwise fully cooperate with KMC to enable KMC to collect fees and accounts from patients and third-party payers.

4.9 **Managed Care Organizations.** For and on behalf of Contractor, including Group Physicians, Authority shall have the sole and exclusive right and authority to enter into contractual relationships with HMOs, IPAs, PPOs, PHOs, employer groups, provider networks and other managed care organizations (collectively “Managed Care Organizations”). Contractor shall provide the same quality of care to patients from Managed Care Organizations as is provided to other KMC patients. Upon request from Authority or KMC, Contractor shall execute Managed Care Organization documents as “provider” if deemed necessary or advisable by Authority. Contractor shall not contract with any Managed Care Organization without Authority’s prior written consent in each instance.

5. **Access to Books and Records.** Contractor shall make available, upon written request from Authority or KMC, the Secretary of Health and Human Services, the Comptroller General of the United States, or any other duly authorized agent or representative, this Agreement, and Contractor’s books, documents and records. Contractor shall preserve and make available such books, documents and records for a period of seven (7) years after the termination or expiration of this Agreement. If Contractor is requested to disclose books, documents or records pursuant to this section for any purpose, Contractor shall notify KMC of the nature and scope of the request, and Contractor shall make available, upon written request of KMC, all such books, documents or records.

6. **Anti-referral Laws.** Contractor acknowledges that it is subject to certain federal and state laws governing the referral of patients, which are in effect during the Term of this Agreement. These laws include (i) prohibitions on payments for referral or to induce the referral of patients, and (ii) the referral of patients by a physician for certain designated health care services to an entity with which the physician (or his or her immediate family) has a financial relationship (Cal. Business and Professions Code sections 650 et seq.; Cal. Labor Code sections 139.3 and 139.31; section 1128B (b) of the Social Security Act; and section 1877 of the Social Security Act). The parties expressly agree that nothing contained in this Agreement shall require either the referral of any patients to, or order of any goods or services from Contractor or KMC. Notwithstanding any unanticipated effect of any provision of this Agreement, neither party shall knowingly or intentionally conduct itself in such a manner as to violate the prohibition against fraud and abuse in connection with the Medicare and Medicaid programs (42 U.S.C. section 1320a-7b).

7. **Assignment.** Contractor shall not assign, delegate, sublet, or transfer any interest in or duty under this Agreement. Contractor shall not assign any money due or which becomes due to Contractor under this Agreement without the prior written approval of Authority.

8. **Audits, Inspection and Retention of Records.** Contractor agrees to maintain and make available to Authority accurate books and records relative to all its activities under this Agreement. Contractor shall permit Authority to audit, examine and make excerpts and transcripts from such records, and to conduct audits or reviews of all invoices, materials, records or personnel or other data related to all other matters covered by this Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of not less than four (4) years from the date of final payment under this Agreement, or until after the conclusion of any audit, whichever occurs last. The state of California or any federal agency having an interest in the subject of this Agreement shall have the same rights conferred upon Authority herein.

9. **Authority to Bind Authority.** It is understood that Contractor, in its performance of any and all duties under this Agreement, has no authority to bind Authority to any agreements or undertakings.

10. **Captions.** The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

11. **Change in Law.** In the event that a change in state or federal law or regulatory requirement (or the application thereof), any of which renders this Agreement illegal, impossible to perform, or commercially impracticable, the parties agree to negotiate immediately, in good faith, any necessary or appropriate amendments(s) to the terms of this Agreement. If the parties fail to reach a mutually agreeable amendment within 30 days of such negotiation period, this Agreement shall automatically terminate at the end of such 30-day period.

12. **Choice of Law/Venue.** The parties hereto agree that the provisions of this Agreement will be construed pursuant to the laws of the state of California. It is expressly acknowledged that this Agreement has been entered into and will be performed within the County of Kern. Should any suit or action be commenced to enforce or interpret the terms of this Agreement or any claim arising under it, it is expressly agreed that proper venue shall be in County of Kern, state of California.

13. **Compliance with Law.** Contractor shall observe and comply with all applicable Authority, local, state and federal laws, ordinances, rules and regulations now in effect or hereafter enacted, each of which is hereby made a part hereof and incorporated herein by reference.

14. **Compliance Program.** Contractor acknowledges that KMC has implemented a compliance program for the purpose of ensuring adherence to applicable federal and state laws, regulations and other standards. Contractor agrees that in the course of performance of its duties described herein that it shall act, and cause its employees to act, in conformance with the policies set forth therein. KMC shall make available such information relating to its compliance program as is appropriate to assist Contractor in adhering to the policies set forth in the compliance program. Contractor and its employees shall participate in compliance training and education as reasonably requested by KMC.

15. **Confidentiality.**

15.1 **Use and Disclosure Restrictions.** Neither party shall, without the written consent of the other, communicate confidential information of the other, designated in writing or identified in this Agreement as such, to any third party and shall protect such information from inadvertent disclosure to any third party in the same manner that the receiving party would protect its own confidential information. The foregoing obligations will not restrict either party from disclosing confidential information of the other party: (i) pursuant to applicable law; (ii) pursuant to the order or requirement of a court, administrative agency, or other governmental body, on condition that the party required to make such a disclosure gives reasonable written notice to the other party to contest such order or requirement; and (iii) on a confidential basis to its legal or financial advisors.

15.2 **Trade Secrets.** The parties acknowledge that each party, in connection with its business, has developed certain operating manuals, symbols, trademarks, trade names, service marks, designs, patient lists, procedures, processes, and other copyrighted, patented, trademarked, or legally protectable information which is confidential and proprietary to the party that constitute its trade secrets. The parties shall not use any name, symbol, mark, or other proprietary information of the other party except as expressly permitted.

15.3 **Medical Records.** The parties agree to maintain the confidentiality of all medical records pertaining to the provision of services under this Agreement in accordance with applicable federal and state laws and regulations including, but not limited to, the California Confidentiality of Medical Records Information Act, codified at section 56.1 of the California Civil Code, California Evidence Code sections 1156 and 1157, and the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations.

15.4 **Medical Staff and Committee Records.** All records, files, proceedings and related information of Group Physicians, KMC and the medical staff and its committees pertaining to the evaluation and improvements of the quality of patient care at KMC shall be kept strictly confidential by Contractor and Group Physicians. Neither Contractor nor Group Physicians shall voluntarily disclose such confidential information, either orally or in writing, except as expressly required by law or pursuant to written authorization by KMC, which may be given or withheld in the sole discretion of KMC.

15.5 **Ownership of Records.** All documents, papers, notes, memoranda, computer files and other written or electronic records of any kind ("Documents"), in whatever form or format, assembled, prepared or utilized by Contractor or Group Physicians during and in connection with this Agreement shall remain the property of Authority at all times. Upon the expiration or termination of this Agreement, Contractor shall promptly deliver to Authority all such Documents, which have not already been provided to Authority in such form or format as Authority deems appropriate. Such Documents shall be and will remain the property of Authority without restriction or limitation. Contractor may retain copies of the above described Documents but agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of Authority.

15.6 **Non-disparagement.** Each party agrees that it shall not make or cause to be made, any written (including, but not limited to, any emails, internet postings, remarks or statements) or verbal assertions, statements or other communications regarding the other party's business or each other which may be in any manner whatsoever defamatory, detrimental or unfavorable to such other party. Each party agrees that these non-disparagement covenants shall survive the termination of this Agreement.

16. **Conflict of Interest.** Contractor covenants that it has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Contractor further covenants that in the performance of this Agreement no person having any such interests shall be employed. It is understood and agreed that if such a financial interest does exist at the inception of this Agreement, Authority may immediately terminate this Agreement by giving written notice thereof.

17. **Consent.** Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

18. **Construction.** To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. Contractor and Authority acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Contractor and Authority acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

19. **Counterparts.** This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

20. **Disqualified Persons.** The parties mutually represent and warrant to one another that they and their respective representatives are not: (i) currently excluded, debarred, or otherwise ineligible to participate in the federal health care programs as defined in 42 U.S.C. section 1320a-7b-(f) (the "Federal health care programs") and/or present on the exclusion database of the Office of the Inspector General ("OIG") or the Government Services Administration ("GSA"); (ii) convicted of a criminal offense related to the provision of health care items or services but have not yet been excluded, debarred, or otherwise declared ineligible to participate in the Federal health care programs; or (iii) debarred, suspended, excluded or disqualified by any federal governmental agency or department or otherwise declared ineligible from receiving federal contracts or federally approved subcontracts or from receiving federal financial and nonfinancial assistance and benefits. This shall be an ongoing representation and warranty during the Term of this Agreement and a party shall immediately notify the other party of any

change in the status of any of the representations and/or warranties set forth in this section. Any breach of this section shall give the non-breaching party the right to terminate this Agreement immediately upon written notice.

21. **Enforcement of Remedies.** No right or remedy herein conferred on or reserved to Authority is exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing by law or in equity or by statute or otherwise, and may be enforced concurrently or from time to time.

22. **Immigration Compliance.** Contractor shall comply with all provisions of immigration law with respect to hiring, recruiting or referring for employment persons whose authorization for employment in the United States has been verified, and shall provide KMC with a copy of such verification required in 8 USCA section 1324a. Contractor agrees to indemnify, defend, and hold harmless Authority, its agents, officers, and employees, from any liability, damages, or causes of action arising out of Contractor's failure to comply with this section 22.

23. **Indemnification and Hold Harmless.** Authority shall assume liability for and indemnify and hold Contractor and Group Physicians harmless from any and all claims, losses, expenses, costs, actions, settlements, attorneys' fees and judgments incurred by Contractor or Group Physicians or for which Contractor or Group Physicians becomes liable, arising out of or related to professional services rendered or which a third party alleges should have been rendered by Contractor or Group Physicians pursuant to this Agreement. Authority's obligation under this paragraph shall extend from the Commencement Date and shall survive termination or expiration of this Agreement to include all claims that allegedly arise out of professional services Contractor or Group Physicians rendered on behalf of Authority; provided, however, that the provisions of this paragraph shall not apply to any services rendered at any location other than KMC without approval by the Kern County Hospital Authority Board of Governors and, provided further, that Authority shall have no duty or obligation to defend, indemnify or hold Contractor or Group Physicians harmless for any conduct or misconduct found to be intentional, willful, grossly negligent, or criminal.

24. **Independent Contractor.** In the performance of the services under this Agreement, Contractor shall be, and acknowledges that Contractor is in fact and law, an independent contractor and not an agent or employee of Authority. Contractor has and retains the right to exercise full supervision and control over the manner and methods of providing services to Authority under this Agreement. Contractor retains full supervision and control over the employment, direction, compensation and discharge of all persons assisting Contractor in the provision of services under this Agreement. With respect to Contractor's employees, if any, Contractor shall be solely responsible for payment of wages, benefits and other compensation, compliance with all occupational safety, welfare and civil rights laws, tax withholding and payment of employment taxes whether federal, state or local, and compliance with any and all other laws regulating employment.

25. **Informal Dispute Resolution.** Controversies between the parties with respect to this Agreement, or the rights of either party, or with respect to any transaction contemplated by this

Agreement, shall be resolved, to the extent possible, by informal meetings and discussions among appropriate representatives of the parties.

26. **Insurance.** With respect to performance of work under this Agreement, Contractor shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as described in Exhibit "B," attached hereto and incorporated herein by this reference.

27. **Modifications of Agreement.** This Agreement may be modified in writing only, signed by the parties in interest at the time of the modification.

28. **No Third Party Beneficiaries.** It is expressly understood and agreed that the enforcement of this Agreement and all rights of action relating to such enforcement, shall be strictly reserved to Authority and Contractor. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of Authority and Contractor that any such person or entity, other than Authority or Contractor, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.

29. **Non-appropriation.** Authority reserves the right to terminate this Agreement in the event insufficient funds are appropriated or budgeted for this Agreement in any fiscal year. Upon such termination, Authority will be released from any further financial obligation to Contractor, except for services performed prior to the date of termination or any liability due to any default existing at the time this clause is exercised. Contractor will be given 30 days' prior written notice in the event that Authority requires such an action.

30. **Non-collusion Covenant.** Contractor represents and agrees that it has in no way entered into any contingent fee arrangement with any firm or person concerning the obtaining of this Agreement with Authority. Contractor has received from Authority no incentive or special payments, nor considerations, not related to the provision of services under this Agreement.

31. **Nondiscrimination.** Neither Contractor, nor any officer, agent, employee, servant or subcontractor of Contractor shall discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, ancestry, national origin, religion, sex, actual or perceived sexual orientation, marital status, age, pregnancy, medical condition, handicap or other prohibited basis, either directly, indirectly or through contractual or other arrangements.

32. **Non-waiver.** No covenant or condition of this Agreement can be waived except by the written consent of Authority. Forbearance or indulgence by Authority in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by Contractor. Authority shall be entitled to invoke any remedy available to Authority under this Agreement or by law or in equity despite said forbearance or indulgence.

33. **Notices.** Notices to be given by one party to the other under this Agreement shall be given in writing by personal delivery, by certified mail, return receipt requested, or express delivery service at the addresses specified below. Notices delivered personally shall be deemed

received upon receipt; mailed or expressed notices shall be deemed received four (4) days after deposit. A party may change the address to which notice is to be given by giving notice as provided above.

Notice to Contractor:

Matthew M. Malerich, M.D., Incorporated
P.O. Box 1927
Bakersfield, California 93303
Attn.: Its President

Notice to Authority:

Kern Medical Center
1700 Mount Vernon Avenue
Bakersfield, California 93306
Attn.: Chief Executive Officer

34. **Signature Authority.** Each party represents that they have full power and authority to enter into and perform this Agreement, and the person(s) signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement.

35. **Sole Agreement.** This Agreement, including all attachments hereto, contains the entire agreement between the parties relating to the services, rights, obligations and covenants contained herein and assumed by the parties respectively. No inducements, representations or promises have been made, other than those recited in this Agreement. No oral promise, modification, change or inducement shall be effective or given any force or effect.

36. **Termination.**

36.1 **Termination with Cause.** Either party may terminate this Agreement in the event of a material breach by the other; provided, however, the termination for the breach of this Agreement will not become effective unless and until the party not in default, has given the other party written notice of breach, which notice shall state the general nature of the breach, and the party allegedly in default will thereafter have a period of 30 days following the giving of said notice in which to remedy the default to the reasonable satisfaction of the other party. If the alleged default is of the kind that cannot be cured within 30 days, then the party allegedly in default will have an additional 30 days in which to remedy the breach as long as such party is acting in good faith and using diligent efforts to remedy such breach throughout the cure period.

36.2 **Termination without Cause.** Either party may terminate this Agreement, without cause, upon 120 days' prior written notice to the other party.

36.3 **Immediate Termination.** Notwithstanding the foregoing, Authority shall have the right to terminate this Agreement effective immediately after giving written notice to Contractor, for any of the following reasons: (i) Authority determines that Contractor does not have the proper credentials, experience or skill to perform the required services under this Agreement; (ii) continuation by Contractor in the providing of services may result in civil, criminal, or monetary penalties against Authority or KMC; (iii) the violation of any federal or state law or regulatory rule or regulation or condition of accreditation or certification to which Authority or KMC is subject; (iv) an unauthorized use or disclosure of confidential or proprietary information by Contractor which causes material harm to Authority or KMC; (v) commission of a material act involving moral turpitude, fraud, dishonesty, embezzlement, misappropriation or financial

dishonesty by Contractor against Authority or KMC; (vi) the loss or threatened loss of KMC's ability to participate in any federal or state health care program, including Medicare or Medi-Cal, due to the actions of Contractor; or (vii) the failure of Contractor to cure a default within the time allowed in paragraph 36.1.

37. **Effect of Termination.**

37.1 **Payment Obligations.** In the event of termination of this Agreement for any reason, Authority shall have no further obligation to pay for any services rendered or expenses incurred by Contractor after the effective date of the termination, and Contractor shall be entitled to receive compensation for services satisfactorily rendered, calculated on a prorated basis up to the effective date of termination.

37.2 **Vacate Premises.** Upon expiration or earlier termination of this Agreement, Contractor shall immediately vacate KMC, removing at such time any and all personal property of Contractor. Authority may remove and store, at Contractor's expense, any personal property that Contractor has not so removed.

37.3 **No Interference.** Following the expiration or earlier termination of this Agreement, Contractor shall not do anything or cause any person to do anything that might interfere with any efforts by Authority to contract with any other individual or entity for the provision of services or to interfere in any way with any relationship between Authority and any provider that may replace Contractor.

37.4 **No Hearing Rights.** Termination of this Agreement by Authority or KMC for any reason shall not provide Contractor or Group Physicians the right to a fair hearing or the other rights more particularly set forth in the KMC medical staff bylaws.

38. **Time of Essence.** Time is hereby expressly declared to be of the essence of this Agreement and of each and every provision hereof, and each such provision is hereby made and declared to be a material, necessary and essential part of this Agreement.

39. **Liability of Authority.** The liabilities or obligations of Authority with respect to its activities pursuant to this Agreement shall be the liabilities or obligations solely of Authority and shall not be or become the liabilities or obligations of the County of Kern or any other entity, including the state of California.

[Signatures follow on next page]

IN WITNESS TO THE FOREGOING, the parties have executed this Agreement as of the day and year first written above.

MATTHEW M. MALERICH, M.D.,
INCORPORATED

By Matthew M Malerich, M.D.
Matthew M. Malerich, M.D.
Its President

KERN COUNTY HOSPITAL AUTHORITY

By _____
Chairman
Board of Governors

APPROVED AS TO CONTENT:
KERN MEDICAL CENTER

By _____
Russell V. Judd
Chief Executive Officer

APPROVED AS TO FORM:
LEGAL SERVICES DEPARTMENT

By Karen S. Bamer
VP & General Counsel
Kern County Hospital Authority

Agreement.Malerich.121217

EXHIBIT "A"

IRS FORM W-9

EXHIBIT "B" **INSURANCE**

With respect to performance of work under this Agreement, Contractor shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below unless such insurance has been expressly waived in writing by Authority. Any requirement for insurance to be maintained after completion of the work shall survive the termination or expiration of this Agreement.

Authority reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

1. Workers' Compensation and Employers Liability Insurance:

- (a) Required if Contractor has employees. If Contractor currently has no employees, Contractor's written confirmation of such will be required before execution of this Agreement. If Contractor engages any employees during the Term of this Agreement or any extensions thereof, Contractor agrees to obtain the specified Workers' Compensation and Employers Liability insurance.
- (b) Workers' Compensation insurance with statutory limits as required by the California Labor Code.
- (c) Employers Liability with limits of \$1,000,000 per Accident; \$1,000,000 Disease per employee; \$1,000,000 Disease per policy.
- (d) Waiver of Subrogation: The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Authority for all work performed by Contractor, its employees, agents and subcontractors.
- (e) Required Evidence of Insurance: Certificate of Insurance.

2. General Liability Insurance:

- (a) Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
- (b) Minimum Limits: \$1,000,000 per Occurrence; \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of General Liability Insurance and Commercial Umbrella Liability Insurance. If Contractor maintains higher limits than the specified minimum limits, Authority requires and shall be entitled to coverage for the higher limits maintained by Contractor.
- (c) If Contractor has no Owned automobiles, the General Liability policy shall include Non-Owned and Hired Automobile Liability in the amount of \$1,000,000 combined single limit per accident.

- (d) Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by Authority. Contractor is responsible for any deductible or self-insured retention and shall fund it upon Authority's written request, regardless of whether Contractor has a claim against the insurance or is named as a party in any action involving Authority.
- (e) Authority shall be named as an additional insured for liability arising out of operations by or on behalf of Contractor in the performance of this Agreement. See section 5 below for full Additional Insured wording.
- (f) The insurance provided to Authority as an additional insured shall be primary to and non-contributory with any insurance or self-insurance program maintained by Authority.
- (g) The policy definition of "insured contract" shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the "f" definition of insured contract in ISO form CG 00 01, or equivalent).
- (h) The policy shall cover inter-insured suits between Authority and Contractor and include a "separation of insureds" or "severability" clause which treats each insured separately.
- (i) Required Evidence of Insurance: (i) Copy of the additional insured endorsement or policy language granting additional insured status; and (ii) Certificate of Insurance.

3. Automobile Liability Insurance:

- (a) Minimum Limits: \$1,000,000 combined single limit per accident for bodily injury and property damage.
- (b) Insurance shall apply to all Owned autos. If Contractor currently owns no autos, Contractor agrees to obtain such insurance should any autos be acquired during the Term of this Agreement or any extensions thereof.
- (c) Insurance shall include coverage for Non-Owned and Hired autos. (See requirements in section 1(c) above if there is no separate Automobile Liability coverage.)
- (d) Authority shall be named as an additional insured for liability arising out of operations by or on behalf of Contractor in the performance of this Agreement. See section 5 for full Additional Insured wording.
- (e) Required Evidence of Insurance: Certificate of Insurance.

4. Standards for Insurance Companies: Insurers shall have an A.M. Best's rating of at least A;VII.

5. Additional Insured Wording: "**Kern County Hospital Authority, its officers, officials, employees and volunteers**" are to be named as Additional Insureds as per each section where noted above.

6. Claims Made Policies: If any of the required policies provide coverage on a claims-made basis:

- (a) The Retroactive Date must be shown and must be before the Commencement Date of the Agreement or the beginning of contract work.
- (b) Insurance must be maintained and evidence of insurance must be provided *for at least five (5) years after completion of the contract work*.
- (c) If coverage is canceled or non-renewed, and *not replaced with another claims-made policy form with a Retroactive Date* prior to the contract Commencement Date, Contractor must purchase “extended reporting” coverage for a minimum of *five (5) years* after completion of the contract work.

7. Documentation:

- (a) The Certificate of Insurance must include the following reference: “**Agreement for Professional Services.**”
- (b) All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Contractor agrees to maintain current Evidence of Insurance on file with Authority for the entire Term of this Agreement and any additional periods if specified in sections 1, 2 or 3 above.
- (c) The name and address for the Certificates of Insurance and Additional Insured endorsements is: Kern County Hospital Authority, c/o Kern Medical Center, 1700 Mount Vernon Avenue, Bakersfield, California 93306.
- (d) Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least 10 days before expiration or other termination of the existing policy.
- (e) Contractor shall provide immediate written notice if: (i) any of the required insurance policies is terminated; (ii) the limits of any of the required policies are reduced; or (iii) the deductible or self-insured retention is increased.
- (f) Upon written request, certified copies of required insurance policies must be provided to Authority within 30 days.

8. Policy Obligations: Contractor’s indemnity and other obligations shall not be limited by the foregoing insurance requirements.

9. Material Breach: If Contractor fails to maintain the insurance required by this Agreement, it shall be deemed a material breach of this Agreement. Authority, at its sole option, may terminate this Agreement and obtain damages from Contractor resulting from said breach. Alternatively, Authority may purchase the required insurance, and without further notice to Contractor, Authority may deduct from sums due to Contractor any premium costs advanced by Authority for such insurance. These remedies shall be in addition to any other remedies available to Authority.

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**BOARD OF GOVERNORS
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

January 17, 2018

Subject: Proposed Agreement with Desert Hand and Plastic Surgery PC, for Professional Medical Services in the Department of Surgery

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical requests your Board to approve the proposed Agreement with Desert Hand and Plastic Surgery PC, an independent contractor, for Dr. David Bowen to provide coverage for plastic, reconstructive and hand-related clinic, surgical and emergency call service as well as supervise residents and medical students assigned to the plastic, reconstructive and hand surgery service.

The term of this proposed agreement commences on April 9, 2018 and ends April 8, 2021. The maximum payable under this Agreement will not exceed \$2,700,000 over the three-year term.

**AGREEMENT FOR PROFESSIONAL SERVICES
INDEPENDENT CONTRACTOR
(Kern County Hospital Authority – Desert Hand and Plastic Surgery PC)**

This Agreement is made and entered into this ____ day of _____, 2018, between the Kern County Hospital Authority, a local unit of government (“Authority”), which owns and operates Kern Medical Center (“KMC”), and Desert Hand and Plastic Surgery PC, a California professional medical corporation (“Contractor”), with its principal place of business located at 72-650 Fred Waring Drive, Suite 109, Palm Desert, California 92260.

**I.
RECITALS**

(a) Authority is authorized, pursuant to section 101852 of Part 4 of Division 101 of the Health and Safety Code, to contract for special services with individuals specially trained, experienced, expert, and competent to perform those services; and

(b) Authority owns and operates KMC, a general acute care hospital located at 1700 Mount Vernon Avenue, Bakersfield, California, and affiliated clinics (collectively, the “Premises”), in which is located the Department of Surgery (the “Department”); and

(c) Contractor is a California professional medical corporation with medical doctors (collectively, “Group Physicians” or individually, “Group Physician”) who provide services on behalf of Contractor; and

(d) Authority requires the assistance of Contractor to provide professional medical services to patients of KMC and teaching services to resident physicians employed by Authority, as such services are unavailable from Authority resources, and Contractor desires to provide such services on the terms and conditions set forth in this Agreement; and

(e) Contractor has special knowledge, training and experience, and is qualified to render such services;

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth and incorporating by this reference the foregoing recitals, the parties hereto agree as follows:

**II.
TERMS AND CONDITIONS**

1. **Term.** The initial term of this Agreement (“Initial Term”) shall be for a period of three (3) years, commencing as of April 9, 2018 (the “Commencement Date”). At the end of the Initial Term and each Renewal Term (as hereinafter defined), if any, this Agreement may be renewed for additional terms of two (2) years each (“Renewal Term”), but only upon mutual written agreement of the parties. As used herein, the “Term” of this Agreement shall mean the Initial Term and all Renewal Terms.

2. Obligations of Contractor.

2.1 Specified Services. Contractor agrees to provide plastic, reconstructive, and hand-related surgery services through Group Physicians at KMC, including but not limited to the services set forth below. Such services may be changed from time to time by agreement of the parties in accordance with the provisions of this Agreement.

2.1.1 Clinical Responsibilities. Contractor through Group Physicians shall: (i) provide coverage for plastic, reconstructive, and hand-related clinic, surgical, and emergency call services; (ii) provide a minimum of seven (7) half-day clinics at KMC, Stockdale clinic, or other off-site clinic location; (iii) provide a minimum of one (1) full day per week in the operating room at KMC or a KMC-designated surgery center; (iv) in coordination with specialists providing plastic, reconstructive, and hand-related services, arrange and ensure provision of on-call professional services for clinic patients at the Stockdale clinic or other off-site clinic locations 24/7, including holidays; (v) respond to KMC for emergency plastic, reconstructive, and hand-related services when on call; (vi) perform emergency plastic, reconstructive, and hand-related surgery procedures when on call; (vii) supervise mid-level providers; (viii) supervise residents and medical students assigned to the plastic, reconstructive, and hand surgery service; (ix) supervise procedures performed by residents and mid-level providers; (x) perform therapeutic and diagnostic procedures within the scope of practice for a plastic surgery specialist; (xi) assist in the evaluation and, if feasible, the development of a fresh fracture clinic at the Stockdale clinic.

2.1.2 Teaching. Contractor through Group Physicians shall provide didactic lectures as mutually agreed upon between Contractor and the Department residency program director.

2.1.3 Medical Education; Academic Responsibilities. Contractor through Group Physicians shall: (i) provide clinical mentoring to and evaluation of residents and medical students; and (ii) maintain board certification in plastic surgery.

2.1.4 Committee Assignments. Contractor and Group Physicians shall: (i) attend Department staff meetings and the annual medical staff meeting; and (ii) participate in medical staff committees as assigned by the president of the medical staff.

2.2 Representations. Contractor makes the following representations which are agreed to be material to and form a part of the inducement for this Agreement: (i) Contractor has the expertise and support staff necessary to provide the services described in this Agreement; and (ii) Contractor does not have any actual or potential interests adverse to Authority nor does Contractor represent a person or firm with an interest adverse to Authority with reference to the subject of this Agreement; and (iii) Contractor shall diligently provide all required services in a timely and professional manner in accordance with the terms and conditions set forth in this Agreement.

2.3 Standard of Care. Authority has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor hereby agrees

that all of its work will be performed and that its operations shall be conducted in accordance with generally accepted and applicable professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Contractor's work by Authority shall not operate as a waiver or release.

2.4 Performance Standard. Contractor shall perform all services hereunder in a manner consistent with the level of competency and standard of care normally observed by a person practicing in Contractor's profession. If Authority determines that any of Contractor's work is not in accordance with such level of competency and standard of care, Authority, in its sole discretion, shall have the right to do any or all of the following: (a) require Contractor to meet with Authority to review the quality of the work and resolve matters of concern; (b) require Contractor to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of section 36; or (d) pursue any and all other remedies at law or in equity.

2.5 Assigned Personnel. Contractor shall assign only competent personnel to perform the Services hereunder. In the event that at any time Authority, in its sole discretion, desires the removal of any person or persons assigned by Contractor to perform the services hereunder, Contractor shall remove such person or persons immediately upon receiving written notice from Authority. Group Physicians providing services under this Agreement include, without limitation, Matthew M. Malerich, M.D.

2.6 Qualifications of Group Physicians.

2.6.1 Licensure/Board Certification. Group Physicians shall at all times during the Term of this Agreement be duly licensed physicians and surgeons in the state of California, practicing in the medical specialty of plastic surgery, and certified by the American Board of Plastic Surgery in plastic surgery-general, and maintain such certification at all times during the Term of this Agreement.

2.6.2 Medical Staff Status. Each Group Physician shall at all times during the Term of this Agreement be a member in good standing of the KMC medical staff with "active" or "courtesy" staff status and hold all clinical privileges on the active or courtesy medical staff appropriate to the discharge of his or her obligations under this Agreement.

2.6.3 TJC and ACGME Compliance. Each Group Physician shall observe and comply with all applicable standards and recommendations of The Joint Commission and Accreditation Council for Graduate Medical Education.

2.6.4 Training/Experience. Each Group Physician shall have (i) major trauma experience at a level I or II trauma center, (ii) general plastic and reconstructive surgery experience in trauma, (iii) experience with severe trauma cases, (iv) a background to include experience working with other clinical departments, teaching residents and medical students, participating in hospital committees, and working on pathways and evidence-based guidelines, and (v) ongoing acute care hospital experience.

2.7 Rights and Duties. David T. Bowen, M.D. shall act as the authorized agent for Contractor in all matters relating to the performance of Group Physicians under this Agreement. Contractor shall, by contract, obligate Group Physicians to comply fully with all duties, obligations and restrictions imposed upon Contractor under this Agreement.

2.8 Loss or Limitation. Contractor shall notify KMC promptly of any loss, sanction, suspension or material limitations of any Group Physician's license to practice in the state of California, Controlled Substance Registration Certificate issued by the Drug Enforcement Administration, right to participate in the Medicare or Medicaid programs, or specialty qualifications for medical staff membership or clinical privileges.

2.9 Standards of Medical Practice. The standards of medical practice and professional duties of all Group Physicians providing services under this Agreement shall be in accordance with the KMC medical staff bylaws, rules, regulations, and policies, the standards for practice established by the state Department of Public Health and all other state and federal laws and regulations relating to the licensure and practice of physicians, and The Joint Commission.

2.10 Medical Record Documentation. Contractor shall cause a complete medical record to be timely prepared and maintained for each patient seen by each Group Physician providing services under this Agreement. This record shall be prepared in compliance with all state and federal regulations, standards of The Joint Commission, and the KMC medical staff bylaws, rules, regulations, and policies. Documentation by Group Physicians will conform to the requirements for evaluation and management (E/M) services billed by teaching physicians set forth in the Medicare Carriers Manual, Part 3, sections 15016–15018, inclusive.

2.11 Quality Improvement and Risk Management. Contractor agrees that all Group Physicians shall participate in (i) the quality improvement and risk management programs of KMC and serve on such committees as may be required; (ii) ongoing quality improvement activities, such as audits, which will be conducted annually in the Department in order to evaluate and enhance the quality of patient care; and (iii) risk management activities designed to identify, evaluate and reduce the risk of patient injury associated with care. At a minimum, Contractor shall ensure that the quality improvement program consists of the following integrated components: (i) professional development that provides continuous performance feedback that is benchmarked, evaluated, and rated individually and collectively; (ii) clinical standards that are evidence-based and grounded in industry best practices; (iii) performance improvement that is outcomes-focused and based on quality indicators/metrics with quarterly reporting of same; and (iv) customer satisfaction that is feedback/survey-driven and objectively and comparatively measured, tracked/trended, and analyzed. The appropriate review mechanism will be applied in accordance with the provisions of the KMC medical staff bylaws, The Joint Commission, and applicable law.

2.12 Taxes. Contractor agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Contractor agrees to indemnify and hold Authority harmless from any liability which it may incur to the United States or to the state of California as a

consequence of Contractor's failure to pay, when due, all such taxes and obligations. In case Authority is audited for compliance regarding any withholding or other applicable taxes, Contractor agrees to furnish Authority with proof of payment of taxes on these earnings.

2.13 Nonexclusive Services. Contractor understands and agrees that Authority will utilize the services of Contractor pursuant to the terms of this Agreement on a non-exclusive basis. Contractor further agrees that Authority shall retain the option to enter into agreements with other organizations for purposes of securing the services, in its sole discretion.

3. Obligations of Authority.

3.1 Authority Designee. Authority shall designate a primary contact, who will arrange for KMC staff assistance as may be required.

3.2 Space. KMC shall furnish for the use of Contractor such space and facilities as may be deemed necessary by KMC for the proper operation and conduct of the Department. KMC shall, in its sole discretion, determine the amount and type of space and facilities to be provided herein. Contractor shall use the space and equipment solely for the performance of the services required under this Agreement. Neither Contractor nor Group Physicians shall use such space or equipment for other business or personal use.

3.3 Use Limitations on Space. The use of any part of the space occupied by the Department for the general or private practice of medicine is prohibited. Contractor shall use the items furnished under this Agreement only for the performance of services required by this Agreement. This Agreement shall not be construed to be a lease to Contractor or any Group Physician of any portion of the Premises, and insofar as Contractor or Group Physicians may use a portion of said Premises, Contractor and Group Physicians do so as licensees only, and Authority and KMC shall, at all times, have full and free access to the same.

3.4 Equipment. KMC shall furnish for the use of the Department such equipment as is deemed necessary by KMC for the proper operation and conduct of the Department consistent with community standards. KMC shall keep and maintain this equipment in good order and repair and replace such equipment, as is reasonably necessary and subject to the usual purchasing practices of Authority and KMC and budget constraints.

3.5 Services and Supplies. KMC shall provide or arrange for the provision of janitorial services, housekeeping services, laundry and utilities, together with such other hospital services, including medical records, administrative and engineering services, and expendable supplies as KMC deems necessary for the proper operation and conduct of the Department.

3.6 Control Retained in KMC. In compliance with title 22, California Code of Regulations, section 70713 KMC will retain professional and administrative responsibility for services rendered under this Agreement. Contractor shall apprise KMC of recommendations, plans for implementation and continuing assessment through dated and signed reports which shall be retained by KMC for follow-up action and evaluation of performance.

4. **Payment for Services.**

4.1 **Compensation.** As consideration for the services provided by Contractor hereunder, Authority will pay Contractor in accordance with the fee schedule set forth in this paragraph 4.1. All services are payable in arrears.

4.1.1 **April 9, 2018 through October 8, 2019.**

1) **Methodology.** For the period April 9, 2018 through and including October 8, 2019 (the “Commitment Period”), Authority shall pay Contractor a guarantee payment (“Guarantee Payment”) in the amount of the greater of \$50,000 per month (“Minimum Amount”) or \$65.27 per worked relative value unit (“Worked RVU”) for all teaching and administrative services and payment for care of KMC patients (“RVU Effort”). Contractor understands and agrees that (i) the compensation set forth in this subparagraph 4.1.1 is calculated based on the current Medical Group Management Association Physician Compensation and Production Survey (“MGMA Survey”) for specialty and (ii) Contractor will maintain a median level of Worked RVU based on the current MGMA Survey and fulfill all the obligations set forth in this Agreement during the Term.

2) **Reconciliation of Guarantee Payment.** Within 30 days after the end of each quarter during the Commitment Period, KMC will calculate the RVU Effort for such immediately preceding quarter, taking into account the RVU Effort from April 9, 2018, through the end of the subject quarter, and the RVU Effort generated from the Commitment Period shall be determined (the “Actual Amount”). KMC will undertake a reconciliation of the RVU Effort, for services provided by Contractor during the Commitment Period, no later than the end of 120 days from the conclusion of the Commitment Period. If the prorated Minimum Amount is lower than the Actual Amount, then such difference shall be paid to Contractor as Guarantee Payment within 30 days after such calculation has been completed.

4.1.2 **October 9, 2019 through April 8, 2021.**

1) **Methodology.** For the period October 9, 2019 through and including April 8, 2021, Authority shall pay Contractor for all teaching and administrative services and payment for care of KMC patients using the current MGMA Survey. KMC has chosen to use the full time physician compensation with more than one year in the specialty for all physicians section. This section is divided into four categories: 25th percentile, median, 75th percentile and 90th percentile. A conversion factor will be established by taking each category and dividing the physician compensation in that category by the Worked RVU in that category. Contractor will be compensated for each Worked RVU by multiplying the Worked RVU by the median conversion factor for each KMC patient (“RVU Effort”).

2) **Payment Adjustment.** KMC will establish an estimate (“Estimate”) of Contractor’s RVU Effort using Contractor’s RVU Effort for the immediately preceding 12-month period annualized. The Estimate will be divided by the number of months in a

calendar year in order to calculate the amount of RVU Effort to be paid to Contractor each month (the "Warrant Amount"). Within 30 days after the end of each quarter, KMC will calculate the RVU Effort for such immediately preceding quarter, and adjust the payment for RVU Effort accordingly (the "Actual Amount"). If the Estimate is lower than the Actual Amount, then such difference shall be paid to Contractor within 30 days after such calculation has been completed, or as of the effective date of any termination of this Agreement, whichever occurs sooner. If the Estimate exceeds the Actual Amount, then Contractor shall pay such difference to KMC: (i) in a lump sum within 30 days after such calculation has been completed; or (ii) through a reduction in the Warrant Amount during the next quarter; or (iii) in a lump sum as of the effective date of any termination of this Agreement, whichever occurs sooner. The Estimate shall be reestablished as of each contract year. **Contractor hereby expressly grants to KMC the right to offset any amounts owed to KMC against any payment to be made to Contractor by KMC pursuant to this paragraph if Contractor fails to pay such excess to KMC.**

4.2 Call Coverage. Authority shall pay Contractor for emergency plastic, reconstructive, and hand call coverage (excluding established patients) as follows: (i) Contractor shall be paid a fixed fee in the amount of \$750 per 24-hour day for call coverage that does not exceed one (1) in four (4) weeks; and (ii) Contractor shall be paid a fixed fee in the amount of \$2,000 per 24-hour day for call coverage that exceeds one (1) in four (4) weeks.

4.3 Compensation All-inclusive. The compensation paid to Contractor is inclusive of all expenses, including without limitation, lodging, mileage reimbursement, car rental, meals, and incidental expenses.

4.4 Limitations on Compensation. Except as expressly stated herein, neither Contractor nor Group Physicians shall receive any benefits from Authority, including without limitation, health benefits, sick leave, vacation, holidays, deferred compensation or retirement.

4.5 Invoices. Invoices for payment shall be submitted in a form approved by KMC and list each service performed. Invoices and receipts shall be sent to KMC for review and processing within 60 days of the date of service or payment will not be made. Payment shall be made to Contractor within 30 days of receipt and approval of each invoice by KMC.

4.6 Maximum Payable. The maximum payable under this Agreement will not exceed \$2,700,000 over the three-year Initial Term of this Agreement.

4.7 Taxpayer Identification. To ensure compensation is reported as paid to the proper party, Contractor will complete and execute IRS Form W-9 (Exhibit "A," attached hereto and incorporated herein by this reference), which identifies the taxpayer identification number for Contractor.

4.8 Professional Fee Billing. KMC shall have the exclusive right to set, bill, collect and retain all fees, including professional fees, for all direct patient care services provided by Contractor to KMC patients during the Term of this Agreement. All professional fees generated by Contractor for services rendered to KMC patients at KMC or a KMC location during the

Term of this Agreement, including both cash collections and accounts receivable, will be the sole and exclusive property of KMC, whether received by KMC or by Contractor and whether received during the Term of this Agreement or anytime thereafter. Contractor hereby assigns all rights to said fees and accounts to KMC and shall execute all documents required from time to time by KMC and otherwise fully cooperate with KMC to enable KMC to collect fees and accounts from patients and third-party payers.

4.9 **Managed Care Organizations.** For and on behalf of Contractor, including Group Physicians, Authority shall have the sole and exclusive right and authority to enter into contractual relationships with HMOs, IPAs, PPOs, PHOs, employer groups, provider networks and other managed care organizations (collectively “Managed Care Organizations”). Contractor shall provide the same quality of care to patients from Managed Care Organizations as is provided to other KMC patients. Upon request from Authority or KMC, Contractor shall execute Managed Care Organization documents as “provider” if deemed necessary or advisable by Authority. Contractor shall not contract with any Managed Care Organization without Authority’s prior written consent in each instance.

5. **Access to Books and Records.** Contractor shall make available, upon written request from Authority or KMC, the Secretary of Health and Human Services, the Comptroller General of the United States, or any other duly authorized agent or representative, this Agreement, and Contractor’s books, documents and records. Contractor shall preserve and make available such books, documents and records for a period of seven (7) years after the termination or expiration of this Agreement. If Contractor is requested to disclose books, documents or records pursuant to this section for any purpose, Contractor shall notify KMC of the nature and scope of the request, and Contractor shall make available, upon written request of KMC, all such books, documents or records.

6. **Anti-referral Laws.** Contractor acknowledges that it is subject to certain federal and state laws governing the referral of patients, which are in effect during the Term of this Agreement. These laws include (i) prohibitions on payments for referral or to induce the referral of patients, and (ii) the referral of patients by a physician for certain designated health care services to an entity with which the physician (or his or her immediate family) has a financial relationship (Cal. Business and Professions Code sections 650 et seq.; Cal. Labor Code sections 139.3 and 139.31; section 1128B (b) of the Social Security Act; and section 1877 of the Social Security Act). The parties expressly agree that nothing contained in this Agreement shall require either the referral of any patients to, or order of any goods or services from Contractor or KMC. Notwithstanding any unanticipated effect of any provision of this Agreement, neither party shall knowingly or intentionally conduct itself in such a manner as to violate the prohibition against fraud and abuse in connection with the Medicare and Medicaid programs (42 U.S.C. section 1320a-7b).

7. **Assignment.** Contractor shall not assign, delegate, sublet, or transfer any interest in or duty under this Agreement. Contractor shall not assign any money due or which becomes due to Contractor under this Agreement without the prior written approval of Authority.

8. **Audits, Inspection and Retention of Records.** Contractor agrees to maintain and make available to Authority accurate books and records relative to all its activities under this Agreement. Contractor shall permit Authority to audit, examine and make excerpts and transcripts from such records, and to conduct audits or reviews of all invoices, materials, records or personnel or other data related to all other matters covered by this Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of not less than four (4) years from the date of final payment under this Agreement, or until after the conclusion of any audit, whichever occurs last. The state of California or any federal agency having an interest in the subject of this Agreement shall have the same rights conferred upon Authority herein.

9. **Authority to Bind Authority.** It is understood that Contractor, in its performance of any and all duties under this Agreement, has no authority to bind Authority to any agreements or undertakings.

10. **Captions.** The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

11. **Change in Law.** In the event that a change in state or federal law or regulatory requirement (or the application thereof), any of which renders this Agreement illegal, impossible to perform, or commercially impracticable, the parties agree to negotiate immediately, in good faith, any necessary or appropriate amendments(s) to the terms of this Agreement. If the parties fail to reach a mutually agreeable amendment within 30 days of such negotiation period, this Agreement shall automatically terminate at the end of such 30-day period.

12. **Choice of Law/Venue.** The parties hereto agree that the provisions of this Agreement will be construed pursuant to the laws of the state of California. It is expressly acknowledged that this Agreement has been entered into and will be performed within the County of Kern. Should any suit or action be commenced to enforce or interpret the terms of this Agreement or any claim arising under it, it is expressly agreed that proper venue shall be in County of Kern, state of California.

13. **Compliance with Law.** Contractor shall observe and comply with all applicable Authority, local, state and federal laws, ordinances, rules and regulations now in effect or hereafter enacted, each of which is hereby made a part hereof and incorporated herein by reference.

14. **Compliance Program.** Contractor acknowledges that KMC has implemented a compliance program for the purpose of ensuring adherence to applicable federal and state laws, regulations and other standards. Contractor agrees that in the course of performance of its duties described herein that it shall act, and cause its employees to act, in conformance with the policies set forth therein. KMC shall make available such information relating to its compliance program as is appropriate to assist Contractor in adhering to the policies set forth in the compliance program. Contractor and its employees shall participate in compliance training and education as reasonably requested by KMC.

15. **Confidentiality.**

15.1 **Use and Disclosure Restrictions.** Neither party shall, without the written consent of the other, communicate confidential information of the other, designated in writing or identified in this Agreement as such, to any third party and shall protect such information from inadvertent disclosure to any third party in the same manner that the receiving party would protect its own confidential information. The foregoing obligations will not restrict either party from disclosing confidential information of the other party: (i) pursuant to applicable law; (ii) pursuant to the order or requirement of a court, administrative agency, or other governmental body, on condition that the party required to make such a disclosure gives reasonable written notice to the other party to contest such order or requirement; and (iii) on a confidential basis to its legal or financial advisors.

15.2 **Trade Secrets.** The parties acknowledge that each party, in connection with its business, has developed certain operating manuals, symbols, trademarks, trade names, service marks, designs, patient lists, procedures, processes, and other copyrighted, patented, trademarked, or legally protectable information which is confidential and proprietary to the party that constitute its trade secrets. The parties shall not use any name, symbol, mark, or other proprietary information of the other party except as expressly permitted.

15.3 **Medical Records.** The parties agree to maintain the confidentiality of all medical records pertaining to the provision of services under this Agreement in accordance with applicable federal and state laws and regulations including, but not limited to, the California Confidentiality of Medical Records Information Act, codified at section 56.1 of the California Civil Code, California Evidence Code sections 1156 and 1157, and the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations.

15.4 **Medical Staff and Committee Records.** All records, files, proceedings and related information of Group Physicians, KMC and the medical staff and its committees pertaining to the evaluation and improvements of the quality of patient care at KMC shall be kept strictly confidential by Contractor and Group Physicians. Neither Contractor nor Group Physicians shall voluntarily disclose such confidential information, either orally or in writing, except as expressly required by law or pursuant to written authorization by KMC, which may be given or withheld in the sole discretion of KMC.

15.5 **Ownership of Records.** All documents, papers, notes, memoranda, computer files and other written or electronic records of any kind ("Documents"), in whatever form or format, assembled, prepared or utilized by Contractor or Group Physicians during and in connection with this Agreement shall remain the property of Authority at all times. Upon the expiration or termination of this Agreement, Contractor shall promptly deliver to Authority all such Documents, which have not already been provided to Authority in such form or format as Authority deems appropriate. Such Documents shall be and will remain the property of Authority without restriction or limitation. Contractor may retain copies of the above described Documents but agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of Authority.

15.6 **Non-disparagement.** Each party agrees that it shall not make or cause to be made, any written (including, but not limited to, any emails, internet postings, remarks or statements) or verbal assertions, statements or other communications regarding the other party's business or each other which may be in any manner whatsoever defamatory, detrimental or unfavorable to such other party. Each party agrees that these non-disparagement covenants shall survive the termination of this Agreement.

16. **Conflict of Interest.** Contractor covenants that it has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Contractor further covenants that in the performance of this Agreement no person having any such interests shall be employed. It is understood and agreed that if such a financial interest does exist at the inception of this Agreement, Authority may immediately terminate this Agreement by giving written notice thereof.

17. **Consent.** Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

18. **Construction.** To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. Contractor and Authority acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Contractor and Authority acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

19. **Counterparts.** This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

20. **Disqualified Persons.** The parties mutually represent and warrant to one another that they and their respective representatives are not: (i) currently excluded, debarred, or otherwise ineligible to participate in the federal health care programs as defined in 42 U.S.C. section 1320a-7b-(f) (the "Federal health care programs") and/or present on the exclusion database of the Office of the Inspector General ("OIG") or the Government Services Administration ("GSA"); (ii) convicted of a criminal offense related to the provision of health care items or services but have not yet been excluded, debarred, or otherwise declared ineligible to participate in the Federal health care programs; or (iii) debarred, suspended, excluded or disqualified by any federal governmental agency or department or otherwise declared ineligible from receiving federal contracts or federally approved subcontracts or from receiving federal financial and nonfinancial assistance and benefits. This shall be an ongoing representation and warranty during the Term of this Agreement and a party shall immediately notify the other party of any

change in the status of any of the representations and/or warranties set forth in this section. Any breach of this section shall give the non-breaching party the right to terminate this Agreement immediately upon written notice.

21. **Enforcement of Remedies.** No right or remedy herein conferred on or reserved to Authority is exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing by law or in equity or by statute or otherwise, and may be enforced concurrently or from time to time.

22. **Immigration Compliance.** Contractor shall comply with all provisions of immigration law with respect to hiring, recruiting or referring for employment persons whose authorization for employment in the United States has been verified, and shall provide KMC with a copy of such verification required in 8 USCA section 1324a. Contractor agrees to indemnify, defend, and hold harmless Authority, its agents, officers, and employees, from any liability, damages, or causes of action arising out of Contractor's failure to comply with this section 22.

23. **Indemnification and Hold Harmless.** Authority shall assume liability for and indemnify and hold Contractor and Group Physicians harmless from any and all claims, losses, expenses, costs, actions, settlements, attorneys' fees and judgments incurred by Contractor or Group Physicians or for which Contractor or Group Physicians becomes liable, arising out of or related to professional services rendered or which a third party alleges should have been rendered by Contractor or Group Physicians pursuant to this Agreement. Authority's obligation under this paragraph shall extend from the Commencement Date and shall survive termination or expiration of this Agreement to include all claims that allegedly arise out of professional services Contractor or Group Physicians rendered on behalf of Authority; provided, however, that the provisions of this paragraph shall not apply to any services rendered at any location other than KMC without approval by the Kern County Hospital Authority Board of Governors and, provided further, that Authority shall have no duty or obligation to defend, indemnify or hold Contractor or Group Physicians harmless for any conduct or misconduct found to be intentional, willful, grossly negligent, or criminal.

24. **Independent Contractor.** In the performance of the services under this Agreement, Contractor shall be, and acknowledges that Contractor is in fact and law, an independent contractor and not an agent or employee of Authority. Contractor has and retains the right to exercise full supervision and control over the manner and methods of providing services to Authority under this Agreement. Contractor retains full supervision and control over the employment, direction, compensation and discharge of all persons assisting Contractor in the provision of services under this Agreement. With respect to Contractor's employees, if any, Contractor shall be solely responsible for payment of wages, benefits and other compensation, compliance with all occupational safety, welfare and civil rights laws, tax withholding and payment of employment taxes whether federal, state or local, and compliance with any and all other laws regulating employment.

25. **Informal Dispute Resolution.** Controversies between the parties with respect to this Agreement, or the rights of either party, or with respect to any transaction contemplated by this

Agreement, shall be resolved, to the extent possible, by informal meetings and discussions among appropriate representatives of the parties.

26. **Insurance.** With respect to performance of work under this Agreement, Contractor shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as described in Exhibit "B," attached hereto and incorporated herein by this reference.

27. **Modifications of Agreement.** This Agreement may be modified in writing only, signed by the parties in interest at the time of the modification.

28. **No Third Party Beneficiaries.** It is expressly understood and agreed that the enforcement of this Agreement and all rights of action relating to such enforcement, shall be strictly reserved to Authority and Contractor. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of Authority and Contractor that any such person or entity, other than Authority or Contractor, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.

29. **Non-appropriation.** Authority reserves the right to terminate this Agreement in the event insufficient funds are appropriated or budgeted for this Agreement in any fiscal year. Upon such termination, Authority will be released from any further financial obligation to Contractor, except for services performed prior to the date of termination or any liability due to any default existing at the time this clause is exercised. Contractor will be given 30 days' prior written notice in the event that Authority requires such an action.

30. **Non-collusion Covenant.** Contractor represents and agrees that it has in no way entered into any contingent fee arrangement with any firm or person concerning the obtaining of this Agreement with Authority. Contractor has received from Authority no incentive or special payments, nor considerations, not related to the provision of services under this Agreement.

31. **Nondiscrimination.** Neither Contractor, nor any officer, agent, employee, servant or subcontractor of Contractor shall discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, ancestry, national origin, religion, sex, actual or perceived sexual orientation, marital status, age, pregnancy, medical condition, handicap or other prohibited basis, either directly, indirectly or through contractual or other arrangements.

32. **Non-waiver.** No covenant or condition of this Agreement can be waived except by the written consent of Authority. Forbearance or indulgence by Authority in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by Contractor. Authority shall be entitled to invoke any remedy available to Authority under this Agreement or by law or in equity despite said forbearance or indulgence.

33. **Notices.** Notices to be given by one party to the other under this Agreement shall be given in writing by personal delivery, by certified mail, return receipt requested, or express delivery service at the addresses specified below. Notices delivered personally shall be deemed

received upon receipt; mailed or expressed notices shall be deemed received four (4) days after deposit. A party may change the address to which notice is to be given by giving notice as provided above.

Notice to Contractor:

Desert Hand and Plastic Surgery PC
72-650 Fred Waring Drive, Suite 109
Palm Desert, California 92260
Attn.: Its President

Notice to Authority:

Kern Medical Center
1700 Mount Vernon Avenue
Bakersfield, California 93306
Attn.: Chief Executive Officer

34. **Signature Authority.** Each party represents that they have full power and authority to enter into and perform this Agreement, and the person(s) signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement.

35. **Sole Agreement.** This Agreement, including all attachments hereto, contains the entire agreement between the parties relating to the services, rights, obligations and covenants contained herein and assumed by the parties respectively. No inducements, representations or promises have been made, other than those recited in this Agreement. No oral promise, modification, change or inducement shall be effective or given any force or effect.

36. **Termination.**

36.1 **Termination with Cause.** Either party may terminate this Agreement in the event of a material breach by the other; provided, however, the termination for the breach of this Agreement will not become effective unless and until the party not in default, has given the other party written notice of breach, which notice shall state the general nature of the breach, and the party allegedly in default will thereafter have a period of 30 days following the giving of said notice in which to remedy the default to the reasonable satisfaction of the other party. If the alleged default is of the kind that cannot be cured within 30 days, then the party allegedly in default will have an additional 30 days in which to remedy the breach as long as such party is acting in good faith and using diligent efforts to remedy such breach throughout the cure period.

36.2 **Termination without Cause.** Either party may terminate this Agreement, without cause, upon 120 days' prior written notice to the other party.

36.3 **Immediate Termination.** Notwithstanding the foregoing, Authority shall have the right to terminate this Agreement effective immediately after giving written notice to Contractor, for any of the following reasons: (i) Authority determines that Contractor does not have the proper credentials, experience or skill to perform the required services under this Agreement; (ii) continuation by Contractor in the providing of services may result in civil, criminal, or monetary penalties against Authority or KMC; (iii) the violation of any federal or state law or regulatory rule or regulation or condition of accreditation or certification to which Authority or KMC is subject; (iv) an unauthorized use or disclosure of confidential or proprietary information by Contractor which causes material harm to Authority or KMC; (v) commission of a material act involving moral turpitude, fraud, dishonesty, embezzlement, misappropriation or financial

dishonesty by Contractor against Authority or KMC; (vi) the loss or threatened loss of KMC's ability to participate in any federal or state health care program, including Medicare or Medi-Cal, due to the actions of Contractor; or (vii) the failure of Contractor to cure a default within the time allowed in paragraph 36.1.

37. **Effect of Termination.**

37.1 **Payment Obligations.** In the event of termination of this Agreement for any reason, Authority shall have no further obligation to pay for any services rendered or expenses incurred by Contractor after the effective date of the termination, and Contractor shall be entitled to receive compensation for services satisfactorily rendered, calculated on a prorated basis up to the effective date of termination.

37.2 **Vacate Premises.** Upon expiration or earlier termination of this Agreement, Contractor shall immediately vacate KMC, removing at such time any and all personal property of Contractor. Authority may remove and store, at Contractor's expense, any personal property that Contractor has not so removed.

37.3 **No Interference.** Following the expiration or earlier termination of this Agreement, Contractor shall not do anything or cause any person to do anything that might interfere with any efforts by Authority to contract with any other individual or entity for the provision of services or to interfere in any way with any relationship between Authority and any provider that may replace Contractor.

37.4 **No Hearing Rights.** Termination of this Agreement by Authority or KMC for any reason shall not provide Contractor or Group Physicians the right to a fair hearing or the other rights more particularly set forth in the KMC medical staff bylaws.

38. **Time of Essence.** Time is hereby expressly declared to be of the essence of this Agreement and of each and every provision hereof, and each such provision is hereby made and declared to be a material, necessary and essential part of this Agreement.

39. **Liability of Authority.** The liabilities or obligations of Authority with respect to its activities pursuant to this Agreement shall be the liabilities or obligations solely of Authority and shall not be or become the liabilities or obligations of the County of Kern or any other entity, including the state of California.

[Signatures follow on next page]

IN WITNESS TO THE FOREGOING, the parties have executed this Agreement as of the day and year first written above.

DESERT HAND AND PLASTIC
SURGERY PC

By David Bowen MD
David T. Bowen, M.D.
Its President 11/10/18

KERN COUNTY HOSPITAL AUTHORITY

By _____
Chairman
Board of Governors

APPROVED AS TO CONTENT:
KERN MEDICAL CENTER

By _____
Russell V. Judd
Chief Executive Officer

APPROVED AS TO FORM:
LEGAL SERVICES DEPARTMENT

By Harvey S. Bamer
VP & General Counsel
Kern County Hospital Authority

Agreement.Bowen.121417

EXHIBIT "A"
IRS FORM W-9

EXHIBIT "B" **INSURANCE**

With respect to performance of work under this Agreement, Contractor shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below unless such insurance has been expressly waived in writing by Authority. Any requirement for insurance to be maintained after completion of the work shall survive the termination or expiration of this Agreement.

Authority reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

1. Workers' Compensation and Employers Liability Insurance:

- (a) Required if Contractor has employees. If Contractor currently has no employees, Contractor's written confirmation of such will be required before execution of this Agreement. If Contractor engages any employees during the Term of this Agreement or any extensions thereof, Contractor agrees to obtain the specified Workers' Compensation and Employers Liability insurance.
- (b) Workers' Compensation insurance with statutory limits as required by the California Labor Code.
- (c) Employers Liability with limits of \$1,000,000 per Accident; \$1,000,000 Disease per employee; \$1,000,000 Disease per policy.
- (d) Waiver of Subrogation: The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Authority for all work performed by Contractor, its employees, agents and subcontractors.
- (e) Required Evidence of Insurance: Certificate of Insurance.

2. General Liability Insurance:

- (a) Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
- (b) Minimum Limits: \$1,000,000 per Occurrence; \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of General Liability Insurance and Commercial Umbrella Liability Insurance. If Contractor maintains higher limits than the specified minimum limits, Authority requires and shall be entitled to coverage for the higher limits maintained by Contractor.
- (c) If Contractor has no Owned automobiles, the General Liability policy shall include Non-Owned and Hired Automobile Liability in the amount of \$1,000,000 combined single limit per accident.

- (d) Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by Authority. Contractor is responsible for any deductible or self-insured retention and shall fund it upon Authority's written request, regardless of whether Contractor has a claim against the insurance or is named as a party in any action involving Authority.
- (e) Authority shall be named as an additional insured for liability arising out of operations by or on behalf of Contractor in the performance of this Agreement. See section 5 below for full Additional Insured wording.
- (f) The insurance provided to Authority as an additional insured shall be primary to and non-contributory with any insurance or self-insurance program maintained by Authority.
- (g) The policy definition of "insured contract" shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the "f" definition of insured contract in ISO form CG 00 01, or equivalent).
- (h) The policy shall cover inter-insured suits between Authority and Contractor and include a "separation of insureds" or "severability" clause which treats each insured separately.
- (i) Required Evidence of Insurance: (i) Copy of the additional insured endorsement or policy language granting additional insured status; and (ii) Certificate of Insurance.

3. Automobile Liability Insurance:

- (a) Minimum Limits: \$1,000,000 combined single limit per accident for bodily injury and property damage.
- (b) Insurance shall apply to all Owned autos. If Contractor currently owns no autos, Contractor agrees to obtain such insurance should any autos be acquired during the Term of this Agreement or any extensions thereof.
- (c) Insurance shall include coverage for Non-Owned and Hired autos. (See requirements in section 1(c) above if there is no separate Automobile Liability coverage.)
- (d) Authority shall be named as an additional insured for liability arising out of operations by or on behalf of Contractor in the performance of this Agreement. See section 5 for full Additional Insured wording.
- (e) Required Evidence of Insurance: Certificate of Insurance.

4. Standards for Insurance Companies: Insurers shall have an A.M. Best's rating of at least A;VII.

5. Additional Insured Wording: "**Kern County Hospital Authority, its officers, officials, employees and volunteers**" are to be named as Additional Insureds as per each section where noted above.

6. Claims Made Policies: If any of the required policies provide coverage on a claims-made basis:

- (a) The Retroactive Date must be shown and must be before the Commencement Date of the Agreement or the beginning of contract work.
- (b) Insurance must be maintained and evidence of insurance must be provided *for at least five (5) years after completion of the contract work.*
- (c) If coverage is canceled or non-renewed, and *not replaced with another claims-made policy form with a Retroactive Date* prior to the contract Commencement Date, Contractor must purchase “extended reporting” coverage for a minimum of *five (5) years* after completion of the contract work.

7. Documentation:

- (a) The Certificate of Insurance must include the following reference: “**Agreement for Professional Services.**”
- (b) All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Contractor agrees to maintain current Evidence of Insurance on file with Authority for the entire Term of this Agreement and any additional periods if specified in sections 1, 2 or 3 above.
- (c) The name and address for the Certificates of Insurance and Additional Insured endorsements is: Kern County Hospital Authority, c/o Kern Medical Center, 1700 Mount Vernon Avenue, Bakersfield, California 93306.
- (d) Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least 10 days before expiration or other termination of the existing policy.
- (e) Contractor shall provide immediate written notice if: (i) any of the required insurance policies is terminated; (ii) the limits of any of the required policies are reduced; or (iii) the deductible or self-insured retention is increased.
- (f) Upon written request, certified copies of required insurance policies must be provided to Authority within 30 days.

8. Policy Obligations: Contractor’s indemnity and other obligations shall not be limited by the foregoing insurance requirements.

9. Material Breach: If Contractor fails to maintain the insurance required by this Agreement, it shall be deemed a material breach of this Agreement. Authority, at its sole option, may terminate this Agreement and obtain damages from Contractor resulting from said breach. Alternatively, Authority may purchase the required insurance, and without further notice to Contractor, Authority may deduct from sums due to Contractor any premium costs advanced by Authority for such insurance. These remedies shall be in addition to any other remedies available to Authority.

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**BOARD OF GOVERNORS
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

January 17, 2018

Subject: Agreement with Medtronic USA, Inc., for consignment of carotid stent systems

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical requests your Board approve the proposed consignment agreement with Medtronic USA, Inc., for consignment purchase of various sizes of Protégé Carotid Stent systems, including embolic protection devices. The Agreement is effective on January 17, 2018 and may be terminated with a 30-day notice. The total estimated annual cost of the consignment agreement is \$52,320.

The Agreement contains non-standard terms and cannot be approved as to form by Counsel due to the non-inclusion of an indemnification clause and the lack of any warranty on the purchased products.

Kern County Hospital Authority ACCOUNT 1106512

CONSIGNMENT AGREEMENT

This Consignment Agreement ("Agreement") is entered into by and between Kern County Hospital Authority, with a business address at 1700 Mt. Vernon Ave, Bakersfield, CA 93306 ("Customer"), and Medtronic USA, Inc., with a business address as set forth above ("Medtronic"), and is effective as of the latest signature date shown below.

- 1. CONSIGNED PRODUCT/INVENTORY LEVELS.** Medtronic will provide product on a consignment basis ("Consigned Product"), in each case of the types and in the quantities agreed to by Medtronic and the Customer. The types and quantities of Consigned Product ("Inventory Levels") shall be evidenced in one or more documents attached to and hereby incorporated into this Agreement, and each referred to herein as an "Inventory Schedule." A single Inventory Schedule shall not list Consigned Product stored at more than one Customer facility. For each Customer facility at which Consigned Product is stored, there shall be separate Inventory Schedules for the Consigned Product from each Medtronic business unit. Each Inventory Schedule shall identify the Medtronic business unit and Customer facility to which it applies. Regardless of title or labeling (e.g., "Attachment A," "Exhibit," etc.), any attachment hereto that is signed and dated by Medtronic and Customer, and sets forth Inventory Levels, shall be acceptable and treated as an Inventory Schedule hereunder for the types of Consigned Product listed thereon. The parties agree that if, due to business circumstances, a Customer-approved change to Inventory Levels is accomplished before the applicable Inventory Schedule can be replaced, the parties' other business records and information reflecting the change shall be used as needed to supplement the information about Inventory Levels until the Inventory Schedule is replaced.
- 2. STORAGE OF CONSIGNED PRODUCT.** For all Consigned Product in its custody or under its control, Customer shall: (a) properly store Consigned Product in accordance with approved labeling; (b) secure Consigned Product to prevent risk of loss, theft or damage; and (c) ensure that Consigned Product is covered by Customer's fire, theft, damage and other applicable insurance policies.
- 3. USE OF CONSIGNED PRODUCT/RISK OF LOSS.** Legal title to all Consigned Product in Customer's custody or under Customer's control shall remain with Medtronic until the Consigned Product is Used by Customer (as defined below). However, because Customer shall have sole physical control and responsibility for all Consigned Product, Customer shall bear the risk of loss, theft and damage incurred while in its custody or under its control, and shall cover the costs of replacing the Consigned Product. Legal title to Consigned Product transfers to Customer at the time the Consigned Product's package is opened, or the Consigned Product is lost, stolen, damaged, expired or otherwise rendered unsalable while in the Customer's custody or control (a "Use").
- 4. PURCHASE OF CONSIGNED PRODUCT.** For each Use of a Consigned Product, Customer will issue a purchase order for a like Product to replace the Consigned Product used (the "Replacement Product") and restore the Inventory Levels of Consigned Product. Upon receipt of the purchase order, Medtronic will issue Customer an invoice for the Consigned Product that is replaced by the Replacement Product at the price then in effect for Customer's purchases of such product. Replacement Product is Consigned Product for the purposes of this Agreement.
- 5. MAINTENANCE OF INVENTORY LEVELS.** Customer agrees to: (a) maintain the Inventory Levels of Consigned Product listed in each Inventory Schedule, and (b) issue purchase orders for Replacement Product within 30 days of a Use. In the event that Customer fails to meet these requirements, Medtronic will issue a written Notice of Deficiency to Customer identifying the amount of the Consigned Product short fall. Within 5 business days of receipt of the Notice of Deficiency, the Customer shall either (a) order and pay for sufficient quantities of applicable Consigned Products to restore actual Inventory Levels to those then reflected in the applicable Inventory Schedule; or (b) issue a pay-only purchase order and pay for the types and quantities of Consigned Product representing the deficiency identified, in which case Inventory Levels will be reduced accordingly and evidenced through the Parties' execution of a replacement Inventory Schedule for the applicable Customer facility and Medtronic business unit.
- 6. INVENTORY CONTROL AND MANAGEMENT.** Customer shall use proper inventory control and management processes, including (i) Use of Consigned Product such that product closest to expiration or "use by date" is Used

before other product of the same type and size, (ii) Use of Consigned Product in accordance with the approved labeling, conducting regular expiration or Use By Date reviews to ensure that expired Consigned Product is segregated to prevent Use in a patient, (iii) confirmation of Consigned Product viability prior to Use which includes verification that a product is not damaged or expired, and (iv) maintaining all records and documentations required by and/or consistent with applicable law and otherwise required by Medtronic.

- 7. **MEDTRONIC ACCESS TO CONSIGNED PRODUCT.** Customer shall allow Medtronic reasonable ongoing access to Consigned Product for purposes of managing and monitoring Consigned Product. In addition, at least quarterly, Customer shall allow Medtronic reasonable access to the Consigned Product for the purpose of reconciling Inventory Levels of Consigned Products. Medtronic reserves the right to remove Consigned Product upon thirty (30) days' notice. If for any reason Medtronic requests the return of Consigned Product, Customer shall return Consigned Product as requested, at Medtronic's expense, and Medtronic will either restore Inventory Levels or the applicable Inventory Schedule will be amended by the parties to reflect the remaining Inventory Levels.
- 8. **SHIPPING.** Medtronic will, for Consigned Product, pay for all shipping and freight costs to and from Customer. Additional charges related to special shipment and/or air shipment requested by Customer shall be prepaid by Medtronic, invoiced to Customer, and a reasonable shipping and handling charge may be added to each invoice for Consigned Product shipped in that manner.
- 9. **TERMINATION.** Either party may terminate this Agreement (including each Inventory Schedule), or cancel a specific Inventory Schedule, for any reason upon thirty (30) days written notice.
- 10. **SURVIVAL.** If this Agreement is terminated, Sections 2 (Storage of Consigned Product), 3 (Use of Consigned Product/Risk of Loss) and 11 (Return of Consigned Product) will survive such termination.
- 11. **RETURN OF CONSIGNED PRODUCT.** Within thirty (30) days after termination, cancellation or expiration of an Inventory Schedule, Customer will: (a) return at Medtronic's expense, and/or (b) issue a pay-only purchase order and pay for all Consigned Product remaining in its possession, in each case of the types and quantities reflected in the applicable Inventory Schedule.
- 12. **MODIFICATION/WAIVER.** Neither this Agreement nor any terms hereof may be modified or waived except by a writing signed by both parties; provided, however, that the parties may agree to modify Inventory Levels, including the types and quantities of Consigned Product therein, and may evidence their mutual agreement to such modification, by signing and dating a new Inventory Schedule, which shall, from thereafter, be attached to this Agreement and interpreted hereunder as the applicable Inventory Schedule.
- 13. **ENTIRE AGREEMENT.** Except with respect to any purchasing terms provided in connection with any written purchasing agreement that may then be in effect by and between the parties for the ultimate purchase of Consigned Product, this Agreement represents the entire agreement between the parties regarding the Consigned Product requested and provided hereunder, and it shall supersede all prior oral and written commitments, contracts and understandings relating thereto.

The parties, through their authorized signatories, hereby execute this Agreement effective as of the latest signature date indicated below ("Effective Date"):

MEDTRONIC USA, INC.

Kern County Hospital Authority

Sign: Annette Running Date: 1-10-18
Name: Annette Running
Title: Customer Service Representative

Sign: _____ Date: _____
Name: _____
Title: _____

Once completed, please send to: rs.cuscaaa@medtronic.com or 1-763-355-1910 (fax)

REVIEWED ONLY
NOT APPROVED AS TO FORM
By [Signature]
Legal Services Department

**BOARD OF GOVERNORS
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

January 17, 2018

Subject: Proposed retroactive Amendment No. 1 to Agreement 210-2016 with the County of Kern for employee benefit services

Recommended Action: Approve; Authorize Chairman to sign

Summary:

On April 20, 2016, your Board approved an Agreement with the County of Kern for the continue provision of employee benefit services to Kern Medical. Amendment No. 1 extends the provision of those services. The Amendment is retroactive back to July 1, 2016, due to the need to clean up some of the language in the original Agreement and to extend the services beyond the original expiration date of December 31, 2016.

Therefore, it is recommended that your Board approve Amendment No. 1 to Agreement 210-2016 with the County of Kern for employee benefits services and authorize the Chairman to sign.

**AMENDMENT NO. 1
TO
EMPLOYEE BENEFIT SERVICES AGREEMENT**

This Amendment No. 1 to Employee Benefit Services Agreement is made and entered into this ____ day of _____, 2018, between the County of Kern, a political subdivision of the state of California (“Seller”), and the Kern County Hospital Authority, a local unit of government (“Buyer”), on the following terms and conditions.

RECITALS

(a) Seller and Buyer have heretofore entered into an Employee Benefit Services Agreement (Kern County Agt. #210-2016, dated April 26, 2016) (the “Agreement”), whereby Seller provides for the continued provision of employee benefit services to Buyer commencing July 1, 2016; and

(b) The parties agree to amend certain terms and conditions of the Agreement as hereinafter set forth; and

(c) The Agreement is amended effective July 1, 2016;

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth and incorporating by this reference the foregoing recitals, the parties hereto agree to amend the Agreement as follows:

1. Section 1 shall be deleted in its entirety and replaced with the following:

1. Seller will provide the following employee benefits services to Buyer.

A. Seller will continue to provide medical, dental and vision employee benefits to Buyer’s employees for the balance of 2016, and for subsequent years, or until such time as the service is terminated in accordance with the terms of the Memorandum of Understanding for Health Benefits Participation between Seller and Buyer. Buyer will adopt these plans as a participating employer for the balance of 2016, and, by mutual agreement of the parties, for subsequent years, as provided for in the County of Kern Health Benefits Eligibility Policy, which may be amended in the sole discretion of the Seller. Benefit elections and coverage levels for Transferred Employees will continue in effect following the Closing Date for the balance of 2016. Regardless of whether other benefits are continued, Buyer will continue to offer the Kern Legacy Health Plan to its employees as its preferred option for as long as Seller offers the Kern Legacy Health Plan to its employees as its preferred option, in accordance with the Kern Legacy Health Plan Master Services Agreement, attached hereto and incorporated herein by this reference as Exhibit 1.

- B. Seller will make arrangements with third-party administrators of existing Seller voluntary employee benefit programs to continue the programs for Transferred Employees for the balance of 2016, and for subsequent years, or until such time as Buyer makes different arrangements with one or more third-party administrators for voluntary employee benefit programs. Seller will provide necessary administrative support during this period. Buyer will sign all documents and take all actions as necessary to implement this arrangement.
- C. Seller's Code Section 125 cafeteria plan will be assumed and adopted by Buyer as an additional adopting employer for the balance of 2016, and for subsequent years, or until such time as Buyer adopts its own Code Section 125 cafeteria plan. All elections and flexible spending account balances for Transferred Employees will remain intact following transfer for the balance of 2016. Seller will also provide these services for any grace period occurring in 2017 attributable to 2016 flexible spending account deferrals.
- D. Buyer will coordinate with Seller in making required contributions for Legacy Employee benefits under KCERA. Buyer shall make all periodic employer pension contributions that together with contributions by employees and earnings thereon are necessary to fund all benefits administered by KCERA. If and when Buyer stops using Seller's payroll services, Buyer shall certify to Seller that it has made periodic required KCERA contributions in the amounts and due dates set by KCERA.
- E. Seller will continue to administer and process its OPEB retiree health program benefits for Legacy Employees who were hired by Seller before March 21, 2016, and did not opt out of OPEB retiree health program benefits. Seller will also, upon their retirement from Buyer, provide Health Reimbursement Arrangement credits to Legacy Employees who were hired by Seller before March 21, 2016, opted out of OPEB retiree health benefits, and became entitled to such Health Reimbursement Arrangement credits under the terms of a Memorandum of Understanding entered into by Seller and in effect on March 21, 2016. Buyer will be responsible for contributing funding for such Legacy Employees as determined by Seller based on either an actuarial valuation of separate OPEB subaccounts specific to Buyer but maintained by Seller or a composite rate based on the general actuarial valuation for the OPEB retiree health program, or the Health Reimbursement Arrangement, as applicable.
- F. Buyer will reimburse Seller for the unemployment benefits of Legacy Employees, who are not Transferred Employees, as they come due.

- G. Seller will add Buyer as an additional employer under its Code Section 415(m) deferred compensation plan for the benefit of affected Transferred Employees and administer such benefits. Buyer will take such action and execute such documents as are necessary to effectuate this provision.
- H. Seller will continue to provide plan administration services for participation in the Seller's Code Section 457(b) plan by Buyer's employees, until such time as the service is terminated by Buyer, subject to approval by Seller. Buyer will adopt the Seller's 457(b) plan as an additional sponsoring employer. Buyer will take all action and execute all documents necessary to adopt Seller's 457(b) plan as an additional employer.
- I. Seller will provide payroll services to Buyer for the balance of 2016, and for subsequent years, or until such time as the service is terminated by Buyer. During 2016, Buyer will act as successor employer within the meaning of Internal Revenue Code Section 3121(a)(1) and, if the parties so agree, issue a single Form W-2 to Transferred Employees covering both compensation earned with the Seller prior to the Closing Date and with the Buyer on and after the Closing Date. During 2016, Buyer will also act as the successor employer for purposes of Affordable Care Act reporting. If the parties so agree, Buyer will be responsible for reporting as a large employer and filing forms 1094-C and 1095-C to Transferred Employees and Internal Revenue Service for the period January 1, 2016 to December 31, 2016, covering both medical plan coverage offered by Seller prior to the Closing Date and with the Buyer on and after the Closing Date. If the parties agree that Buyer will issue single forms for all of 2016, then Seller will provide Buyer with such information as is necessary for Buyer to prepare, file and distribute combined IRS Forms W-2, 1094-C and 1095-C referenced in this paragraph and any related federal and state forms.
- J. Seller will make arrangements with its third party employee assistance plan ("EAP") provider to continue providing EAP services for Transferred Employees and other Buyer employees for the balance of 2016, and for subsequent years, or until such time as the service is terminated by Buyer. Seller will provide the necessary administrative support during this period. Buyer will sign all documents and take all actions as necessary to implement this arrangement.

2. All capitalized terms used in this Amendment and not otherwise defined, shall have the meaning ascribed thereto in the Agreement and that certain Master Contract for the Transfer of Health Facilities, incorporated herein by this reference.

3. This Amendment shall be governed by and construed in accordance with the laws of the state of California.

4. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which take together shall constitute one and the same instrument.

5. Except as provided herein, all other terms, conditions and covenants of the Agreement shall remain in full force and effect.

[Signatures follow on next page]

IN WITNESS TO THE FOREGOING, the parties have executed this Amendment No. 1 as of the day and year first written above.

COUNTY OF KERN

KERN COUNTY HOSPITAL AUTHORITY

By _____
Chairman
Board of Supervisors

By _____
Chairman
Board of Governors

APPROVED AS TO CONTENT:
County Administrative Office

APPROVED AS TO CONTENT:
Kern Medical Center

By _____
Ryan Alsop
County Administrative Officer

By _____
Russell V. Judd
Chief Executive Officer

APPROVED AS TO FORM:
Office of County Counsel

APPROVED AS TO FORM:
Legal Services Department

By _____
Mark L. Nations
County Counsel

By *Karen S. Barnes*
Karen S. Barnes
VP & General Counsel
Kern County Hospital Authority



**BOARD OF GOVERNORS
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

January 17, 2018

SUBJECT: Proposed retroactive Resolution specifying powers and duties of the Kern County Hospital Authority Chief Financial Officer providing authority to execute certain documents related to the Department of Health Care Services (Medi-Cal) and Centers for Medicare & Medicaid Services (Medicare)

Requested Action: Approve; Adopt Resolution

Summary: Throughout the course of business, the Kern County Hospital Authority executes a number of agreements, authorizations and certifications with Medi-Cal and Medicare related to supplemental funding programs, waiver programs, intergovernmental transfers, cost reports and other financial work papers. Due to the critical nature and quick response times necessitated by these agreements, the Kern Medical recommends that your Board adopt the attached proposed resolution authorizing the Kern County Hospital Authority Chief Financial Officer to execute certain agreements, certifications, costs reports and other financial work papers, as outlined in Exhibit "A" to the resolution.

**BEFORE THE BOARD OF GOVERNORS
OF THE KERN COUNTY HOSPITAL AUTHORITY**

In the matter of:

Resolution No. _____

**THE SPECIFIED POWERS AND DUTIES OF
THE CHIEF FINANCIAL OFFICER OF THE
KERN COUNTY HOSPITAL AUTHORITY**

I, MONA A. ALLEN, Authority Board Coordinator for the Kern County Hospital Authority, hereby certify that the following Resolution, on motion of Director _____, seconded by Director _____, was duly and regularly adopted by the Board of Governors of the Kern County Hospital Authority at an official meeting thereof on the 17th day of January, 2018, by the following vote, and that a copy of the Resolution has been delivered to the Chairman of the Board of Governors.

AYES:

NOES:

ABSENT:

MONA A. ALLEN
Authority Board Coordinator
Kern County Hospital Authority

Mona A. Allen

RESOLUTION

Section 1. WHEREAS:

(a) The Kern County Hospital Authority Bylaws for Governance (“Bylaws”) provides that *“the Chief Financial Officer shall keep and maintain or cause to be kept and maintained adequate and correct accounts of the properties and business transactions of the Hospital Authority, including (without limitation) accounts of its assets, liabilities, receipts, disbursements, gains, and losses...The Chief Financial Officer shall have such other powers and perform such other duties as may be prescribed by the Board of Governors from time to time.”* (Bylaws, section 4.03, subd. (d).); and

(b) On recommendation of the Chief Executive Officer, the Board of Governors desires to prescribe with specificity such other powers and the performance of such other duties of the Chief Financial Officer.

Section 2. NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Governors of the Kern County Hospital Authority, as follows:

1. This Board finds the facts recited herein are true, and further finds that this Board has jurisdiction to consider, approve, and adopt the subject of this Resolution.

2. This Board hereby prescribes the specified powers and duties of the Chief Financial Officer set forth in Exhibit "A," attached hereto and incorporated herein by this reference.

3. The provisions of this Resolution shall be effective, in force, and operative as of the 1st day of July, 2016.

4. The Authority Board Coordinator shall provide copies of this Resolution to the following:

Kern Medical Center
Chief Executive Officer
Chief Financial Officer
Legal Services Department
County Administrative Office

EXHIBIT “A”

The Chief Financial Officer shall have the authority to execute documents and correspondence related to the following:

Section 1. Department of Health Care Services (Medi-Cal)

- a) AB 85 Realignment – certification forms and related correspondence
- b) AB 915 Outpatient Services Supplemental Reimbursement Program – certification forms and related correspondence
- c) Medi-Cal Cost Reports – as filed, amended, and revised
- d) Medi-Cal Cost Report reopening letters – letters requesting that a prior year cost report period be reopened
- e) Medi-Cal DSH Tentative Eligibility Certification forms and related correspondence
- f) Inter-Governmental Program Certification forms (PRIME, GPP, WPC, etc.)
- g) Miscellaneous Waiver correspondence (PRIME, GPP, WPC, etc.)
- h) Designated Public Hospital Eligibility Workbook (P14) attestation letters attached to data submissions
- i) Inter-Governmental agreements regarding the transfer of public funds and related correspondence
- j) Inter-Governmental transfer assessment fee agreements and related correspondence

Section 2. Centers for Medicare & Medicaid Services (Medicare)

- a) Medicare Cost Reports – as filed, amended, and revised
- b) Medicare Cost Report reopening letters – letters requesting that a prior year cost report period be reopened



**BOARD OF GOVERNORS
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

January 17, 2018

Subject: Request to replace current pre-employment background vendor, PreEmploy, with new vendor, HireRight

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical requests your Board approve the replacement of our current vendor PreEmploy with HireRight to conduct our pre-employment background checks and reporting. The basis of this request includes the following factors:

- HireRight integrates with our current Human Resources Information System, Ultimate Software, which will increase efficiency in conducting our pre-employment background checks;
- An integrated vendor partnership will offer potential employees a uniform and seamless application and onboarding experience;
- HireRight is a preferred vendor with Ultimate Software, thus generating a cost savings over our current vendor PreEmploy.

The pre-employment screenings provided include, but not limited to: OIG search, National Wants & Warrants, Civil, National Sex Offender, Name/Social Security number verification and Immigration (E-VERIFY) verifications.

Counsel is unable to approve as to form due to non-standard terms which include the limitation of liability to twelve (12) months of payments, termination language that includes an extension of the term by request of a service, legal support services to HireRight if they participate in legal proceeding relating to Kern Medical, and binding arbitration.



HireRight Service Agreement Guide

Complete these steps

Begin by clicking the link in each step to fill in the required FIELDS. Once all applicable fields are complete, print and sign in required signature lines.

Step 1: The [first paragraph](#) of the Service Agreement requires that the company's full legal entity name be provided as well as the [entity type](#) (i.e. Incorporation, Corporation, Non-Profit, Limited Liability Company) and the [State of registration](#).

Step 2: In section 14. [Notices](#), Please provide a physical mailing address that includes contact, City, State and Zip. Please do not use a PO Box address.

Step 3: The [AGREED](#) section at the end of the Service Agreement requires information to be completed that includes the company's full legal entity name, an authorized signature, printed name of signatory, the signatory's title and the date the service agreement was signed.

Step 4: Review Attachment B – Schedule of Fees. HireRight recommends the setup of the Online Consent – e Signature with report delivery and email report delivery options for every customer. If not interested, please check Not Interested in the [Online Consent Form and Report Delivery](#) Options section.

Step 5: Complete the [Subscriber Application](#)

Step 6: Additional addenda may be required specific to products and services. If an additional addendum has been attached with the service agreement, please complete the "Subscriber" authorized signature section, as well as any other areas on the addendum requiring information.

[E-Verify Company Profile](#)

[Integration Implementation Addendum](#)

[Drug and Health Services Addendum](#)

MASTER SERVICE AGREEMENT

This Master Service Agreement (“Agreement”) is between **HIRERIGHT, LLC** a Delaware limited liability company (“HireRight”), and Kern County Hospital Authority, a local unit of government, which owns and operates Kern Medical Center on behalf of itself and its officers and employees (“Subscriber”), and is effective (“Effective Date”) on the date of last signature below.

1. **HIRERIGHT SERVICES.** HireRight is a global provider of background screening products and services (each a “Service” and collectively, the “Services”). In the United States, HireRight is defined as a “consumer reporting agency” pursuant to the applicable jurisdiction of the Fair Credit Reporting Act, 15 U.S.C. §1681 et seq. (“FCRA”) and applicable state law, and any FCRA-regulated screening reports that HireRight furnishes pursuant to this Agreement are defined by the FCRA and applicable state law as “consumer reports” and/or “investigative consumer reports.” All reports provided by HireRight pursuant to this Agreement are collectively defined as “Screening Reports”, and all references to “Screening Report(s)” herein shall refer to an entire Screening Report(s) as well as any specific information contained within a Screening Report(s). Subject to the terms and conditions of this Agreement, and upon Subscriber’s request, HireRight will furnish Screening Reports and the related Services described in this Agreement in connection with Subscriber’s screening, as applicable, of employees or candidates for employment (including, without limitation, independent contractors, temporary workers/employees, and volunteers), and/or other individuals for legally permissible employment-related purposes (each, an “Applicant”). Additional Service-specific details are set forth in Section 6.
2. **SUBSCRIBER OBLIGATIONS.**
 - (a) **Compliance with Applicable Laws.** Subscriber shall comply with all local, state, federal, and international laws and regulations, including, without limitation, and as applicable the FCRA (collectively, “Laws”), applicable to Subscriber in connection with its procurement and use of Screening Reports and other Services provided pursuant to this Agreement. When utilizing HireRight’s FCRA-regulated Services, Subscriber is considered a “user” of Screening Reports under the FCRA and applicable state law, and accordingly: (i) Subscriber shall comply with its compliance certifications and obligations in Attachment A, and (ii) Subscriber acknowledges it has received, reviewed and will comply with its obligations in the *Notice to Users of Consumer Reports: Obligations Of Users Under The FCRA* currently available at: www.hireright.com/pdfs/ftcNoticeToUsers.pdf. Subscriber acknowledges that if it obtains Services from HireRight under this Agreement that fall outside the scope of the FCRA and similar United States laws, then Subscriber may have additional or different legal obligations than those described in this Section 2, and Subscriber shall comply with all such Laws and obligations. Subscriber shall promptly notify HireRight if Subscriber believes it has failed to fulfill any obligation in this Agreement, including, without limitation, those obligations related to confidentiality, consumer privacy, data protection, and compliance with Laws.
 - (b) **Account Credentialing, Access and Maintenance.** Prior to obtaining Services from HireRight, Subscriber must satisfy HireRight’s client credentialing requirements, which may include a physical on-site inspection. Subscriber shall cooperate with HireRight’s client credentialing process and pay the associated fee, if any, set forth in this Agreement. In order for HireRight to maintain current records and to fulfill obligations imposed by third-party information suppliers (“Suppliers”), Subscriber shall promptly notify HireRight in writing if Subscriber undergoes changes to its: company name, address, telephone number, website address and/or ownership. Subscriber shall designate to HireRight the name of a “Super User(s)” who shall be: (i) Subscriber’s main contact(s) for the Services obtained under this Agreement, and (ii) responsible for the strict administration and control of Subscriber’s account login codes and passwords. The Super User(s) shall identify and authorize all Subscriber account users and their respective access privileges, and promptly notify HireRight of any changes to Subscriber’s account users and if any account login codes or passwords become invalid, inactive or compromised in any manner. In accordance with Section 4, a Super User may be an Outsourced Provider.
 - (c) **Data Privacy and Security.** Subscriber shall maintain commercially reasonable and appropriate technical, physical, administrative and other organizational precautions and security measures to protect against unauthorized access to and/or misuse of the HireRight system and Screening Reports. At a minimum, Subscriber shall comply with the Information Access & Security Requirements in Attachment A. HireRight may, in its reasonable discretion and without penalty, suspend and, upon written notice, cancel Subscriber’s account if HireRight reasonably suspects or identifies any misuse of or unauthorized access to its system and/or Screening Reports through Subscriber’s account.
 - (d) **Compliance Reviews; Record Retention.** HireRight, on behalf of itself and/or its Suppliers (e.g. State Departments of Motor Vehicles, National Credit Bureaus, etc.) may conduct reasonable periodic reviews of Subscriber’s compliance with this Agreement. Unless otherwise prohibited by applicable Laws, Subscriber shall, for a minimum period of five (5) years, maintain copies of all Applicant screening disclosure/consent forms and, as applicable, all pre-adverse and adverse action notices (as further described in Attachment A). Subscriber shall, upon reasonable advance notice, during its normal business hours, make available to HireRight and/or its Suppliers such documentation reasonably requested to demonstrate Subscriber’s compliance with its obligations in this Agreement. If Subscriber becomes aware of an investigation initiated by a third-party involving HireRight’s Screening Reports or other Services provided pursuant to this Agreement, Subscriber shall provide HireRight prompt written notice of the investigation. Subscriber

shall not provide access to its HireRight account or Screening Reports to any third-party unless required to do so by applicable Laws and HireRight consents in writing to such access request.

- (e) Prohibition on Resale or Reuse of Reports. Subscriber shall not, directly or indirectly, sell, transfer, disclose the contents of or distribute Screening Reports, in whole or in part, to any third-party (other than to the applicable Applicant or in conjunction with a Required Disclosure, as defined in Section 8(c)). Subscriber shall use Screening Reports solely as an end-user, for a single, one-time use.
- (f) Compliance Responsibility; No Legal Advice from HireRight. Subscriber acknowledges that HireRight will not render any opinions regarding Screening Report content, and Subscriber shall base its screening processes, criteria, Adjudication Guidelines (if applicable) and decisions on its own policies, procedures and review of applicable Laws. Any consultation, training and/or sample forms (e.g., disclosure and authorization forms, and pre-adverse and adverse action notices) provided by HireRight are provided for informational purposes only, and not for the purpose of providing legal advice and/or for Subscriber's reliance. SUBSCRIBER ACKNOWLEDGES THAT IT IS SOLELY RESPONSIBLE FOR, AND FOR CONSULTING ON AN ONGOING BASIS WITH ITS OWN LEGAL COUNSEL FAMILIAR WITH SUBSCRIBER'S LEGAL/REGULATORY OBLIGATIONS RELATED TO THE COMPLIANT PROCUREMENT AND USE OF SCREENING REPORTS AND OTHER SERVICES OBTAINED PURSUANT TO THIS AGREEMENT INCLUDING, WITHOUT LIMITATION (AND COLLECTIVELY DEFINED AS "SUBSCRIBER COMPLIANCE OBLIGATIONS"); FULFILLING ITS COMPLIANCE OBLIGATIONS IN THIS AGREEMENT; ENSURING THAT ITS DISCLOSURE AND AUTHORIZATION FORMS AND PROCESSES, ADJUDICATION GUIDELINES AND PROCESSES, PROFESSIONAL REFERENCE QUESTIONS AS PREPARED OR REQUESTED BY SUBSCRIBER, PRE-ADVERSE ACTION AND ADVERSE ACTION NOTICE FORMS AND PROCESSES, AND ALL OTHER PAPERWORK AND FORMS UTILIZED BY OR ON BEHALF OF SUBSCRIBER IN ITS HIRING AND APPLICANT SCREENING PRACTICES ARE APPROPRIATE FOR ITS USE AND IN COMPLIANCE WITH ALL APPLICABLE LAWS. SUBSCRIBER SHALL NOT ASSERT ANY CLAIM AGAINST HIRERIGHT FOR, AND WAIVES LIABILITY AGAINST HIRERIGHT FOR, ANY CLAIMS REGARDING OR ARISING OUT OF THE SUBSCRIBER COMPLIANCE OBLIGATIONS.
- (g) Applicant Information and Identity Verification. Subscriber acknowledges that, in preparing Screening Reports, HireRight relies on the Applicant identifying information (such as, without limitation, name, date of birth, social security number or applicable national ID, and address) provided to HireRight by the Applicant and/or Subscriber, as applicable. Subscriber acknowledges that: (i) Subscriber is responsible for confirming that the Applicant is who they claim to be; and (ii) Subscriber is advised to review the completed Screening Report in comparison to the Applicant's job application and I-9 information, if applicable, to ensure that the Applicant identifying information provided to and used by HireRight to prepare the Screening Report, as well as any additional identifying information obtained by HireRight while preparing the Screening Report, matches the identifying information provided by the Applicant to Subscriber. Subscriber understands that: (i) erroneous or falsified Applicant identifying information may cause the Screening Report to be incomplete and/or inaccurate; (ii) Subscriber is solely responsible for determining whether the identifying information submitted about the Applicant is erroneous or falsified; and (iii) HireRight's Screening reports do not verify an Applicant's identity.

3. HIRERIGHT OBLIGATIONS.

- (a) Compliance with FCRA and Other Applicable Laws. HireRight shall comply with all Laws applicable to HireRight in its preparation and transmission of Screening Reports and other Services provided pursuant to this Agreement.
- (b) Service Performance; Service Revisions. Upon Subscriber's request, HireRight shall, in accordance with the terms of this Agreement, perform the Services identified in the Schedule of Fees attached hereto as Attachment B, as may be amended by the parties from time to time ("Schedule of Fees"). Subscriber acknowledges that: (i) HireRight may fulfill its Services under this Agreement through its affiliates, subsidiaries and subcontractors, provided, HireRight shall remain solely responsible for its obligations under this Agreement, and (ii) HireRight relies on the information furnished by Subscriber, Subscriber's Applicants, and Suppliers when preparing Screening Reports. Subscriber acknowledges that HireRight may, from time to time, modify, enhance and/or discontinue specific Services. HireRight will use commercially reasonable efforts to provide notice to Subscriber if a Service will be discontinued.
- (c) Training and Account Implementation. The fees in the Schedule of Fees include HireRight's standard account implementation Services and HireRight's standard user-training as detailed in Attachment B. Subscriber acknowledges that reasonable additional Service support fees may apply if Subscriber cancels scheduled training sessions without providing reasonable advance notice to HireRight or HireRight otherwise provides non-standard training to Subscriber.
- (d) Data Privacy and Security. HireRight shall maintain commercially reasonable and appropriate technical, physical, administrative and other organizational precautions and security measures to protect Applicant data against HireRight's accidental or unlawful destruction and unauthorized disclosure or access. HireRight is not responsible for disclosure or compromise of such data due to Subscriber's acts or omissions, or otherwise resulting from use of Subscriber's passwords or accounts, due to no fault of HireRight.
- (e) Record Retention. Subject to Section 11(c), and unless otherwise required by Laws applicable to HireRight, HireRight shall retain Screening Reports as follows (collectively, the "Retention Schedule"): (i) for six (6) months following the Screening Report completion date for non-U.S. resident Applicants; and (ii) for five (5) years following the Screening

Report completion date for U.S. (or U.S. Territory, Possession or Commonwealth) resident Applicants. Subscriber understands that HireRight will permanently delete Screening Reports without further notice to Subscriber upon expiration of the applicable Retention Schedule. Subscriber agrees that: (x) it shall be Subscriber's responsibility, prior to scheduled deletion, to download and/or make copies of any and all Screening Reports it desires to retain for its business files; and (y) Subscriber hereby waives all claims against HireRight with respect to the deletion of Screening Report(s) in accordance with this paragraph.

(f) Access to Books and Records. To the extent applicable to the services provided by HireRight under this Agreement and required under 42 CFR 420.302, until the expiration of four (4) years after the expiration or termination of this Agreement, HireRight shall make available, upon written request of the Secretary of the United States Secretary of Health and Human Services ("Secretary") or the Comptroller General of the United States General Accounting Office ("Comptroller General"), or any of their duly authorized representatives, a copy of this Agreement and such books, documents and records of either party as are necessary to certify the nature and extent of costs of the services HireRight provided under this Agreement. HireRight further agrees that, to the extent applicable to the services provided by HireRight under this Agreement and required under 42 CFR 420.302, if it carries out any of its duties under this Agreement through a subcontract with a value or cost of \$10,000 or more over a 12-month period with a related organization, that such subcontract shall contain a clause to the effect that until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request of the Secretary or the Comptroller General, or any of their duly authorized representatives, the subcontract, and books, documents and records of such organization that are necessary to verify the nature and extent of such costs.

- (g) Management Reports. HireRight shall provide Subscriber with HireRight's standard "Management Reports" functionality to enable Subscriber to generate available reports relating to Subscriber's account activity.
- (h) Service Standards; Disclaimer of Warranty. HIRERIGHT'S SERVICES WILL BE PERFORMED IN A PROFESSIONAL MANNER IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT. HIRERIGHT WILL MAINTAIN AND FOLLOW REASONABLE PROCEDURES TO ASSURE THE MAXIMUM POSSIBLE ACCURACY OF THE INFORMATION CONTAINED IN EACH SCREENING REPORT, AND HIRERIGHT WILL RE-VERIFY ANY DISPUTED SCREENING REPORT INFORMATION IN ACCORDANCE WITH APPLICABLE LAWS (COLLECTIVELY, "HIRERIGHT COMPLIANCE OBLIGATIONS"). SUBSCRIBER ACKNOWLEDGES THAT HIRERIGHT IS NEITHER AN INSURER NOR GUARANTOR OF THE ACCURACY, RELIABILITY, VALIDITY, DEPTH OR COMPLETENESS OF THE INFORMATION PROVIDED BECAUSE SUCH INFORMATION IS SUBJECT TO HUMAN ERROR AND IS OBTAINED FROM PUBLIC RECORDS AND OTHER THIRD-PARTY SOURCES THAT ARE NOT UNDER THE CONTROL OF HIRERIGHT AND MAY NOT ALWAYS BE ACCURATE, CONSISTENT, VALID OR COMPLETE. EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT, HIRERIGHT DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, ANY IMPLIED WARRANTY ARISING FROM THE COURSE OF DEALING, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND NONINTERRUPTION OF SYSTEM USE.
- (i) Matching and Reporting Guidelines. Subscriber acknowledges that in performing its Services under this Agreement HireRight follows certain internally developed and defined record matching and reporting guidelines designed for HireRight to meet its accuracy and compliance obligations (collectively, "Reporting Guidelines"). The Reporting Guidelines are subject to change from time to time in HireRight's sole discretion (subject to HireRight's compliance with applicable Laws). HireRight makes a summary of such Reporting Guidelines available to Subscriber from within Subscriber's password-protected HireRight account. The Reporting Guidelines constitute HireRight's Confidential Information and are made available to Subscriber only for its use in understanding HireRight's Reporting Guidelines. Any further distribution of the Reporting Guidelines by Subscriber is strictly prohibited.
- (j) Standard Service Offering. Unless otherwise stated in Attachment B, HireRight's fees in the Schedule of Fees correspond to HireRight's standard technology and Service offerings, and exclude any customized technology development, training, reporting, Service features and Service levels. Should Subscriber request (and HireRight agree to provide) such customization, the parties shall set forth the corresponding terms and fees in a mutually acceptable written statement of work, addendum or amendment.
4. **OUTSOURCED PROVIDER.** This Section 4 is only applicable if Subscriber uses an Outsourced Provider(s), as set forth in this paragraph. If Subscriber uses an outsourced human resources provider ("Outsourced Provider") which, for purposes of this Agreement, shall be acting as an authorized agent of Subscriber in connection with Subscriber's permissible procurement and use of HireRight's Screening Reports and other Services, Subscriber shall first identify to HireRight in writing the identity of the Outsourced Provider and shall require, by written agreement, its Outsourced Provider to comply with all terms of this Agreement applicable to Subscriber (including, without limitation, compliance with all Laws with respect to the procurement and use of Screening Reports; protection of the confidentiality of HireRight's Confidential Information; and prohibition against re-using, transferring (other than to Subscriber or its Applicant) and/or reselling Screening Reports). As between Subscriber and HireRight, Subscriber agrees that it shall be fully responsible for the actions or inactions of its Outsourced Provider and that any violation by its Outsourced Provider of applicable Laws or the terms of this Agreement shall be considered a violation of this Agreement by Subscriber. Subscriber authorizes HireRight to deal directly with the Outsourced Provider as Subscriber's authorized agent and, as between Subscriber and HireRight, Subscriber shall be responsible for ensuring that all necessary consents of Applicants have been obtained to permit

HireRight to disclose the Applicants' Screening Reports to the Outsourced Provider. The Outsourced Provider shall perform its Services onsite at Subscriber's place of business. If the Outsourced Provider wishes to perform its Services for Subscriber and/or access or retain Screening Reports at the Outsourced Provider's own business premises, Subscriber shall notify HireRight in advance, and HireRight shall have the right, at Subscriber's cost of \$150, to perform for regulatory compliance purposes HireRight's standard company credentialing procedures with respect to the Outsourced Provider, which may include a brief physical inspection of the Outsourced Provider's business premises. Subscriber shall obtain HireRight's advance consent (not to be unreasonably withheld) of any replacement of its Outsourced Provider. Subscriber acknowledges that, due to statutory and/or contractual obligations and restrictions, some HireRight Services may not be available through an Outsourced Provider relationship and, of those that are available, some may require additional paperwork from Subscriber and/or Outsourced Provider.

5. **AFFILIATE ORDERING RIGHTS.** Upon HireRight receiving authorization from Subscriber in a form reasonably acceptable to HireRight, HireRight will permit an Affiliate of Subscriber to order HireRight's Services under the same terms and conditions as this Agreement, provided that: (i) the Affiliate is neither an existing customer nor a competitor of HireRight, (ii) the Affiliate satisfies HireRight's standard account access credentialing requirements, and (iii) the Affiliate and/or Subscriber, as applicable, execute a mutually acceptable "join-on" agreement, "letter of authorization", or equivalent, that binds the Affiliate to the terms of this Agreement, and includes a compliance certification from Affiliate reasonably acceptable to HireRight. For purposes of this paragraph, "Affiliate" means any entity controlling, controlled by or under common control with Subscriber.
6. **SERVICE-SPECIFIC PROVISIONS.** This Section 6 is applicable if, and to the extent, Subscriber obtains from HireRight the specific Services described below. In addition to the Service details contained in this Agreement, HireRight makes a summary of its Services available to Subscriber from within Subscriber's password-protected HireRight account. Such summary constitutes HireRight's Confidential Information and is made available to Subscriber only for its use in understanding HireRight's Services. Any further distribution of the Service details by Subscriber is strictly prohibited.
 - (a) **Adjudication Services.** If Subscriber elects to obtain such Services, Subscriber shall provide HireRight with the criteria, guidelines and instructions established by Subscriber for determining whether the information in an Applicant's Screening Report satisfies Subscriber's eligibility criteria ("Adjudication Guidelines"). HireRight will apply Subscriber's Adjudication Guidelines to the Screening Report information reported by HireRight and then provide to Subscriber a status that reflects the outcome of such application ("Managed Adjudication Services"); provided, however, that HireRight will not apply any "does not meet" or equivalent final adverse status, which ultimately must be determined and applied by Subscriber. If HireRight performs Managed Adjudication Services on behalf of Subscriber, HireRight's sole responsibility will be to perform such Services accurately in accordance with Subscriber's then-current Adjudication Guidelines provided to HireRight. Subscriber represents and warrants to HireRight that the Adjudication Guidelines comply with all applicable Laws and acknowledges that Subscriber is solely responsible for the creation and content of the Adjudication Guidelines and for ensuring such compliance on an ongoing basis. Subscriber may update its Adjudication Guidelines from time to time by providing advance written notice to HireRight, and such updated Adjudication Guidelines will be effective upon HireRight's written confirmation to Subscriber.
 - (b) **Motor Vehicle Reports.** Subscriber acknowledges that motor vehicle reports ("MVRs") and related information are considered Screening Reports for purposes of this Agreement. If Subscriber requests MVRs or related information from HireRight under this Agreement, then Subscriber further represents and agrees that: (i) it is qualified to do business and validly holds all licenses required to operate Subscriber's business in all states where Subscriber conducts business and/or has employees; (ii) it will comply with all applicable Laws related to the procurement and use of MVRs, including, without limitation, the FCRA and the Driver's Privacy Protection Act, 18 U.S.C. §2721 et seq. ("DPPA"); (iii) it will not use the MVRs to build its own database; and (iv) it will, from time to time upon HireRight's request, execute paperwork required by applicable state Departments of Motor Vehicles and/or other data sources for Subscriber's access to MVRs.
 - (c) **Credit Bureau Services.**
 - (i) **Alias/Address History Services.** HireRight has obtained limited license rights to provide to its clients certain "nonpublic personal information" ("Alias/Address History Services") as defined in and regulated by the Gramm-Leach-Bliley Act (15 U.S.C. §6801, et seq.) and related state laws (collectively, "GLBA"). Alias/Address History Services include, but are not limited to, data regarding an Applicant's residential address history and "Alias" names that might have been used by the Applicant. Alias/Address History Services do not include consumer credit information or other types of information subject to the permissible purposes set forth in the FCRA. Even if Subscriber orders Alias/Address History Services, Subscriber acknowledges that it must separately and additionally order HireRight's AKA Search Service if Subscriber wants HireRight to perform additional searches based on the Alias name information obtained with the Alias/Address History Services; otherwise, HireRight will search using only the Applicant's name as provided to HireRight by Subscriber or its Applicant, as applicable. If Subscriber obtains Alias/Address History Services from HireRight, Subscriber shall comply with the following requirements and restrictions (which are based on statutory and/or Supplier requirements): (i) Subscriber will not, directly or indirectly, sell, transfer, disclose the contents of or distribute Alias/Address History Services, in whole or in part, to any third-party (other than to the applicable Applicant), and Subscriber shall use the Alias/Address History Services solely as an end-user, for a single, one-time use with respect to an Applicant; (ii) Subscriber's sole purpose for requesting Alias/Address History Services will be to verify the accuracy and completeness of information

provided to Subscriber by the Applicant in connection with the transaction pursuant to which the Applicant authorized Subscriber to obtain a report regarding the Applicant; (iii) Subscriber will limit its use of Alias/Address History Services to the foregoing stated purpose; (iv) Subscriber will take appropriate measures so as to protect against the misuse of the Alias/Address History Services; (v) Subscriber will not use any information obtained in connection with the Alias/Address History Services, in whole or in part, for the purpose of serving as a factor in determining the Applicant's eligibility for credit, insurance, employment or any other product, service or transaction not authorized in this paragraph; and (vi) Subscriber will not use the information provided in connection with the Alias/Address History Services for any purpose that would violate the Privacy Rule, 16 CFR Part 313, implemented pursuant to the GLBA, or any other provisions of the GLBA or other applicable law, rule, or regulation. For clarification, this Section 6(c)(i) does not restrict Subscriber's right to use information in Screening Reports (other than Alias/Address History Services data) for determining an Applicant's employment eligibility in accordance with this Agreement.

- (ii) **Credit Bureau Data - Restrictions on Access.** Subscriber shall not request or otherwise obtain or access HireRight Alias/Address History Services or Screening Reports containing consumer credit information if: (i) Subscriber is based in a residential (non-commercial) setting; or (ii) Subscriber will access or view such information from outside the United States.
- (d) **Death Master File Services.** Subscriber acknowledges that certain HireRight Services, including but not limited to the Social Security Trace and Social Security Validation Services, may contain information from the Death Master File ("DMF") as issued by the Social Security Administration. Subscriber agrees that, pursuant to Section 203 of the Bipartisan Budget Act of 2013 and 15 CFR §1110.102, Subscriber shall only use deceased flags (e.g., an indicator that an individual is deceased) or other information from the DMF (e.g., date of death) for legitimate fraud prevention or business purposes in compliance with applicable Laws, rules regulations, or fiduciary duty, as such business purposes are interpreted under 15 C.F.R. §1110.102(a)(1). Subscriber further agrees that it will not take any adverse action against any consumer based upon DMF information without further investigation to verify the deceased flags or other information from the DMF. Subscriber acknowledges that failure to comply with the provisions in this paragraph may subject Subscriber to penalties under 15 CFR §1110.200 of \$1,000 for each disclosure or use, up to a maximum of \$250,000 in penalties per calendar year.
- (e) **Drug and Health Services.** If Subscriber elects to obtain HireRight's Drug and Health Services pursuant to this Agreement, the Parties must first execute additional paperwork addressing relevant statutory and/or contractual obligations and restrictions.
- (f) **Electronic Consent Services.** If Subscriber elects to use HireRight's e-consent functionality (pursuant to which Subscriber can electronically make its screening disclosures to its Applicant and the Applicant can electronically provide their authorization for Subscriber to obtain the Applicant's Screening Report from HireRight), then Subscriber can utilize either its own custom disclosure/authorization ("D&A") language (subject to any system configuration limitations and any additional fees that may apply) or the sample D&A language made available by HireRight from time to time. Unless Subscriber provides its own custom D&A language to HireRight for implementation, Subscriber hereby instructs HireRight to implement its sample D&A language for all of Subscriber's accounts and Subscriber affirmatively adopts as its own such sample D&A language and accepts full responsibility for its compliance and use.
- (g) **Extended Workforce Screening.** Upon execution by Subscriber's authorized third-party vendor(s) (each, a "Vendor") of HireRight's Extended Workforce Subscriber Agreement, HireRight shall furnish to Vendors, upon their request, Screening Reports with respect to the Vendor's own applicants or employees (each, a "Vendor Applicant") who are being evaluated to provide Services on behalf of the Vendor to Subscriber. Subject to the Vendor's consent, and at Subscriber's request, HireRight will provide Subscriber with system access to the Vendor Applicant Screening Reports solely for purposes of auditing and, if applicable, adjudicating the results thereof to determine the Vendor Applicant's eligibility to perform contracted Services for Subscriber. Subscriber shall not use the Vendor Applicant Screening Reports for any other purpose. Subscriber shall comply with all applicable Laws and the terms of this Agreement (including, without limitation, with respect to the access, retention, destruction and use of the Vendor Applicant Screening Reports). Subscriber and Vendor shall consult and facilitate with each other to provide proper Vendor Applicant disclosure and obtain proper Vendor Applicant consent and, as applicable, determine if and when an "adverse action(s)" (within the meaning of the FCRA or other applicable Laws) has occurred or will occur in relation to Vendor Applicant Screening Reports and, in such event, determine which party or parties (i.e., Subscriber and/or Vendor) shall provide the Vendor Applicant with appropriate pre-adverse action and adverse action notifications, as applicable and in accordance with applicable Laws. HireRight will configure the Vendor's screening packages in accordance with Subscriber's instructions provided to HireRight in writing from time to time. Unless otherwise agreed by the parties in writing, HireRight's fees for the Vendor Applicant Screening Reports will correspond to Subscriber's fees set forth in this Agreement, and unless Subscriber has agreed in writing to assume the fees for the Vendor Applicant Screening Reports, HireRight will bill the Vendor directly for such Services and Subscriber shall not be responsible for such fees. Subscriber's continued system access privileges (if any) to the Vendor Applicant Screening Reports will cease upon expiration or earlier termination of this Agreement. Subscriber acknowledges that, due to statutory and/or contractual obligations and restrictions, some HireRight Services may not be available through an Extended Workforce Screening relationship and, of those that are available, some may require additional paperwork from Subscriber and/or Vendor.

- (h) **I-9 & E-Verify Verification Services.** Subscriber acknowledges that HireRight's Services do not alleviate Subscriber of its responsibility for performing in-person verification of its employees' identities, checking photo identification and completing, verifying and retaining the employees' Form I-9 and other documentation, each as and to the extent required by applicable Laws. In addition, if Subscriber obtains HireRight's I-9 and/or E-Verify employment eligibility Services pursuant to this Agreement, Subscriber and HireRight agree to comply with the following obligations, as applicable based on the particular Service(s) obtained by Subscriber:
- (i) **Subscriber I-9 Obligations.** Subscriber shall identify and comply with all Laws applicable to Subscriber in connection with its use of I-9 Services.
 - (ii) **HireRight I-9 Obligations.** If Subscriber orders the HireRight I-9 Solution, HireRight will provide Subscriber an electronic Form I-9 that meets U.S. Citizenship and Immigration Services ("USCIS") regulations related to electronic Form I-9 management.
 - (iii) **Subscriber E-Verify Obligations.** Subscriber acknowledges that it is Subscriber's responsibility to complete all E-Verify Checks in accordance with applicable Laws. Subscriber shall: (i) identify and comply with all Laws applicable to Subscriber in connection with its use of E-Verify Checks, (ii) provide HireRight with the information requested in the E-Verify Company Profile document provided by HireRight for purposes of obtaining a unique E-Verify Program ID number for Subscriber, (iii) enter into the E-Verify Memorandum of Understanding ("MOU") with the Department of Homeland Security ("DHS"), and (iv) comply with its obligations under the MOU, including, without limitation, restricting E-Verify Checks to only its employees hired after the effective date of the MOU. Employers acting as federal contractors shall restrict E-Verify Checks to all existing employees or only existing employees assigned to specific federal contracts covered by the Federal Acquisition Regulation ("FAR") rule. Employers that are already enrolled in E-Verify at the time of a federal contract award but are not enrolled in the system as a federal contractor with the FAR E-Verify Clause must notify HireRight and complete an updated E-Verify Company profile document within thirty (30) days after assignment to the federal contract.
 - (iv) **HireRight E-Verify Obligations.** If Subscriber orders E-Verify Checks, HireRight shall enter into the MOU as Subscriber's E-Verify Employer Agent, and HireRight shall comply with its obligations under the MOU.
- (i) **Professional Reference Services.** If Subscriber engages HireRight to perform professional reference checks, HireRight's sole responsibility in fulfilling such Services will be to: (i) accurately convey to the party providing the reference ("Reference Provider") the reference questions provided or selected by Subscriber; and (ii) accurately convey the Reference Provider's responses to Subscriber's reference questions, subject to adjustments HireRight determines in good faith are necessary or advisable to ensure HireRight's compliance with applicable Laws in conveying such responses. Subscriber shall indemnify, defend and hold HireRight harmless from and against any Claims (as defined in Section 10) to the extent arising out of: (i) the content of reference questions that have been customized at Subscriber's request; or (ii) the content of a Reference Provider's responses accurately reported by HireRight as received from the Reference Provider.
- (j) **Vermont Certification (Certain Employment Verification/Credit Services).** As applicable, Subscriber acknowledges that it may receive from HireRight Employment Verification Services and/or Credit Services provided by Equifax and/or TALX, as applicable, and that these services are subject to the Vermont Fair Credit Reporting Statute, 9 V.S.A. Section 2480e (1999), as amended ("VFCRA"). In connection with Subscriber's continued use of such Employment Verification Services and/or Credit Services in relation to Vermont Applicants, Subscriber certifies that it will comply with applicable provisions of Vermont law (in addition to other federal and state laws, as applicable). In particular, Subscriber certifies that if it orders from HireRight such reports subject to VFCRA Section 2480e pertaining to Vermont residents, it will only do so after Subscriber has received prior "consumer consent" in accordance with VFCRA Section 2480e and applicable Vermont Rules. To the extent applicable, Subscriber further certifies that it has received from HireRight a copy of Section 2480e of the Vermont Fair Credit Reporting Statute, a copy of which is available at: www.hireright.com/service-agreement.aspx.

7. **PAYMENT TERMS; FEES.**

- (a) **Creditworthiness; Right to Assurance.** Subscriber agrees that HireRight may determine Subscriber's creditworthiness through HireRight's review of available data and verification sources, and HireRight may establish Subscriber's payment terms under this Agreement based on such review. Upon HireRight's request, Subscriber shall provide to HireRight Subscriber's relevant financial information that HireRight determines is reasonably necessary for establishing Subscriber's payment terms. If, at any time, Subscriber fails to comply with the payment terms of this Agreement, if Subscriber experiences a material adverse change in its financial condition, if Subscriber presents an undue risk of non-payment in HireRight's reasonable opinion, or if HireRight has a good faith reason to believe Subscriber does not intend to, or is unable to perform its obligations in this Agreement, HireRight may at its option (and in addition to any other remedies available by Law or in this Agreement) exercise one or more of the following rights: (i) require a deposit or other form of payment security from Subscriber; (ii) adjust Subscriber's payment terms; (iii) refuse to accept additional orders from Subscriber; and/or (iv) require adequate written assurance of Subscriber's intent and ability to perform its obligations.
- (b) **Payment Terms; Billing Disputes.** HireRight shall invoice Subscriber on a monthly basis, and Subscriber shall pay all amounts due within thirty (30) days of invoice date, subject to any payment term modifications made by HireRight

pursuant to Sections 7(a) or 7(b) of this Agreement (in which case, HireRight will provide written notice to Subscriber). Subscriber shall promptly review each invoice and notify HireRight of any alleged errors or disputes on or before the due date of such invoice. Subscriber waives the right to dispute any charges or other invoice details not disputed within such timeframe. If all undisputed amounts due are not received by HireRight by the due date, HireRight may, in addition to its rights in Section 7(a) and upon ten (10) days advance written notice: (i) suspend Subscriber's account until such time as all delinquent payments are received.

- (c) Fees; Taxes; Fee Revisions. Subscriber shall pay for all Services provided pursuant to this Agreement at the rates in the Schedule of Fees. HireRight's fees are exclusive of any sales taxes or value added taxes and other similar indirect taxes ("VAT") applicable to the Services. If HireRight's Services are or become subject to sales tax or VAT, then Subscriber shall be responsible for such taxes and, where applicable, Subscriber shall self-account for local VAT via a self-charging or reverse charge mechanism. If Subscriber requests and HireRight provides additional Services not initially set forth in the Schedule of Fees, such added Services will be hereby incorporated into this Agreement at HireRight's then-current rates unless otherwise mutually agreed in writing by the parties. Subscriber shall pay all pass-through fees, applicable taxes and charges made by information sources or Suppliers for release of information and records used in compiling Screening Reports. Such pass-through fees, taxes and charges are subject to change without prior notice. HireRight may reasonably revise the pricing rates in this Agreement upon providing thirty (30) days advance notice to Subscriber and such changes will become effective with formal amendment to this Agreement. In addition, if at any time there are changes in Laws (including, without limitation, any ordinances or other regulatory, administrative or governmental acts or measures) that increase HireRight's cost of providing Services under this Agreement or reasonably require additional related Services to be provided by HireRight, or in HireRight's determination restrict its ability to reasonably continue to provide the Services pursuant to the terms of this Agreement, HireRight may, upon providing written notice to Subscriber, and in addition to its rights under Section 3(b) of this Agreement, add a reasonable surcharge or pricing modification to cover the added costs of providing the affected Service(s). Subscriber acknowledges that it will be responsible for charges resulting from its errors in inputting data, duplicate order entries, and order cancellations initiated after processing has commenced.

8. CONFIDENTIAL INFORMATION.

- (a) Confidential Information Defined. Each party ("Disclosing Party") may disclose or make available to the other party ("Receiving Party"), whether orally, visually or in physical form, non-public confidential or proprietary information concerning the Disclosing Party and its business, Services, including, without limitation, its software; systems and technology; Service specifications, methodologies and strategies; financial condition/financial results; pricing; invoices; Screening Reports; and trade secrets and other intellectual property (collectively, "Confidential Information"). Confidential Information does not include information that: (i) was rightfully in the possession of the Receiving Party prior to disclosure by the Disclosing Party; (ii) was or is independently developed by the Receiving Party without use of the Confidential Information; (iii) is or becomes generally available to the public other than as a result of disclosure by the Receiving Party in violation of this Agreement; (iv) is or becomes available to the Receiving Party on a non-confidential basis from a source other than the Disclosing Party and such source is not, to the best of the Receiving Party's knowledge, under any obligation to keep such information confidential, (v) or is required to be disclosed by law.
- (b) Duty of Confidentiality. The Receiving Party agrees: (i) to take all commercially reasonable precautions to protect the confidentiality of the Disclosing Party's Confidential Information (which precautions shall be no less than those employed by the Receiving Party to preserve the confidentiality of its own confidential materials and information); (ii) to not, without the prior written consent of the Disclosing Party, or except in conjunction with a Required Disclosure, disclose any portion of the Confidential Information to any third-party; (iii) to not copy or reproduce the Confidential Information, except as reasonably required for the purposes contemplated in this Agreement (in which case Receiving Party shall ensure that any confidentiality or other proprietary rights notices on the Confidential Information are reproduced on all copies); (iv) to not reverse engineer or disassemble any Services, software, technology or tangible objects that utilize or contain such Confidential Information; and (v) to return and/or destroy all Confidential Information of the Disclosing Party upon request.
- (c) Required Disclosures. If the Receiving Party is requested in any judicial or administrative proceeding or by any governmental or regulatory authority (whether by depositions, interrogatories, requests for information or documents, subpoenas, civil investigative demands, or similar processes) or is otherwise required by applicable Laws to disclose the Confidential Information (collectively, a "Required Disclosure"), the Receiving Party may make such disclosure, provided, to the extent legally permissible, it gives prompt written notice to the Disclosing Party so that Disclosing Party may seek an appropriate protective order prior to the Required Disclosure. HireRight will not: (i) be restricted from disclosing to Applicants their Screening Reports and file information, (ii) be restricted from disclosing Confidential Information to the extent necessary to perform its obligations under this Agreement, or (iii) be required to destroy, erase or return any Screening Reports or related Applicant data in HireRight's files except as otherwise set forth in this Agreement. HireRight is aware that Subscriber is a government entity and is subject to the California Public Records Act, *Cal.Govt.Code §6250 et seq.*, the Brown Act, *Cal.Govt.Code §54950 et seq.*, and other laws pertaining to government entities. Information required by law to be disclosed will not be considered Proprietary and Confidential by the Parties and will be disclosed only to the extent required to comply with that legal obligation.

9. **LIMITATION OF LIABILITY.** To the fullest extent permitted by applicable Laws, and excluding amounts due from Subscriber under this Agreement for Services provided by HireRight, each party's total liability to the other party pursuant to this Agreement ("Limitation of Liability") shall not exceed an amount equal to the fees paid by Subscriber and collected by HireRight pursuant to this Agreement within the twelve (12) month period immediately preceding the event(s) giving rise to the claim. With respect to HireRight's liability relating to any Applicant claim alleging inaccurate or incomplete Screening Report information, Subscriber shall, prior to having taken any action adverse to the Applicant based on the inaccurate or incomplete Screening Report information, have provided HireRight a reasonable opportunity to reinvestigate the disputed information in accordance with HireRight's FCRA-imposed reinvestigation obligations and deadlines, and Subscriber shall indemnify HireRight for failure to do so. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY LOST REVENUE, LOST PROFITS, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY, BREACH OF WARRANTY, OR OTHERWISE, AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE PARTIES ACKNOWLEDGE THAT THE FEES IN THIS AGREEMENT ARE BASED IN PART ON THE LIMITATIONS OF LIABILITY IN THIS SECTION 9. HireRight and Subscriber shall each use good faith reasonable efforts to mitigate any potential damages or other adverse consequences arising from or related to this Agreement. Notwithstanding anything to the contrary, the Parties' limitations of liability shall not apply to, affect, or limit: (i) any of a Party's duties to indemnify the other Party in accordance with this agreement and/or (ii) any third party claims, which shall instead be covered in Section 10.

10. **INDEMNIFICATION.** To the fullest extent permitted by applicable Laws: (i) each party ("Indemnifying Party") shall indemnify, defend, and hold harmless the other party and its officers, directors, employees, affiliates, representatives, agents, contractors and Suppliers (collectively, "Indemnified Party") from and against any third-party claims, demands, suits, judgments, costs, expenses, losses and liabilities, including, without limitation, reasonable attorneys' fees (collectively, "Claims"), to the extent arising out of the Indemnifying Party's negligent act or omission; (ii) HireRight shall indemnify, defend and hold harmless Subscriber and its officers, directors, employees, affiliates, representatives, agents, and contractors for any Claims arising out of HireRight's failure to comply with the HireRight Compliance Obligations defined in Section 3(g) of this Agreement or ; and (iii) Subscriber shall indemnify, defend and hold harmless HireRight and its officers, directors, employees, affiliates, representatives, agents, contractors and Suppliers for any Claims arising out of the Subscriber Compliance Obligations defined in Section 2(f) of this Agreement. Each party's total aggregate liability under this Section 10 shall not exceed the Limitation of Liability applicable to such party as set forth in Section 9. If the obligation to indemnify relates to a matter that could be the subject of a claim against the State of California under the California Tort Claims Act (Section 810-996.6 et seq.), the liability of Subscriber or the State of California to indemnify shall not exceed the maximum liability permitted under the Tort Claims Act.

Procedure. An Indemnified Party seeking indemnification pursuant to this Agreement shall provide the Indemnifying Party with prompt written notice of a Claim and shall cooperate with the Indemnifying Party in good faith and in all reasonable respects in connection with the defense of such action at the expense of the Indemnifying Party. The Indemnified Party may, at its option, participate in the defense of such Claim, with its separate counsel and at its own cost, and the Indemnifying Party agrees to cooperate in good faith and in all reasonable respects with such counsel; provided, however, that the Indemnifying Party shall have sole control of the defense and any settlement of such Claim or action, and the Indemnified Party shall not compromise or settle any such Claim without the prior written consent of the Indemnifying Party. The Indemnifying Party shall not without the consent of the Indemnified Party (such consent not to be unreasonably withheld, conditioned or delayed), enter into any settlement that requires a finding or admission of fault of the Indemnified Party, or reasonably can be expected to require a material affirmative obligation of, result in any ongoing material liability to, or otherwise prejudice the Indemnified Party.

11. **TERM; TERMINATION; ACCOUNT DEACTIVATION.**

(a) Term. The term of this Agreement ("Term") commences on the Effective Date and, unless otherwise terminated in accordance with this Agreement, will continue in force for an initial period of three (3) years, and thereafter may renew for successive periods of one (1) year each by written amendment of the parties.

(b) Termination; Suspension. Either party may terminate this Agreement at any time: (i) for convenience, upon delivery of sixty (60) days advance written notice to the other party, or (ii) for cause, in accordance with this Section 11(b). A party may terminate this Agreement for cause upon delivery of written notice to the other party if the non-terminating party: (i) defaults in the performance of its material obligations in this Agreement and fails to substantially cure such default within thirty (30) days after receipt of a written notice of breach, or (ii) becomes the subject of any proceeding commenced under the United States Bankruptcy Code, or executes an assignment for the benefit of creditors or files for relief under any applicable reorganization, moratorium or similar debtor relief Laws. Additionally, HireRight may suspend performance under this Agreement without penalty upon written notice to Subscriber if: (i) Subscriber's breach of this Agreement is reasonably determined by HireRight to be a violation of Law or to present a risk of non-compliance by HireRight with applicable legal or contractual obligations, (ii) required by a Supplier, (iii) Subscriber fails to timely pay amounts due under this Agreement, or (iv) HireRight reasonably suspects or identifies any misuse of or unauthorized access to its system and/or the Services or Subscriber's account. If Services are provided following termination or expiration of this Agreement, then all terms and conditions of this Agreement shall apply to such Services. Notwithstanding any termination, expiration or cancellation of this Agreement, Subscriber shall remain responsible for all charges incurred by Subscriber and for all of Subscriber's compliance obligations pursuant to this Agreement.

- (c) Access to Screening Reports. Subscriber shall have thirty (30) days following the expiration or termination of this Agreement in which to obtain from HireRight, at HireRight's then-current fee, a CD or similar format containing copies of Subscriber's Applicant Screening Reports in HireRight's possession at the time of the request. Thereafter, HireRight shall have no further duty to maintain copies of Applicant Screening Reports for access by Subscriber.
 - (d) Account Deactivation. Subscriber acknowledges that if Subscriber is determined at any time not to meet HireRight's standard client credentialing requirements and, as a result, Subscriber's account is not activated, or is subsequently deactivated, then any prior charges incurred related to Subscriber's account, whether for account set-up registration or for pending or completed orders, shall be promptly paid to HireRight by Subscriber. HireRight may suspend or deactivate Subscriber's account(s) in the event Subscriber does not place any orders under its account(s) for more than one (1) consecutive year.
 - (e) Survival. All provisions of this Agreement that by their nature are reasonably intended to have effect after termination or expiration of this Agreement (including, without limitation, compliance, audit rights, privacy, data protection, confidentiality, dispute resolution, indemnity and limitation of liability) shall survive such termination or expiration.
12. **NOTICES.** Any notices regarding or required pursuant to this Agreement: (i) must be in writing, (ii) must be delivered (a) in person, (b) by certified mail, return receipt requested, postage pre-paid, or (c) by a nationally recognized overnight delivery service; (iii) must be delivered to the applicable party at the address set forth in this Section 12, or such other address as a party may designate by notice in accordance with this Section 12; and (iv) will be deemed given on the date of delivery.

Notices to HireRight:

HireRight, LLC
 3349 Michelson Dr., Suite 150
 Irvine, CA 92612
 Attn: Legal Department

Notices to Subscriber*:

Kern Medical Center [Company Name]
 1700 Mt. Vernon Ave. [Address]
 [Address]
 Bakersfield, CA 93306 [City, State, Zip]
 Chief Executive Officer [Attn:]

**If Subscriber's contact information is not completed here, notices to Subscriber will be provided to the address provided by Subscriber to HireRight during the account set-up process.*

13. **LEGAL SUPPORT SERVICES.** Except in relation to HireRight's indemnity obligations in this Agreement and record requirements, if HireRight (including any of its affiliates and subsidiaries) assists Subscriber or is otherwise required to participate in preparation for, defense of, or responding to any legal or regulatory proceedings involving or relating to Subscriber, including, without limitation, subpoenas, depositions, hearings and trials (collectively, "Legal Support Services"), Subscriber shall reimburse HireRight for its costs and expenses HireRight reasonably incurs in connection therewith. HireRight will use reasonable efforts to provide Subscriber advance notice prior to HireRight participating in any Legal Support Services or otherwise incurring costs and expenses that are subject to reimbursement by Subscriber pursuant to this Section 13. Except to the extent required by applicable Law, HireRight is under no obligation to provide Legal Support Services to Subscriber and will evaluate such matters on a case by case basis.
14. **MISCELLANEOUS.**
- (a) Entire Agreement; No Third-Party Beneficiaries. This Agreement (including, without limitation, Subscriber's HireRight application paperwork and all attachments hereto, which are hereby incorporated by reference and included in the definition of "Agreement") sets forth the final and complete agreement between the parties with respect to the Services, supersedes any prior or contemporaneous written or verbal discussions, and except as otherwise set forth in this Agreement is not intended to confer any rights, remedies or claims to any third-party.
 - (b) Amendment. Except as otherwise set forth in this Agreement, this Agreement may be modified only by a writing executed by an authorized representative of both parties. This Agreement may not be modified by any purchase order or similar order forms received from Subscriber, even if HireRight has accepted or acknowledged receipt of such form(s).
 - (c) Waiver. The failure of a party to enforce its rights in this Agreement shall not be construed as a waiver of such rights.
 - (d) Severability. If any provision of this Agreement, in whole or in part, is determined to be illegal, unenforceable or invalid, such provision shall be deleted from this Agreement and shall not affect the legality, enforceability or validity of the remainder of this Agreement.
 - (e) Interpretation. This Agreement shall be considered drafted mutually by the parties.
 - (f) Assignment. Neither party shall assign this Agreement without the prior written consent of the other party; provided, however, HireRight shall have the right to assign this Agreement in connection with a merger, acquisition, corporate reorganization, public stock offering, or sale of all or substantially all of its assets. The foregoing limitation on Subscriber's ability to assign this Agreement is due, in part, to HireRight's regulatory obligations and related customer credentialing procedures and requirements. Subject to the foregoing, this Agreement shall be binding on the parties' respective successors and permitted assigns.

- (g) Remedies Cumulative. Subject to the Limitation of Liability in Section 9, all remedies available to either party related to this Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- (h) Force Majeure. The obligations of either party to perform under this Agreement (other than payment obligations) shall be excused during a reasonable period of delay caused by matters beyond such party's reasonable control, including, without limitation: changes in Laws; closure or unavailability of universities, courthouses or other data sources; power or internet service failure; third-party system or Service integration failure; war; and earthquake, fire, flood or other natural disaster.
- (i) Governing Law; Venue; Dispute Resolution. This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to the principles of conflicts of laws. In the event of any dispute between the parties related to this Agreement, if the parties are unable to resolve the dispute after holding good faith and confidential discussions, then the dispute shall be submitted to, and determined exclusively by, binding arbitration conducted in Orange County, California, pursuant to the rules and procedures of Judicial Arbitration and Mediation Services (JAMS). The parties agree that the arbitration proceedings, communications and any resulting decisions/awards shall be treated as confidential unless otherwise required by applicable Laws. Notwithstanding the foregoing, each party shall be entitled to seek immediate injunctive relief to protect its Confidential Information.
- (j) Relationship of the Parties. The parties will perform their obligations in this Agreement as independent contractors. Nothing contained in this Agreement shall be deemed to create any association, partnership, joint venture, or relationship of principal and agent between the parties.
- (k) Title. Subscriber acknowledges that all title, ownership and intellectual property rights in the HireRight system and Services, including, without limitation, all work performed under any statement of work by HireRight in the performance of Services, and all related documentation, will remain the property of HireRight and/or its licensors or Suppliers, as applicable. Subscriber acknowledges that HireRight is an aggregator of third-party data and information and that all content contained in Screening Reports is the property of the applicable content owner and may be protected by applicable contract, copyright and related Laws. Subject to applicable Laws and the terms of this Agreement, Subscriber will retain the perpetual right to maintain its copies of Screening Reports.
- (l) Counterparts; Validity. This Agreement may be executed by electronic or hard-copy signature and in any number of counterparts, each of which shall be deemed to be one and the same instrument. The exchange of executed copies of this Agreement by scanner/email or other electronic transmission will constitute effective execution and delivery of this Agreement for all purposes. Signatures of the parties transmitted by such methods will be treated in all respects as having the same effect as an original signature.
- (m) Signature Authority. Each party represents that this Agreement has been executed on its behalf by a representative authorized to bind such party with respect to its obligations in this Agreement.

AGREED:

Subscriber

Company Name*: _____
 [*use full legal entity name]

Authorized Signature: _____

Name: _____

Title: _____

Date: _____

HireRight, LLC

Authorized Signature: _____

Name: Lisa Goforth

Title: Associate Counsel

Date: _____

Attachment A
Subscriber Compliance Certification; Information Access & Security Requirements

1. Subscriber Compliance Certification

Subscriber certifies to HireRight as follows with respect to each FCRA-regulated Screening Report Subscriber orders and/or receives:

1. Permissible Purpose. Subscriber shall procure and use Screening Reports only for the legally permissible employment purposes set forth in this Agreement.
2. Applicant Disclosure and Consent. Subscriber shall ensure that prior to its procurement of a Screening Report for *employment purposes*: (i) Subscriber has made a clear and conspicuous disclosure in writing to the Applicant, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment purposes (and for California Applicants, the disclosure shall also include the name, address and telephone number of HireRight, the nature and scope of the investigation requested, a summary of the provisions of Ca. Civil Code §1786.22, and otherwise comply with Ca. Civil Code §1786.16); and (ii) the Applicant has authorized in writing the procurement of the Screening Report by Subscriber (and for CA, OK and MN Applicants, Subscriber shall provide the Applicant, by means of a check box, an option by which the Applicant may indicate on their written consent form that the Applicant wishes to receive a copy of any Screening Report that is prepared).
3. Pre-Adverse Action Disclosures. In using a Screening Report for *employment purposes*, before taking any adverse action based in whole or in part on the Screening Report, Subscriber shall provide to the Applicant to whom the Screening Report relates: (i) a copy of the Screening Report; and (ii) a description in writing of the rights of the Applicant under the FCRA, as prescribed under FCRA §609 (“Summary of Consumer Rights”, a copy of which is currently available at: www.hireright.com/PDFs/FTCCConsumerRights.pdf), and any other notices required by applicable Laws.
4. Adverse Action Disclosures. After providing the Applicant with the pre-adverse action disclosure described in paragraph 3 above (to the extent applicable), and after Subscriber has given the Applicant a reasonable period of time and opportunity to dispute the accuracy or completeness of the information contained in their Screening Report, Subscriber will, if intending to take adverse action with respect to the Applicant based in whole or in part on information contained in the Screening Report, send the Applicant a follow-up notification that Subscriber is taking adverse action (e.g., denying employment or promotion) based in whole or in part on the information contained in the Screening Report. Such notification must meet all applicable requirements set forth in FCRA §615 and any other notices required by applicable Laws.
5. Equal Employment Opportunity Law Compliance. The information from the Screening Report will not be used in violation of any applicable federal or state equal employment opportunity law or regulation.
6. Investigative Consumer Reports. For each Investigative Consumer Report, as defined by the FCRA (e.g., professional reference check), that Subscriber procures from HireRight, Subscriber has complied with its obligations under FCRA §606(a) and (b), including, without limitation, the following:
 - i) clearly and accurately disclosing to the Applicant that an Investigative Consumer Report including information as to the Applicant’s character, general reputation, personal characteristics, and mode of living, whichever are applicable, may be made, and such disclosure:
 - (1) is made in writing mailed, or otherwise delivered, to the Applicant not later than three days after the date on which the report was first requested; and
 - (2) includes a statement informing the Applicant of his right to request the additional disclosures provided for under FCRA §606(b) as set forth in 6(b) below, and a written Summary of Consumer Rights; and
 - ii) upon written request made by the Applicant within a reasonable period of time after the Applicant’s receipt of the required disclosure referenced in paragraph 6(a) above, Subscriber will make a complete and accurate disclosure of the nature and scope of the investigation requested. The disclosure will be made in a writing mailed, or otherwise delivered, to the Applicant not later than five days after the date on which the request for such disclosure was received from the Applicant or such report was first requested, whichever is the later.

Attachment A
Subscriber Compliance Certification; Information Access & Security Requirements

2. Information Access & Security Requirements

1. Subscriber shall protect its HireRight account identification number(s) and password(s) ("Account IDs") so that only key Subscriber personnel with an authorized need-to-know this sensitive information are given the ability to order and access Screening Reports. Subscriber shall not post or otherwise publicly display its Account IDs. If a person who knows the Account IDs leaves Subscriber's company or no longer needs to have access due to a change in duties, Subscriber shall immediately change such Account IDs.
2. Subscriber shall place all terminal devices or systems used to obtain Screening Reports in a secure location within Subscriber's facility so that unauthorized persons cannot easily access them. After normal business hours or when left unattended, Subscriber shall turn off and/or lock all such devices or systems used to order and/or access Screening Reports.
3. Subscriber shall secure hard copies and electronic files of Screening Reports within Subscriber's facility so that only authorized personnel can access them.
4. Subscriber shall shred or otherwise permanently destroy all *hard copy* Screening Reports when no longer needed and when applicable Laws or regulation(s) permit destruction, to prevent the unauthorized access to and/or use of applicant/employee data and/or any other personally identifiable information of applicants/employees.
5. Subscriber shall erase and overwrite or scramble *electronic files* containing Screening Reports and Applicant information when no longer needed and when applicable Laws or regulation(s) permit destruction, to prevent the unauthorized access to and/or use of applicant/employee data and/or any other personally identifiable information of applicants/employees.
6. Subscriber shall make all appropriate Subscriber personnel aware that Subscriber and its authorized personnel are allowed to order and use Screening Reports only for the permissible purpose(s) set forth in this Agreement, and that Subscriber personnel shall not order or access their own reports nor order or access the report of a family member or friend unless it is approved for the permissible purposes authorized in, and conducted in accordance with this Agreement.
7. If Subscriber obtains from HireRight Alias/Address History Services or Screening Reports containing consumer credit information, Subscriber certifies that, in addition to its other obligations in this Agreement it will: (i) comply with the "Access Security Requirements" available for viewing at www.hireright.com/service-agreement.aspx and hereby incorporated by reference into this Agreement; and (ii) implement and maintain a comprehensive information security program written in one or more readily accessible parts and that contains administrative, technical, and physical safeguards that are appropriate to the size and complexity of Subscriber's business, the nature and scope of its activities, and the sensitivity of the information provided to Subscriber by HireRight; and that such safeguards shall include the elements set forth in 16 C.F.R. §314.4 and shall be reasonably designed to: (a) insure the security and confidentiality of the information provided by HireRight; (b) protect against any anticipated threats or hazards to the security or integrity of such information, and (c) protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any consumer. Subscriber acknowledges that the requirements in this paragraph are mandated by HireRight Supplier(s) and may be updated from time to time. By executing this Agreement, Subscriber represents to HireRight that Subscriber has reviewed and will comply with such requirements to the extent applicable to the Services Subscriber obtains from HireRight.

**Attachment B
Schedule of Fees**

(Applies to 50 United States; Excludes US Territories and Commonwealths)

PACKAGE AND A LA CARTE PRICING

Please note: These package(s) can be further customized to suit your company's needs. Additional products and services outside of this Schedule of Fees will be available at standard rates accessible in subscriber's online account.

DOMESTIC SCHEDULE OF FEES

Best Practice Package \$49.70 per applicant

- SSN Trace
- Criminal Felony & Misdemeanor - 7 years (a) - Unlimited # of counties as revealed by SSN Trace
- Widescreen Plus National Criminal Search (g)
- National Sex Offender Search
- Federal Criminal - all districts as revealed per trace(a)
- Healthcare Sanctions Check - Federal plus All States (FACIS Level 3)
- AKA Selection Service (subject to execution of AKA addendum)(a)

- Adjudication - Standard

Best Practice Package with Credit \$54.20 per applicant

- SSN Trace
- Criminal Felony & Misdemeanor - 7 years (a) - Unlimited # of counties as revealed by SSN Trace
- Widescreen Plus National Criminal Search (g)
- National Sex Offender Search
- Federal Criminal - all districts as revealed per trace(a)
- Healthcare Sanctions Check - Federal plus All States (FACIS Level 3)
- Employee Credit Report (f)
- AKA Selection Service (subject to execution of AKA addendum)(a)
- Adjudication - Standard

FACIS Level 1M - Monthly Continuous Monitoring (BATCH ONLY PACKAGE) \$0.50 per applicant

- Healthcare Sanctions Check - State-Med (FACIS Level 1M)

- Adjudication – Standard (WAIVED FOR BATCH ONLY PACKAGES)

A LA CARTE

SSN Trace - per applicant	\$1.95	per SSN
SSN Validation	\$0.75	per SSN
SSN Verification (a)	\$7.00	per SSN
AKA Selection Service (subject to execution of AKA addendum)(a)	\$1.00	per name
Criminal Felony & Misdemeanor - 7 years (a)	\$7.50	per county
Widescreen Plus National Criminal Search (g)	\$4.00	per name
National Sex Offender Search	\$3.50	per name

Federal Criminal - per district(a)	\$5.00	per district
Federal Bankruptcy per district(a)	\$5.00	per district
Federal Civil - per district(a)	\$5.00	per district
Federal Criminal National Search (a)	\$17.50	per name
Statewide Criminal Search - per state (a)	\$9.00	per state
County Civil Upper & Lower - per county(a)	\$10.00	per county
Prohibited Parties - includes OFAC	\$3.75	per name
MVR Report - per record - plus surcharges(c)	\$2.75	per record
Employee Credit Report (f)	\$4.50	per report
Sexual Offender Search - per state (f)	\$3.00	per state
Criminal Felony & Misdemeanor - 5 years (a)	\$7.50	per county
Criminal Felony & Misdemeanor - 10 years (a)	\$8.50	per county
Criminal Felony & Misdemeanor - ONE county - unlimited/readily available years (a)	\$9.50	per county
Corporate Party Affiliation	\$13.20	per name
Fictitious Business Name Search	\$50.00	per name
Global Sanctions & Enforcement Check	\$9.60	per name
UCC Search (National excluding OK and SD, or any individual state) - Active	\$15.00	per name
Assets & Real Property Search	\$40.00	per name
FAA Accident and Incident	\$12.00	per record
FAA Airframe and Powerplant License	\$11.50	per license
FAA PRIA Records	\$16.00	per record
FDA Debarment	\$6.00	per name
Healthcare - National Practitioner Data Bank Check (NP-DB)	\$15.00	per name
Healthcare Sanctions Check - Federal (FACIS Level 1)	\$5.50	per name
Healthcare Sanctions Check - State-Med (FACIS Level 1M)	\$6.50	per name
Healthcare Sanctions Check - Federal plus Current State (FACIS Level 2)	\$8.00	per name
Healthcare Sanctions Check - Federal plus All States (FACIS Level 3)	\$9.50	per name
Adult Abuse Registry Check (Limited Availability by State)(a)	\$7.00	per name
Nurse's Aide Registry Check (a)	\$7.00	per name
Child Abuse Registry Check - Pennsylvania state (a)	\$7.00	per state
Child Abuse Registry Check - Kansas state (a)	\$7.00	per state
Child Abuse Registry Check - Nebraska state (a)	\$7.00	per state
Child Abuse Registry Check - Iowa state (a)	\$7.00	per state
Healthcare Statewide Criminal Check (Limited Availability by State)(a)	\$9.00	per name
Interpol Criminal Database Search	\$5.00	per name
Office of Inspector General's Exclusion List Check(OIG)	\$3.50	per name
GSA Only	\$3.50	per name
GSA/OIG Excluded Parties	\$4.50	per name
Employment Report - per employer - plus surcharges(b)	\$8.00	per employer
Current Employment Verification - per employer - plus surcharges(b)	\$8.00	per employer
Education Report - per school - plus surcharges(b)	\$8.00	per institution
Professional Licenses Report - per license	\$8.00	per license
Professional Reference Check Report - (Qty 1 Reference) - (Standard 6 questions)	\$8.00	per reference
Professional Reference Check - per additional question	\$1.25	per question
Employment Plus Report - per employer - plus surcharges(b)	\$11.00	per employer
Education Plus Report - per school - plus surcharges(b)	\$11.00	per institution
DOT Compliance (FMCSA) (b)	\$9.00	per employer
DOT Drug\Alcohol Verification (FMCSA) (b)	\$9.00	per employer
DOT Compliance (FTA) (b)	\$9.00	per employer
DOT Drug\Alcohol Verification (FTA) (b)	\$9.00	per employer
DOT Drug\Alcohol Verification (2 yr) (Aviation) (b)	\$9.00	per employer
DOT Compliance (FRA, PHMSA, USCG) (b)	\$9.00	per employer
DOT Drug\Alcohol Verification (FRA, PHMSA, USCG) (b)	\$9.00	per employer
PRIA Drug\Alcohol Verification (5 yr) (b)	\$9.00	per employer
PRIA Pilot Employer Records (b)	\$18.00	per employer
Military Records Check	\$9.50	per record
Workers' Compensation Report - per state (plus surcharge)(f)	\$7.00	per state

Broker Check	\$7.00	per name
DEA Controlled Substance Licenses	\$9.50	per name
Professional Liability Coverage & Malpractice History	\$18.90	per name
Verification of Clinical Reference-Physician	\$18.90	per name
Verification of Institutional Privileges & Status	\$18.90	per name
Criminal Felony & Misdemeanor - 5 years (a) - Up to 2 counties as revealed by SSN Trace	\$13.50	per package
Criminal Felony & Misdemeanor - 5 years (a) - Up to 3 counties as revealed by SSN Trace	\$17.25	per package
Criminal Felony & Misdemeanor - 5 years (a) - Unlimited # of counties as revealed by SSN Trace	\$18.75	per package
Criminal Felony & Misdemeanor - 7 years (a) - Up to 2 counties as revealed by SSN Trace	\$13.50	per package
Criminal Felony & Misdemeanor - 7 years (a) - Up to 3 counties as revealed by SSN Trace	\$17.25	per package
Criminal Felony & Misdemeanor - 7 years (a) - Unlimited # of counties as revealed by SSN Trace	\$18.75	per package
Criminal Felony & Misdemeanor - 10 years (a) - Up to 2 counties as revealed by SSN Trace	\$15.30	per package
Criminal Felony & Misdemeanor - 10 years (a) - Up to 3 counties as revealed by SSN Trace	\$19.55	per package
Criminal Felony & Misdemeanor - 10 years (a) - Unlimited # of counties as revealed by SSN Trace	\$21.25	per package
Criminal Felony & Misdemeanor - Unlimited/Readily Available (a) - Up to 2 counties as revealed by SSN Trace	\$17.10	per package
Criminal Felony & Misdemeanor - Unlimited/Readily Available (a) - Up to 3 counties as revealed by SSN Trace	\$21.85	per package
Criminal Felony & Misdemeanor - Unlimited/Readily Available (a) - Unlimited # of counties as revealed by SSN Trace	\$23.75	per package
Federal Criminal - all districts as revealed per trace(a)	\$10.00	per package
Federal Criminal - all districts in ALL states as revealed per trace(a)	\$14.00	per package
Federal Bankruptcy - all districts as revealed per trace(a)	\$10.00	per package
Federal Civil - all districts as revealed per trace(a)	\$10.00	per package
Statewide Criminal Search - All States as revealed per trace (a)	\$13.50	per package
County Civil Upper & Lower (a) - Up to 2 counties as revealed by SSN Trace	\$18.00	per package
County Civil Upper & Lower (a) - Up to 3 counties as revealed by SSN Trace	\$23.00	per package
County Civil Upper & Lower (a) - Unlimited # of counties as revealed by SSN Trace	\$25.00	per package
5 year Employment History - Up to 2 employers - (b)	\$13.60	per package
5 year Employment History - Up to 3 employers - (b)	\$18.40	per package
5 year Employment History - All employers - (b)	\$20.00	per package
7 year Employment History - Up to 2 employers - (b)	\$14.40	per package
7 year Employment History - Up to 3 employers - (b)	\$20.00	per package
7 year Employment History - All employers - (b)	\$24.00	per package
10 year Employment History - Up to 2 employers - (b)	\$16.00	per package
10 year Employment History - Up to 3 employers - (b)	\$24.00	per package
10 year Employment History - All employers - (b)	\$28.00	per package
5 year Employment Plus History - Up to 2 employers - (b)	\$18.70	per package
5 year Employment Plus History - Up to 3 employers - (b)	\$25.30	per package
5 year Employment Plus History - All employers - (b)	\$27.50	per package
7 year Employment Plus History - Up to 2 employers - (b)	\$19.80	per package
7 year Employment Plus History - Up to 3 employers - (b)	\$27.50	per package
7 year Employment Plus History - All employers - (b)	\$33.00	per package
10 year Employment Plus History - Up to 2 employers - (b)	\$22.00	per package
10 year Employment Plus History - Up to 3 employers - (b)	\$33.00	per package
10 year Employment Plus History - All employers - (b)	\$38.50	per package
Post Employment Verification (b)	\$8.00	per employer
Education - Pkg. Max 2 - Last Two Educations (b)	\$12.00	per package
Education - Pkg. - All Previous Degrees (b)	\$16.00	per package
Education Plus - Pkg. Max 2 - Last Two Educations (b)	\$16.50	per package
Education Plus - Pkg. - All Previous Degrees (b)	\$22.00	per package
Professional Reference Check Report - (Qty 2 References) - (Standard 6 questions)	\$16.00	per package

Professional Reference Check Report - (Qty 3 References) - (Standard 6 questions)	\$24.00	per package
DOT Compliance (FMCSA) - 7 year, all previous DOT employers (b)	\$27.00	per package
DOT Drug\Alcohol Verification (FMCSA) - 3 year, all previous DOT employers (b)	\$13.50	per package
DOT Compliance (FMCSA) - 7 year DOT employment history and 3 year DOT Drug\Alcohol Verification (b)	\$40.50	per package
DOT Drug\Alcohol Verification (Aviation) - 2 year, all previous DOT employers (b)	\$13.50	per package
DOT Compliance (FTA) - 7 year, all previous DOT employers (b)	\$27.00	per package
DOT Drug\Alcohol Verification (FTA) - 2 year, all previous DOT employers (b)	\$13.50	per package
DOT Compliance (FRA, PHMSA, USCG) - 7 year, all previous DOT employers (b)	\$27.00	per package
DOT Drug\Alcohol Verification (FRA, PHMSA, USCG) - 2 year, all previous DOT employers (b)	\$13.50	per package
GAP Reference	\$18.00	per package
GAP Review	\$12.00	per package
Global Sanctions & Enforcement Check	\$9.60	per name

DHS Services

DOT Urine Drug Test - In Network Only* (i)	\$28.00	per test
Non-DOT Urine Drug Test w/ eCOC - 5/9 Panel - w/ MRO on all - In Network Only* - HireRight's Shipping Manager Service fee will apply for a NON-eCOC collection site. (i)	\$28.00	per test
Add Methaqualone to a Standard Urine Drug Test	\$2.00	per test
Add MDMA (Ecstasy) to a Standard Urine Drug Test	\$2.50	per test
Add Cotinine (Nicotine) to a Standard Urine Drug Test	\$18.00	per test
Add Expanded Opiates (includes Oxycodone) to a Standard Urine Drug Test	\$6.00	per test
Non-DOT Urine Drug Test -5/9 Panel - w/ MRO on all – Extended Clinic Network (Pre-Approved sites) (j)	\$28.00	per test + Collection
DOT Urine Drug Test – Extended Clinic Network (Pre-Approved sites) (j)	\$28.00	per test + Collection
Breath/Alcohol - Pre-Established Clinic Network - Cost of BAT passed through to customer. (k)	\$20.00	per BAT + Clinic Cost
Hair Testing w/ eCOC - Pre-Established Clinic Network - Cost of hair collection passed through to customer. HireRight's Shipping Manager Service fee will apply for a NON-eCOC collection site. (k)	\$70.00	per test + Clinic Cost
Physical (DOT) - Standard - Consolidated billing with Electronic Medical Record. Pre-Established Clinic Network - Cost of Physical will be passed through to customer. (k)	\$35.00	per physical + Clinic Cost
Physical (DOT) - Premier - Consolidated billing, EMR, Medical Examiner Certification Verification & Medical Review. Pre-Established Clinic Network - Cost of Physical will be passed through to customer. (k)	\$50.00	per physical + Clinic Cost
Physical (Non-DOT look Alike) - Standard - Consolidated billing with Electronic Medical Record. Pre-Established Clinic Network - Cost of Physical will be passed through to customer. (k)	\$35.00	per physical + Clinic Cost
Physical (Non-DOT look Alike) - Premier - Consolidated billing, EMR, Medical Examiner Certification Verification & Medical Review. Pre-Established Clinic Network - Cost of Physical will be passed through to customer. (k)	\$50.00	per physical + Clinic Cost
Random Program Management (Annual Fee) - per pool	\$275.00	per year (1) pool

Ancillary Services

Data Entry Fee	\$5.00	per applicant
Pre-Adverse Action Package (Letter, report copy, summary of rights) (via first class mail)	\$5.00	per letter sent
Adverse Action Package (via first class mail)	\$5.00	per letter sent
Adjudication - Standard	\$1.00	per package (in addition to package price)
Adjudication - Advanced	\$2.00	per package (in addition to package price)

Adjudication - Premium	\$3.00	per package (in addition to package price)
Applicant Report Copy Fee (Fax or First Class)	\$6.00	per report
Electronic Signature - per form	\$1.50	per form WAIVED
Report delivery per check-box request by applicant (e-mail)	\$1.95	per request WAIVED
Report delivery per check-box request by applicant (first class mail)	\$6.00	per request
Report delivery per check-box - Notification to Recruiter (e-mail)	\$1.95	per request

Training Services

HireRight can provide customers with the following Standard learning services

STANDARD LEARNING SERVICES & MATERIALS

Offering	What's included
<p>Live Open Enrollment Training Sessions HireRight conducts regularly-scheduled online training sessions hosted by a HireRight Training Specialist. Open to all HireRight customers, these sessions may run up to 90 minutes. Users self-register to attend the session of their choice. These standard, live sessions are ideal for training new users, attrition training, or as a refresher course for existing users.</p>	No charge for attendance
<p>"On-Demand" Training - HireRight offers a number of on-demand, pre-recorded sessions, available 24/7. For a list of available courses, or to request access, send an e-mail to customertraining@hireright.com.</p>	1- Includes a presentation and/or demo of the system. 2- Recorded sessions are available, providing a self-service training option for those who cannot attend a scheduled session.
<p>HireRight University HireRight University is a self-service learning center for customers, available 24/7 from within the customer's HireRight account. It is accessible externally for integration-only customers.</p>	1- Short, interactive training modules 2- Video demos 3- Recorded sessions
<p>Self-Service Training Resources HireRight's standard training materials include self-service Job Aids, videos, and Quick Reference Guides. These resources are available 24/7 from within the customer's HireRight account.</p>	1- Job Aids 2- Video demos 3- Quick Reference Guides

CUSTOM LEARNING SERVICES & MATERIALS AVAILABLE

Please contact HireRight to have an enhanced training project scoped and quoted.

I-9 Services

Standard Features	Price
<ul style="list-style-type: none"> User-friendly I-9 summary dashboard Electronic I-9 Form storage with ability to print, download, and email Automatic USCIS/DHS compliance updates Electronic signature storage Email reminders to support compliance Automated error checking Electronic corrections with audit trail Notification of work authorization expiration Section 3/Reverification 	Included

• On-demand management reporting	
I-9 Product Options	Price
I-9 Form Management (Electronic or Upload) - per I-9 form	\$2.00
E-Verify Check - per e-Verify form	\$2.00
I-9 Form + E-Verify Check - per form	\$4.00
Optional Features	Price
• Client uploads employee supporting documents (List A or B & C documents)	\$0.20 per form
• Ability to enter, store and track termination dates	No Charge
• Smart delete I-9 Forms which have met retention requirements	
• Employee I-9 Kiosk	
• Hiring Manager capability – Designate one-time access to complete Section 2 of an I-9 Form	
Optional Software Applications	Price
	\$0.00
Estimated Annual Cost	Price
I-9 Form Management and E-Verify annual volume = 0	\$0.00
Custom Import/Export Options:	Price
Employee Termination Dates Ability to batch upload termination dates for multiple employees. Client provides all necessary data in an Excel file formatted to HireRight's data requirements. Excel file will be transferred in a password-protected email.	\$220.50 per batch (best practice is to submit once per quarter)
Employee Invitation Email Send Employee Invitation email to complete I-9 Form for multiple employees. Client provides all necessary data in an Excel file formatted to HireRight's data requirements. Excel file will be transferred in a password-protected email.	No Charge
Export of I-9 Forms to password-protected disk for Client records	\$330.75 per disk
Export of I-9 Forms to password-protected disk for Government-required I-9 audit Disk will be provided within 48 hours from initial Client request to Customer Service.	No Charge
I-9 Implementation Package	Price
Account Configuration – user permissions Standard I-9/E-Verify solution	\$165.90 one time fee WAIVED IF SET UP WITH BACKGROUND SCREENING
Software Training	Price
Online Training Options: HireRight Learning Services supports customers with printable resources such as job aids and online training modules, accessible through your HireRight account.	No Charge
Instructor-Led Virtual Training (via WebEx): 60-minute instructor-led virtual sessions are available to be scheduled in an online environment. *** 1 session for basic implementation package	No Charge
Additional Live Training Sessions can be scheduled to accommodate your organization's staff, schedule or specialized training needs	\$262.50 per 60-minute session

Integration

Partner	Product	Price (One Time)	Maintenance (Annual)
Ultimate Software	Ultipro	WAIVED \$2000.00	WAIVED \$500.00

ONLINE CONSENT FORM AND REPORT DELIVERY (PLEASE REFER TO A LA CARTE PRICE FOR ANCILLARY SERVICES)

- Online Consent – e-Signature with report delivery** - Consent form is online and applicant’s signature is electronically captured by the HireRight system for orders placed through Applicant Password feature and report is delivered if requested.
- Not Interested** - Subscriber elects to manage consent forms outside of the HireRight solution.
- E-mail Report Delivery** - HireRight will e-mail completed report to applicants in CA/OK/MN who check the box on the consent form to request a report copy.

SECURE ACCOUNT SET-UP (REQUIRED)

PHYSICAL ONSITE CREDENTIALING CHARGE

~~\$150.00~~ WAIVED
One-time fee

As a regulated consumer reporting agency compliance requirement, as an industry best practice, and for the additional protection and security of our partner’s and partner’s clients’ (each a subscriber) personal data and the personal data of all HireRight subscribers, HireRight shall perform a physical onsite inspection of each subscriber’s business premises and perform other such due diligence to credential subscriber. Please note that the onsite inspection must be scheduled an estimated 3-5 business days in advance of anticipated account activation.

HIRERIGHT NOTES

HireRight Notes: Note 1: Prices shown are discounted to reflect cash payment in accordance with the agreed upon payment terms.
Note 2: Alternative forms of payment such as credit cards are subject to different price schedules.

HIRERIGHT FOOTNOTES: BACKGROUND SCREENING

- a) Fees levied by Federal, State, County and other governmental agencies for searches undertaken will be passed through to Subscriber in addition to the fees charged by HireRight. Such fees include case copies associated with records found, administrative fees, and/or third-party fees. Additional criminal searches including counties added by Subscriber outside of those found by the social trace, including aliases and maiden names will be billed at a la carte rates.
- b) Fees levied by educational institutions and/or employers and those who have retained third party vendors to respond to requests for verifications of education and employment will be passed through to Subscriber in addition to the fees charged by HireRight.
- c) Fees levied by certain states for motor vehicle records will be passed through to Subscriber in addition to the fees charged by HireRight.

** A \$0.42 network fee will be passed through to client per MVR.

- d) See “HireRight Footnotes: Drug Screening” section below.
- e) If any element of the search in any package involves more than one country, the additional country/countries will be charged in accordance with International Schedule of Fees and the components of the package will be charged at an a la carte rate and replace the package price. International search pricing is based on current vendor availability and cost and is subject to change without notice.
- f) Fees levied for any other products including but not limited to worker compensation, sex offender, or credit searches will be passed through to Subscriber in addition to the fees charged by HireRight.

- g) All records generated by this product are “possible records” and are not confirmed to be the records of the applicable applicant. To ensure that records returned by this database are accurate, current and complete, in accordance with the FCRA, Subscriber must verify each record at the applicable source courthouse. Accordingly, for all possible records generated by this product, HireRight automatically will perform follow-up records searches at the applicable source courthouse(s), and all such follow-up searches will be billed to Subscriber at the applicable a la carte rate.
- h) DAC Employment History File Associated Fees: Transportation Employment History (billed per employer) and Driving School Record (billed per employer). Please refer to a la carte price list for line item pricing. As noted in the DEHF Addendum, DAC Employment History File users agree to furnish employment history records on each of their terminated drivers. Client will receive a contribution credit of \$2.40 per driver for the contribution of a termination record. Client will receive an additional credit of \$0.20 per driver for the contribution of a drug/alcohol history record accompanied with a termination record.

HIRERIGHT FOOTNOTES: DRUG SCREENING

- i) The “In Network” urine drug testing facilities are defined as LabCorp or Quest owned Patient Service Centers. The “In Network” urine drug testing service fee includes the cost of specimen testing, MRO fees, and collections performed at In Network collection facilities.
- j) The “Extended Clinic Network” for urine drug testing are defined as managed collection facilities outside of LabCorp or Quest that are pre-established and authorized for Subscriber’s use. Any services performed outside of pre-established clinic network will incur an additional out of network fee in addition to collection and HireRight service fees.
- k) The “Pre-established Clinic Network” for physical and other services are defined as managed collection facilities pre-established and authorized for Subscriber’s use. Any services performed outside of pre-established clinic network will incur an additional out of network fee in addition to collection and HireRight services fees.

Additional charges will be incurred for the following drug screening services:

- Out of Network Fee - Using Out of Network Collection Facilities (not pre-established) \$35.00 Per test
- Using One-to-One Setups (Collection Site Referrals) \$35.00 Per referral
- HireRight’s Shipping Manager Service (Instructions and COC mailing to Candidate) \$35.00 Per shipment

Services listed below are available and will be billed at the rates specified upon request:

- 24/7/365 Day a Year Coordination/Emergency Services (including coordination of international collections) – Test Coordination service pricing covers coordination costs only and does not include drug test collection, breath alcohol testing fees and/or related expenses. \$100.00 Normal business hours
\$250.00 After business hours, weekends, and holidays
- Split Sample Retest Fee \$250.00
- Face to Face Evaluations (Shy Lung/Shy Bladder/ Opiate Abuse/Dependence evaluations) \$100.00
- Medical Consulting \$395.00 per hour
- MIS Consulting \$225.00 per hour
- Program Consulting/Subscriber Audit Support \$395.00 per hour
- Telephonic Expert Testimony \$395.00 per hour
- Onsite Expert Testimony \$395.00 per hour plus travel, meals, lodging and expenses
- MRO Litigation Hearing Package \$90.00 per package
- Laboratory Litigation Hearing Package \$300.00 per package
- Copy of Lab Report \$10.00
- SAP Referral \$50.00

Expenses and fees for services not listed in this Schedule of Fees will be billed at HireRight’s usual and customary rates, unless otherwise agreed in writing between HireRight and Subscriber. Subscriber will reimburse HireRight reasonable administrative, copying and shipping charges for special requests for records, results, product shipment or other information.

Maximum Payable. The maximum payable under this Agreement will not exceed \$250,000 per year of the three (3) year term of this Agreement.

E-Verify Company Profile

This form will be used to generate or update your E-Verify account. Please provide the following information so that HireRight can set up an E-Verify account for your organization as your E-Verify Employer Agent.

Employers that are already enrolled in E-Verify at the time of a contract award but are not enrolled in the system as a Federal contractor with the FAR E-Verify Clause must notify HireRight and complete an updated E-Verify Company profile document within 30 days after assignment to the contract.

Organization Designation

Lots of client companies, from large federal agencies to small local businesses, use E-Verify. Choosing the right category for your client's company ensures that we provide you with the right information you need to use E-Verify.

1. Which category best describes your organization? (Select only one)

- Federal Contractor with FAR E-Verify Clause
- Federal Contractor without FAR E-Verify Clause
- Federal Government
- State Government
- Local Government
- None of these apply

If you selected "Federal Contractor with FAR E-Verify Clause", please answer questions 2 & 3. If not, please skip to the next page to the "Company Information" section.

Federal Contractor with FAR E-Verify Clause

Some types of federal contractors have additional options for choosing which employees to verify. Choosing the right category for your client's company ensures that we provide you with the options that are applicable to you.

2. Which Federal Contractor category best describes your organization? (Select only one)

- Institution of Higher Education
- State or Local Government
- Federally Recognized Indian Tribe
- Sureties
- None of these apply

3. Which employees will you E-Verify? (Select only one)

- Employees assigned to a covered Federal contract only
- Employees assigned to a covered Federal contract and new hires throughout the organization
- Entire workforce (all new hires and all existing employees throughout the entire company)

Company Information

Company/Legal Entity Name: _____
Doing Business As (DBA) Name: _____
DUNS Number: _____

Physical Location

(This is not the mailing address. This is the location where the verification queries will be performed.)

Address 1: _____
Address 2: _____
City: _____
State: _____
Zip Code: _____
County or Parish: _____

Mailing Address

(Provide if different from physical location.)

Address 1: _____
Address 2: _____
City: _____
State: _____
Zip Code: _____

Additional Information

Employer Identification Number (also known as Federal Tax ID Number): _____

Total Number of Employees (including full-time, part-time, and seasonal employees of the sites(s) being verified for): _____

Parent Organization (if applicable): _____

NAICS Code

If you know your Client Company’s 3-digit North American Industry Classification System (NAICS) code, please enter it here.

NAICS Code: _____

If you do not know your NAICS code, you must generate a NAICS code that is 3-digits.

Please refer to the following website to reference your NAICS code: <http://www.naics.com/search.htm>

E-Verify Sites

Will you be verifying for a single hiring site or multiple sites? (Select only one)

- Single Site Verification
- Multiple Sites Verification

If verifying for multiple hiring sites, please indicate which states and the number of sites per state that will be performing E-Verify checks. (Attach a separate sheet if necessary)

Address	City	State	Zip
Address	City	State	Zip
Address	City	State	Zip
Address	City	State	Zip
Address	City	State	Zip
Address	City	State	Zip
Address	City	State	Zip

Company Point of Contact

Please notify HireRight within 10 days of any changes in your E-Verify Point of Contact information.

Last Name: _____
 First Name: _____
 Phone Number: _____
 Email: _____
 Address: _____

Attachment C

Integration Implementation Terms

1. **INTEGRATION IMPLEMENTATION SERVICE.** HireRight offers its clients (each a “Subscriber”) the option to integrate HireRight’s background screening solution with selected human resource solutions offered by third party providers (each an “Integration Application Provider”). Depending on the Integration Application Provider, the application may be third-party hosted or client-hosted. HireRight’s integration service consists of:
 - (a) Implementation services by dedicated HireRight resources to assist with the selection and implementation of appropriate integration and account configuration options. Includes HireRight system functionality necessary to access integration with the Integration Application Provider and the provision of configuration information necessary to enable the integration solution.
 - (b) HireRight 24/5 customer and technical support in accordance with Section 4 below.
2. **SERVICE TERMS & CONDITIONS.**
 - (a) Internal Business Use. Subscriber shall utilize the HireRight integration services and deliverables for Subscriber’s own internal business purposes only, in accordance with all applicable laws, and only in connection with HireRight’s services.
 - (b) Deliverables; Limited Performance Remedy. All work performed and deliverables (including applicable documentation) created and/or deployed by HireRight in connection with Subscriber’s integration shall, as between HireRight and Subscriber, be owned exclusively by HireRight. HireRight will perform all services in a professional and workmanlike manner in accordance with applicable industry standards and applicable laws. In the event that any HireRight deliverable fails to reasonably conform or perform to its specifications, HireRight shall make commercially reasonable efforts to promptly remedy that which is promptly reported by Subscriber. In no event will HireRight’s liability in connection with integration work performed exceed the fees paid by Subscriber to HireRight hereunder and/or any applicable Statement of Work created pursuant to Section 2(c) below.
 - (c) Customized Solutions. Subscriber understands that the scope of integration solutions herein do not include features, functionality and/or service levels (collectively, “Customizations”) outside of HireRight’s standard integration offering, such as the following: (i) custom integration with certain other HireRight products; (ii) custom adverse action letters and custom electronic signature disclosure and consent forms; (iii) custom billing procedures; and (iv) other requirements beyond those HireRight currently provides its general client base. Should Subscriber request Customizations that HireRight determines it can reasonably accommodate, Subscriber and HireRight will document in a mutually acceptable “Statement of Work” the applicable terms and professional services fees for such work.
 - (d) Integration Application Provider Fees and Licenses. Subscriber understands that any fees and services quoted herein are exclusive of any and all fees charged and licenses required of Subscriber by the Integration Application Provider in order to utilize its application and/or integrate same with HireRight. Subscriber shall be responsible for contracting directly with the Integration Application Provider to obtain and maintain any and all such rights.
 - (e) Integration Errors. HireRight will work in good faith to reasonably and timely resolve any interference with integration functionality over which HireRight has reasonable control. Subscriber acknowledges that HireRight may have no control over and shall not be responsible for integration downtime and/or errors directly or indirectly caused by the Integration Application Provider.
 - (f) Integration Availability. Notwithstanding anything to the contrary in this Attachment or any Statement of Work, in the event HireRight’s rights to integrate with the Integration Application Provider should terminate at any time, Subscriber’s integration rights hereunder shall concurrently terminate. HireRight will use its best efforts to provide Subscriber with as much advance notice as practicable of any such termination. In the event of any such termination, HireRight shall work with the Subscriber to provide an alternative, appropriate integration solution.
3. **UPDATES & UPGRADES.**
 - (a) Updates and Upgrades. As part of HireRight’s integration maintenance and support services hereunder, Subscriber shall automatically receive integration updates (“Updates”) which HireRight deploys at no additional cost or license to all its customers on the same integration platform and version as Subscriber. Updates shall relate to the generic integration architecture and functionally between the Integration Application Provider’s system and HireRight’s system. Updates shall not include any release, enhancement, feature, future product, new version or release that HireRight licenses and/or charges separately (individually or collectively, an “Upgrade”). HireRight reserves the right to cease supporting current integration platform versions (and, subject to Section 3(b) below, to require that Subscriber migrate to newer versions supported by HireRight) at the earlier to occur of: (i) 24 months following release of a more recent version of such integration platform, or (ii) the Integration Application Provider ceasing to support Subscriber’s current integration platform version.
 - (b) Integration Application Provider Upgrade. In the event HireRight, at its sole discretion, incorporates and makes available to its customers an available Upgrade deployed by the Integration Application Provider, and should Subscriber migrate to such Upgrade, HireRight shall work with the Subscriber to implement the Upgrade, subject to HireRight’s standard, new implementation service processes described herein.

(c) Subscriber Customizations. Additionally, in the event any Update or Upgrade requires HireRight to perform services specific to Subscriber's account (e.g., re-training, account reimplementation, custom development work, or other non-recurring engineering specific to Subscriber) to maintain performance of and/or accommodate any Subscriber Customizations, then HireRight will, upon advance notice to Subscriber, perform such services at reasonable and mutually acceptable fees and milestones to be set forth in a separate Statement of Work.

4. **CUSTOMER AND TECHNICAL SUPPORT**.

(a) Tier-1 Support. The first line of integration-related customer and technical support for Subscriber's users will be provided by Subscriber, and all integration-related service calls (e.g., calls relating to how to access and order HireRight's services through the Integration Application Provider's interface and/or in accordance with Subscriber's internal ordering procedures) by Subscriber's users initially will be directed to, and responded to, by Subscriber. Subscriber will be responsible for having its representatives available to assist its users with questions or problems concerning the integration.

(b) HireRight Support. The HireRight help-desk will provide secondary support to Subscriber's users experiencing technical problems or other issues with the integration which Subscriber's customer service representatives are not qualified to handle or not able to fully resolve.

5. **FEES**. Applicable Fees for Integration Implementation, Update or Upgrade Implementation and Annual Maintenance shall be set forth in Schedule of Fees attached to the Subscriber Agreement.

6. **TERM**. Upon the expiration or earlier termination of the Subscriber Agreement, all rights of Subscriber hereunder to integration access and deliverables shall concurrently terminate.

Attachment D

Drug and Health Services Terms

1. Services

Upon Subscriber's request and subject to the terms and conditions of this Attachment, HireRight agrees to provide or facilitate the provision of substance abuse testing, medical review officer ("MRO") and related program administration and other services specified in the attached Schedule of Fees, in connection with Subscriber's screening of job applicants, employees and/or other persons for which Subscriber has a legally permissible purpose to conduct the screening pursuant to this Attachment (collectively, "Candidate" or "Applicant"). All reports and screening results, regardless of format, provided by HireRight to Subscriber pursuant to this Attachment are defined as "Screening Reports." References to "Screening Report(s)" refer to an entire Screening Report, as well as any and all specific information contained in such Screening Report. Subscriber acknowledges that certain products and services may be provided by or through HireRight's affiliates and/or subsidiaries; provided, however, HireRight shall remain solely responsible for such affiliates' and subsidiaries' performance under the terms of this Attachment. Notwithstanding anything to the contrary in the Services Agreement, the parties acknowledge that Screening Reports and other services ordered and provided pursuant to this Attachment (collectively, "DHS Services") may be ordered in connection with Subscriber's screening of job applicants, employees and/or other persons for which Subscriber has a legally permissible purpose to conduct the screening.

2. HireRight Obligations

2.1 HireRight shall be responsible for identifying and complying with all Laws applicable to HireRight in connection with its obligations in this Attachment. HireRight may act as a Third Party Administrator ("TPA") as that term is defined by the U.S. Department of Transportation ("DOT") in administering Subscriber's drug and alcohol testing program and will comply with DOT regulations to the extent applicable in fulfilling its obligations in this Attachment.

2.2 MRO services provided under this Attachment shall be performed in accordance with Subscriber-specific requirements, if any, specifically set forth in the Schedule of Fees.

2.3 HireRight will establish laboratory testing services for Subscriber at a SAMHSA certified laboratory(s) to serve Subscriber's substance abuse testing program, unless Subscriber has otherwise directed HireRight to use other legally acceptable non-SAMHSA testing methodologies, which shall be specifically set forth in the Schedule of Fees.

2.4 HireRight will use reasonable efforts to promptly report untroubled negative test results after receiving all necessary testing results and documentation required for reporting. For purposes of this section, "untroubled" means there are no unresolved administrative or medical issues preventing MRO verification of the test results.

2.5 HireRight will use reasonable efforts to promptly report non-negative test results after receiving all necessary testing results and documentation required for reporting.

2.6 If applicable, test information maintained by HireRight for DOT testing programs will be provided to Subscriber for its use in completing the DOT Drug And Alcohol Testing MIS Data Collection Form.

2.7 HireRight will use reasonable efforts to make available to Subscriber individual records related to alcohol and drug testing performed by HireRight for Subscriber, except records containing confidential medical information, within an average of two (2) business days of written notification by Subscriber of such request, at location(s) of Subscriber's choosing and at Subscriber's expense for copying, shipping charges and any other applicable charges set forth in the Schedule of Fees. Requests for production of multiple or archived records may require additional time.

2.8 Subscriber recognizes that HireRight at times may act as a "consumer reporting agency" as defined by the FCRA and applicable state Laws, and HireRight will comply with the FCRA to the extent applicable in fulfilling its obligations in this Attachment.

2.9 Except as otherwise required or authorized by applicable Laws, HireRight will not release individual test results to any person without first obtaining specific written authorization from the tested Candidate; provided, however, that nothing in this paragraph shall prohibit HireRight from releasing such information to: (a) Subscriber or its agents, (b) any federal, state or local agency with regulatory authority over Subscriber's testing program, the tested individual, or as part of an accident investigation, etc.; (c) comply with its legal obligations related to requests resulting from legal action initiated by an Candidate, including but not limited to lawsuits, unemployment hearings, workers' compensation hearings, or grievances; or (d) in response to court orders or valid subpoenas.

2.10 In the case of any legal challenge regarding a test or related services administered by HireRight, HireRight may, in its sole discretion, provide expert testimony and/or other litigation support services with respect to the technical issues regarding the performance of such test.

3. Subscriber Obligations

3.1 Subscriber shall be responsible for identifying and complying with all Laws applicable to Subscriber in connection with its obligations in this Attachment, including but not limited to those affecting the circumstances in which Candidates may be tested, those related to making appropriate disclosures and those related to obtaining appropriate consent from each Candidate as part of the testing process. Subscriber will comply with all requirements set forth in the Agreement, including but not limited to Attachment A (Compliance Certification), to the extent applicable to the DHS Services.

3.2 Subscriber authorizes HireRight, in its good faith discretion, to request specific information from any individual and/or to order additional tests as necessary or appropriate and related to tests performed for Subscriber. Subscriber agrees to pay for additional costs, fees and expenses related to such information requests or additional testing performed.

3.3 Subscriber acknowledges that performance of necessary verification procedures may be dependent upon cooperation by Subscriber representatives, tested Candidates, personal physicians and/or health care providers that may possess relevant information. Subscriber agrees that HireRight shall have no responsibility for services or service levels that are delayed or cannot be provided due to lack of such cooperation.

3.4 Subscriber shall keep and maintain copies of all Candidate consent forms and Candidate notices for a minimum period of five (5) years (or such longer period as may be required by applicable Law) and Subscriber shall promptly make available to HireRight for compliance review purposes such records and other documentation reasonably requested.

Attachment E

Applicant Self-Reported Conviction Service

Brief Description:

HireRight's Applicant Self-Reported Conviction service is an optional service whereby HireRight will, subject to the terms and conditions herein: (i) post in the Applicant's background screening report ("**Screening Report**") all self-reported conviction information provided by the Applicant and collected by or on behalf of the subscribing customer ("**Subscriber**"), and (ii) conduct and report the results of applicable public records searches performed in the jurisdictions of the Applicant's self-reported convictions ("**ASRC's**").

Summary of Benefits to the Subscriber:

Benefits of the ASRC service to the Subscriber include: (i) Subscriber will be able to view within a distinct section of the Applicant's Screening Report the ASRC information supplied by the Applicant; and (ii) HireRight will search (and report the reportable results thereof) applicable public records in unique ASRC jurisdictions (if any) which otherwise would not have been searched pursuant to the Applicant's standard screening package.

Additional Definitions:

- a. "**Alias Name**" or "**AKA Name**" – means the name(s) (other than the Applicant's Primary Name and any Maiden Name) which are returned to HireRight by the credit bureau in the results of the social security number trace performed on the Applicant's Primary Name and social security number.
- b. **ASRC Jurisdiction** - means the jurisdiction associated with an ASRC. The ASRC Jurisdiction may be either a Unique Jurisdiction or an Overlapping Jurisdiction.
- c. **ASRC Name** - means the name under which the ASRC reportedly occurred. The ASRC Name may be either a Unique ASRC Name or the Primary Name. If the Applicant does not indicate that the ASRC occurred under a Unique ASRC Name, the ASRC Name will be considered to be the same as the Applicant's Primary Name.
- d. "**Maiden Name**" or "**Other Self-Reported Last Name**" – means a last name, if any, that differs from the last name of the Applicant's Primary Name and which the Applicant self-reports in the "Other Last Name" or "Maiden" field in the applicable background screen order form.
- e. **Overlapping Jurisdictions** - means a jurisdiction associated with an ASRC that is the same as a SSN Trace Jurisdiction. (E.g., if the social security number trace generates addresses associated with Orange County, CA and Los Angeles County, CA, and the jurisdiction of the ASRC is Los Angeles County, then the ASRC is located in the Overlapping Jurisdiction of Los Angeles County.)
- f. **Primary Name** - means the Applicant's primary first and last name as provided to HireRight by the Applicant or Subscriber in the Screening Report order form/application.
- g. **SSN Trace Jurisdictions** – means those jurisdictions in which HireRight will conduct a public records search of the Applicant based on the addresses generated by the Applicant's social security number trace and current address provided by the Applicant.
- h. **Unique ASRC Name** - means the name the Applicant states is the name under which the ASRC occurred, if different from the Primary Name.
- i. **Unique Jurisdictions** - means a jurisdiction associated with an ASRC that is located outside of the SSN Trace Jurisdictions. (E.g., if the SSN trace generates addresses associated with Orange County, CA and Los Angeles County, CA, and the jurisdiction of the ASRC is Santa Clara, CA, then the ASRC is located in a Unique Jurisdiction.)

Summary of How ASRC Works:

HireRight will collect from the Applicant and/or Subscriber the Applicant's ASRC information necessary for HireRight to perform a public records search in the ASRC Jurisdictions. HireRight will collect this information through either (i) "Subscriber entry" (e.g., Subscriber's recruiters will obtain the information from the Applicant's employment application, and then enter this information in the background screening order form they submit to HireRight), or (ii) "Applicant-direct entry" (e.g., the Applicant will, at the request of Subscriber, enter this information into the online background screening application that the Applicant then submits to HireRight either directly or through a third-party integration with HireRight). In the ASRC section of the Applicant's Screening

Report, HireRight will (i) post all of the Applicant's ASRC information, exactly as submitted to HireRight by the Applicant and/or Subscriber, and (ii) perform a public records search of the Applicant in the ASRC Jurisdictions, and report all records (if any) located in the ASRC Jurisdictions which are reportable by HireRight and which fall within Subscriber's screening package specifications (e.g., reportable county felony and misdemeanor records within the past 7 years). In no event will HireRight search ASRC Names in jurisdictions other than the ASRC Jurisdictions.

What Names will be Searched:

HireRight will only search ASRC Names in Unique Jurisdictions and Overlapping Jurisdictions (i.e., ASRC Names will not be searched in any other SSN Trace Jurisdictions). In Unique Jurisdictions, HireRight will search the Applicant's Primary Name and ASRC Name (regardless of whether it is the same as the Primary Name), and Subscriber will be charged its standard a-la-carte search rates, plus applicable court surcharges, for each such name search. In Overlapping Jurisdictions, HireRight will search the Primary Name (at no additional charge, as it otherwise would have been searched per the underlying screening package) and Unique ASRC Names (Subscriber will be charged its standard a-la-carte search rates, plus applicable court surcharges, for each Unique ASRC Name search).

If Subscriber does not subscribe to HireRight's Alias Name and/or Maiden Name search services, then in no event will HireRight search in any jurisdiction any Alias Names or Maiden Names associated with the Primary Name and/or ASRC Name. If Subscriber should subscribe to HireRight's Alias Name service, Subscriber understands that HireRight will not search any Alias Names associated with any ASRC Names. If Subscriber should subscribe to HireRight's Maiden Name service, Subscriber understands that HireRight will not search Maiden Names in any Unique Jurisdictions.

How to Interpret ASRC Search Results:

Subscriber understands that the ASRC service is not intended by HireRight as a "verifications" service (i.e., HireRight is not searching for the specific ASRC, and HireRight will not attempt to reconcile the results of an ASRC with records located in an ASRC Jurisdiction). Rather, the ASRC service is intended as vehicle for: (i) making Applicant-provided ASRC information readily available to Subscriber in the Applicant's Screening Report; and (ii) identifying applicable additional jurisdictions in which to perform public records searches of the Applicant. With respect to each ASRC, HireRight will report either the reportable records it locates in the ASRC Jurisdiction or "No Record Found" (or equivalent). "No Record Found" (or equivalent) shall mean any of the following: (i) HireRight was unable to locate in the ASRC Jurisdiction any records under the applicable Applicant name(s) which meet the specifications of the Applicant's underlying screening package (e.g., if HireRight locates a record that is 7 years old but Subscriber has ordered a 5-year criminal search product, the 7-year old record will not be reported), and/or (ii) HireRight was able to locate a record(s), but is prohibited by applicable law or its reporting guidelines from reporting such record(s).

Subscriber is Responsible for the Compliant Collection of ASRC Information; Indemnity:

Subscriber represents and warrants that it will collect from the Applicant ASRC information in a manner that is compliant with all applicable law (by way of example only, Subscriber will ensure that it does not ask California residents to disclose any information in violation of California Labor Code Section 432.7 and 432.8). In the event HireRight will collect ASRC information directly from the Applicant through Applicant-direct entry, Subscriber shall provide HireRight with the ASRC question that Subscriber desires HireRight ask the Applicant. A copy of such question (including all applicable State disclosures and restrictions) shall be attached in Attachment 1 hereto by Subscriber. HireRight disclaims all responsibility and liability for the legal compliance of Subscriber's ASRC question, and Subscriber agrees to indemnify, defend and hold HireRight harmless from and against any and all claims, demands, suits, judgments, costs, expenses and liabilities, including without limitation reasonable attorneys' fees and costs, which may be incurred by HireRight to a third party or agency based upon the actual or alleged unlawfulness of (i) the ASRC information provided to HireRight by the Applicant and/or Subscriber, (ii) the ASRC question set forth in Attachment 1, and (iii) HireRight's posting in the Applicant's Screening Report the ASRC information provided by the Subscriber and/or Applicant (provided HireRight accurately posts such information).

Potential Inconsistencies:

Subscriber acknowledges that in the event it collects and submits to HireRight ASRC information derived from questions on Subscriber's employment application or other internal documentation, and also collects ASRC information from some Applicants by having them submit ASRC information directly to HireRight by responding to Subscriber's question in Attachment 1 through the Applicant-direct entry method, Subscriber is advised to ensure that its ASRC questions are internally consistent. Inconsistent requests for ASRC information may, with limitation, create the following undesirable conditions for Subscriber: (i) Subscriber may collect different ASRC information from different Applicants based on the particular question asked and method of ordering their background screens (thereby potentially causing Subscriber to treat Applicants differently), and/or (ii) if Subscriber collects ASRC information on an Applicant both in its employment application as well as through the Applicant-direct entry method, and if during its hiring process its recruiters should compare, for purposes of determining the Applicant's truthfulness, the Applicant's ASRC responses (i.e., Subscriber compares the Applicant's ASRC response in their employment application against the ASRC information the Applicant provides directly to HireRight), Subscriber's recruiters could make an

adverse employment decision caused by an inconsistency in Subscriber's collection of information (rather than the truthfulness of the Applicant).

Additional Terms and Conditions:

The ASRC service shall apply to domestic background screening services only. Subscriber shall ensure that its Applicant disclosure and consent form includes the Applicant's consent to post in their Screening Report all of the Applicant's ASRC information, and to perform public record searches of such records. HireRight will report results of its ASRC Name searches in accordance with (i) Subscriber's screening package specifications (e.g., county/felony misdemeanor records for up to 7 years max), and (ii) HireRight's consumer reporting agency guidelines and applicable law. HireRight will not review for content any narrative information entered by the Applicant in any "flex-field" of the ASRC section of the Screening Report. If, e.g., the Applicant enters flex-field information which causes Subscriber to desire an additional search (e.g., of an additional location), Subscriber must then separately extend its order. If in the future HireRight should make available the option to perform alternative types of follow-up searches based on ASRC's, such additional search options will be priced separately. HireRight reserves the right, in its sole discretion, to end or modify the ASRC service upon 30 days advance notice. Other than as set forth herein, the terms of the underlying background screening services agreement between HireRight and Subscriber shall remain unmodified and in full force and effect.

Fees:

HireRight will bill Subscriber for ASRC Name searches at its standard a-la-carte search rates, plus applicable court surcharges, as described in this Agreement. Attached hereto in Attachment 2, and for purposes of clarification, are additional examples of how the ASRC service will be performed and billed.

Attachment 1

Subscriber's ASRC Question

1.

2.

[if any, please insert question(s) here]

Attachment 2
Examples

Scenario One:

Products and Services Ordered: SSN Trace, CFM and ASRC.

Applicant Name: Cindy Consumer

SSN Trace returns two counties: Orange and Los Angeles

ASRC address returns county: Riverside

Result: Orange, Los Angeles and Riverside sub requests are created for Cindy Consumer. Orange and Los Angeles are included in the CFM package price; Riverside is billed at the a la carte CFM rate.

Scenario Two:

Products and Services Ordered: SSN Trace, CFM and ASRC.

Applicant Name: Cindy Consumer

SSN Trace returns two counties: Orange and Los Angeles

ASRC address returns county: Los Angeles

Result: Orange and Los Angeles sub requests are created for Cindy Consumer. Both counties are included in the CFM package price; no a la carte fee is incurred.

Scenario Three:

Products and Services Ordered: SSN Trace, CFM, Maiden Names* and ASRC.

Applicant Name: Cindy Consumer (White)

SSN Trace returns two counties: Orange and Los Angeles

ASRC address returns county: Riverside

Result: Orange and Los Angeles sub requests are created for Cindy Consumer and Cindy White. Riverside sub request is created for Cindy Consumer (but not the maiden name Cindy White) and billed at the a la carte CFM rate.

Scenario Four:

Products and Services Ordered: SSN Trace, CFM, Maiden Names* and ASRC.

Applicant Name: Cindy Consumer (White)

SSN Trace returns two counties: Orange and Los Angeles

ASRC address returns county: Los Angeles

Result: Orange and Los Angeles sub requests are created for Cindy Consumer and Cindy White. Both counties are included in the CFM package price; no a la carte fee is incurred.

Scenario Five:

Products and Services Ordered: SSN Trace, CFM, Maiden Names* and ASRC.

Applicant Name: Cindy Consumer (White)

ASRC Name: Cindy Brown

SSN Trace returns two counties: Orange and Los Angeles

ASRC address returns county: Riverside

Result: Orange and Los Angeles sub requests are created for Cindy Consumer and Cindy White and are included in the CFM package price. Riverside sub requests are created for Cindy Consumer and Cindy Brown (but not the maiden name Cindy White) and are each billed separately at the a la carte CFM rate.

Scenario Six:

Products and Services Ordered: SSN Trace, CFM, Maiden Names* and ASRC.

Applicant Name: Cindy Consumer (White)

ASRC Name: Cindy Brown

SSN Trace returns two counties: Orange and Los Angeles

ASRC address returns county: Los Angeles

Result: Orange County sub requests are created for Cindy Consumer and Cindy White. Los Angeles County sub requests are created for Cindy Consumer, Cindy White and Cindy Brown. Sub requests for Cindy White and Cindy Brown are billed at the a la carte CFM rate.

Scenario Seven:

Product and Services Ordered: SSN Trace, CFM, Federal and ASRC.

Applicant Name: Cindy Consumer

SSN Trace returns two counties: Orange and Los Angeles

ASRC address returns county: San Francisco

Result: Orange and Los Angeles CFM sub requests are created for Cindy Consumer. A Federal sub request is created for the Central District for Cindy Consumer. A CFM sub request is created for San Francisco for Cindy Consumer and a Federal sub request for the Eastern District is created for Cindy Consumer. The CFM sub requests for Orange and Los Angeles County and the Federal sub request for the Central District are included in the package price. The CFM sub request for San Francisco

County and the Federal sub request for the Eastern District are each billed separately at the a la carte CFM and Federal rates, respectively.

(* All Maiden name searches will be billed separately in accordance with terms of Subscriber's contract)

SUBSCRIBER APPLICATION

BUSINESS INFORMATION

Company Name: _____
(Full Legal Entity Name as Registered with the State)

DBA: _____
(Fictitious or assumed must be included with the legal name in the Service Agreement if subscriber wants the dba name to be depicted in the account setup)

Address: _____
Street

_____ *City* _____ *State/Province*

_____ *Country* _____ *Zip/Postal Code*

General/Publicly Listed Company Phone Number: _____

Employer Identification Number: _____

Corporate Headquarters Location: _____
(If applicable)

Business Type: _____ *(e.g. Transportation, Retail, Staffing)* Website Address: _____

Form of Business Entity: *Public Corporation* *Private Corporation* *Partnership* *LLC* *Sole Proprietor*

If Public Corporation, provide the company business ticker symbol: _____

Primary Contact Name: _____
(Main account user)

_____ *Title* _____ *Email*

_____ *Telephone* _____ *Fax*

Physical Inspection Contact Name: _____
(If other than Primary)

_____ *Title* _____ *Email*

_____ *Telephone* _____ *Fax*

Additional User Name: _____

_____ *Email* _____ *Telephone*

Additional User Name: _____

_____ *Email* _____ *Telephone*

Additional User Name: _____

Email

Telephone

* FOR ADDITIONAL USERS, PLEASE ATTACH A LIST WITH THE ABOVE REQUIRED INFORMATION.

ADDITIONAL INFORMATION

- Do you intend to order Motor Vehicle Records?** Yes (*MVR State Forms must be completed and returned*) No
- Would you like HireRight to reference a PO on your invoices?** Yes **PO#** _____ No
- Is your company Tax Exempt?** Yes (*Tax Exempt Certificate, current and signed, must be completed and returned with this form*) No
- Will Screening Reports be processed and stored at the above location or multiple locations?** Above location Other*

If other than above, please provide the location address that will be ordering and storing reports

Address:

*If multiple locations, HireRight requires a Letter of Authorization be completed with the Service Agreement upon signing that lists the address of each location.

Is this a Home-Based Business? Yes No

Does your company share office Space with other businesses? Yes No

FINANCIAL INFORMATION

Invoice Recipient Name: _____
(Main account user)

Title

Email

Telephone

Fax

METHOD OF PAYMENT

Option 1: Credit Card Payment *Monthly Activity will be charged to credit card, and itemized invoices will be sent via email to the above email address.*

Option 2: Apply For Credit – Invoicing *Invoices will be sent via email to Invoice Recipient specified above.*

On approval of credit, HireRight will invoice Subscriber on a monthly basis, and payment shall be due within thirty (30) days of invoice receipt. Invoices will be considered approved by Subscriber unless Subscriber notifies HireRight in writing of any alleged errors or disputes within thirty (30) days after receipt of invoice. Note: In its sole discretion, HireRight may obtain a Dun and Bradstreet Report on your company to determine credit qualification. You may also be asked to provide bank and trade references. HireRight, in its sole discretion, may rescind credit and require payment by credit card if payment on your account becomes delinquent or HireRight otherwise determines that your account presents an undue risk of non-payment or late payment.

By submitting this New Account Application, Subscriber authorizes HireRight to (a) verify all information provided on this application; (b) check credit references to ascertain business standing; and (c) where credit is being applied for, obtain payment history and obtain current, average and high balance information. By submitting this New Account Application, you are certifying the accuracy of the information provided.

Authorized Signature: _____

Date: _____

Name: _____

Title: _____



**BOARD OF GOVERNORS
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

January 17, 2018

Subject: Proposed acceptance of donation of travel and related expenses from California State Association of Counties Excess Insurance Authority (CSAC EIA)

Recommended Action: Approve; Adopt Resolution

Summary:

The Authority's conflict of interest policy prohibits employees from receiving or accepting money or any other consideration from anyone other than the Authority for the performance of an act which the employee would be required or expected to render in the regular course of his or her employment.

CSAC EIA is the provider of Workers' Compensation Excess Coverage to the Authority. CSAC EIA, through its Subsidy Fund, offers each member an annual subsidy of \$1,000, per specified line of coverage purchased, to be used for any loss prevention or risk management function. The Authority has an available subsidy balance of \$4,000. CSAC EIA has offered to donate to the Authority all travel and related expenses in an amount not to exceed \$4,000, for one or more Kern Medical employees to attend the annual Division of Workers' Compensation "25th Annual DWC Educational Conference" in Los Angeles, California, from February 12-13, 2018.

Kern Medical recommends your Board adopt the resolution to accept the travel donation from CSAC EIA in an amount not to exceed \$4,000 for registration, travel and related expenses, and authorize the Chief Executive Officer to designate one employee to attend this important conference.

**BEFORE THE BOARD OF GOVERNORS
OF THE KERN COUNTY HOSPITAL AUTHORITY**

In the matter of:

Resolution No. _____

**ACCEPTANCE OF DONATION OF
TRAVEL AND RELATED EXPENSES
FROM CSAC EIA**

I, MONA A. ALLEN, Authority Board Coordinator for the Kern County Hospital Authority, hereby certify that the following Resolution, on motion of Director _____, seconded by Director _____, was duly and regularly adopted by the Board of Governors of the Kern County Hospital Authority at an official meeting thereof on the 17th day of January, 2018, by the following vote, and that a copy of the Resolution has been delivered to the Chairman of the Board of Governors.

AYES:

NOES:

ABSENT:

MONA A. ALLEN
Authority Board Coordinator
Kern County Hospital Authority

Mona A. Allen

RESOLUTION

Section 1. WHEREAS:

(a) The conflict of interest policy for the Kern County Hospital Authority (“Authority”) prohibits Authority employees from receiving or accepting money or any other consideration from anyone other than the Authority for the performance of an act which the employee would be required or expected to render in the regular course of his or her employment; and

(b) The California state Association of Counties Excess Insurance Authority (“CSAC EIA”) provides Workers’ Compensation Excess Coverage insurance to the Authority; and

(c) CSAC EIA, through its Subsidy Fund, offers each member an annual subsidy of \$1,000, per specified line of coverage purchased, to be used for any loss prevention or risk management function. The Authority has an available subsidy balance of \$4,000; and

(d) CSAC EIA has offered to donate to the Authority all travel and related expenses in an amount not to exceed \$4,000, for one or more Authority employees to attend the Division of Workers’ Compensation “25th Annual DWC Educational Conference” in Los Angeles, California, from February 12-13, 2018; and

(e) The training session is necessary in connection with official Authority business; and

(f) The Authority desires to obtain the donation of travel and related expenses to the Authority and will retain full control over the use of the donation; and

(g) CSAC EIA has not made any restrictions as to how the donation may be used.

Section 2. NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Governors of the Kern County Hospital Authority, as follows:

1. This Board finds the facts recited herein are true, and further finds that this Board has jurisdiction to consider, approve, and adopt the subject of this Resolution.

2. This Board hereby accepts from CSAC EIA the donation of travel and related expenses in an amount not to exceed \$4,000, to cover all costs for one or more Authority employees to travel to Los Angeles, California, to attend the Division of Workers’ Compensation “25th Annual DWC Educational Conference” from February 12-13, 2018.

3. This Board authorizes the Chief Executive Officer to designate one or more Authority employees to attend the Division of Workers’ Compensation “25th Annual DWC Educational Conference” from February 12-13, 2018.

4. The Authority Board Coordinator shall provide copies of this Resolution to the following:

Chief Financial Officer
Legal Services Department
Human Resources Department
Workers’ Compensation & Liability Manager



**BOARD OF GOVERNORS
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

January 17, 2018

Subject: Request to employ retired Kern County Hospital Authority employee Rose Bauer, PharmD

Recommended Action: Approve

Summary:

Kern Medical is requesting approval to employ retired Kern County Hospital Authority employee Rose Bauer, as Extra Help Clinical Pharmacist, for the period ending June 30, 2018, or 960 hours, whichever occurs first, effective January 20, 2018.

The Public Employee Pension Reform Act (PEPRA) sets forth post-retirement service and employment requirements for all KCERA retirees returning to work for a KCERA employer. The authority is a designated KCERA employer. Under PEPRA service requirements, a retiree may be re-employed up to a maximum of 960 hours per fiscal year, subject to approval by your Board.

In addition to the service requirements, Dr. Bauer is also subject to the employment requirements under PEPRA, which provide that a retired public employee is not eligible for post-retirement employment for a period of 180 days following the date of retirement unless the appointment is necessary to fill a critically needed position before 180 days have passed and the appointment has been approved by your Board. The appointment may not be placed on the consent agenda.

Dr. Bauer will retire effective January 19, 2018. Dr. Bauer has worked at Kern Medical for 23 years, most of that time as a home health pharmacist; she also has worked over seven years as a staff pharmacist in the inpatient pharmacy. In addition to the regular staffing roles and responsibilities, Dr. Bauer has special quality assignments and has the requisite experience and skill set needed to perform the work for which she is being reemployed. Kern Medical has a critical need to reemploy Dr. Bauer immediately, to ensure there is sufficient coverage of the quality tasks required for reporting by The Joint Commission, California Department of Public Health, Centers for Medicare & Medicaid Services, and the California Board of Pharmacy. Kern Medical has eight full-time staff pharmacists who cover a very busy service. Until very recently, there were three vacancies and one individual remains out on a leave of absence. While two of the three vacancies were recently filled, those two employees are brand new and require weeks of training, with the assistance of Dr. Bauer. Experienced pharmacists are in short supply in Kern County, and Kern County remains a difficult region to recruit highly qualified pharmacists. In the interim, the current staffing levels within the department will be strained to maintain patient safety without the interim reemployment of Dr. Bauer. As such, Dr. Bauer will be reemployed for a limited duration to fill voids in staffing, while Kern Medical continues to train the new hires, and recruit for another full time pharmacist.

Therefore, it is recommended that your Board approve the reemployment of Rose Bauer, as Extra Help Clinical Pharmacist, effective January 20, 2018.



**BOARD OF GOVERNORS
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

January 17, 2018

Subject: Comments Regarding Budget Variances for Operating Expenses – November 2017

Recommended Action: Receive and File

Summary:

The following items have budget variances for the month of November 2017:

Gross Operating Revenue:

- Gross operating revenue for the month of November 2017 has a \$2.3 million unfavorable variance due to lower than expected patient volume for the month. Average daily census for the month was 128, compared to a budget of 138.

Indigent Funding:

- Each month, Kern Medical only recognizes ninety-five percent of the total accrued amount receivable from indigent funding. This is a conservative approach that reserves five percent of the total receivable indigent funding to account for the possibility that some funding could be taken back by the funding sources at a later time due to changes in calculations or in the method that funds are allocated among California's public hospitals.

Other Revenue:

- Other revenue has a favorable budget variance for November due to the receipt of physician recruitment grant funds from Kern Health System.

Registry Nurses:

- Registry nurses expense has an unfavorable budget variance on both a month to date and a year to date basis. Kern Medical continues to rely on contracted nurse staffing to supplement the nursing departments while aggressively trying to recruit full time employed nurses.

Supplies Expense:

- Supplies expense has an unfavorable budget variance for the month of November mainly due to higher than average costs for minor computer equipment and software.

Purchased Services:

- Purchased services has an unfavorable budget variance for the month of November 2017 due to a larger than average purchase of linen services. Kern Medical also had higher than average out-of-network costs for the month. Patients that need health care services that are not currently provided by Kern Medical are often referred to other health care providers to perform the services for the patients. These providers then bill Kern Medical for the services provided for Kern Medical patients. Medical services performed for Kern

Owned and Operated by the Kern County Hospital Authority
A Designated Public Hospital

1700 Mount Vernon Avenue | Bakersfield, CA 93306 | (661) 326-2000 | KernMedical.com

Medical patients by providers outside of Kern Medical are classified as out of network services in the Kern Medical financial statements.

Other Expenses:

- Other expenses have an unfavorable budget variance for the month of November 2017 mainly due to repairs and maintenance expenses for miscellaneous maintenance projects throughout the hospital and clinics



**BOARD OF GOVERNORS' FINANCIAL REPORT
KERN MEDICAL – NOVEMBER 2017**

JANUARY 2018



3-Month Trend Analysis: Revenue & Expense

November 30, 2017

	SEPTEMBER	OCTOBER	NOVEMBER	BUDGET NOVEMBER	VARIANCE POS (NEG)	PY NOVEMBER
Gross Patient Revenue	\$ 71,535,699	\$ 76,925,948	\$ 68,111,189	\$ 70,430,965	(3.3%)	\$ 63,484,833
Contractual Deductions	(52,572,690)	(59,625,036)	(50,804,752)	(53,216,617)	(4.5%)	(45,968,653)
Net Revenue	18,963,008.70	17,300,911.83	17,306,436.92	17,214,348	1%	17,516,180
Indigent Funding	8,678,171	10,002,778	8,678,171	9,339,464	(7%)	7,795,894
Correctional Medicine	1,976,127	1,976,127	1,976,127	1,937,469	2%	1,976,045
County Contribution	285,211	285,211	285,211	287,671	(1%)	285,211
Net Patient Revenue	29,902,518	29,565,028	28,245,946	28,778,952	(1.9%)	27,573,330
Other Operating Revenue	944,530	893,153	1,659,117	1,032,521	61%	904,906
Other Non-Operating Revenue	71,694	(4,567)	53,887	33,346	62%	24,439
Total Operating Revenue	30,918,742	30,453,614	29,958,950	29,844,819	0.4%	28,502,675
Expenses						
Salaries	12,456,249	12,233,362	11,754,757	12,036,004	(2%)	11,099,323
Employee Benefits	5,444,787	5,286,266	5,165,517	5,941,358	(13%)	5,320,395
Contract Labor	1,153,284	1,033,385	1,597,387	886,603	80%	914,714
Medical Fees	1,309,334	1,410,266	1,453,762	1,390,584	5%	1,419,622
Other Professional Fees	1,419,793	347,000	1,713,019	1,721,448	(0.5%)	978,458
Supplies	4,228,116	4,013,802	4,231,030	4,118,522	3%	4,241,075
Purchased Services	2,005,072	1,649,368	1,625,487	1,519,141	7%	1,481,065
Other Expenses	1,823,253	1,311,191	1,371,488	1,261,821	9%	1,293,082
Operating Expenses	29,839,888	27,284,640	28,912,446	28,875,482	0%	26,747,733
Earnings Before Interest, Depreciation, and Amortization (EBIDA)	1,078,854	3,168,973	1,046,504	969,337	8%	1,754,942
EBIDA Margin	3%	10%	3%	3%	8%	6%
Interest	19,344	21,924	21,306	41,741	(49%)	22,154
Depreciation	615,097	570,051	521,952	467,141	12%	524,308
Amortization	33,611	22,810	29,345	24,510	20%	(3,253)
Total Expenses	30,507,940	27,899,425	29,485,049	29,408,874	0.3%	27,290,941
Operating Gain (Loss)	410,802	2,554,188	473,901	435,945	9%	1,211,733
Operating Margin	1.3%	8.4%	1.6%	1.5%	8%	4%

Year-to-Date: Revenue & Expense						
November 30, 2017						
	ACTUAL	BUDGET	VARIANCE	PY	PY VARIANCE	
	FYTD	FYTD	POS (NEG)	FYTD	POS (NEG)	
Gross Patient Revenue	\$ 365,098,561	\$ 356,099,795	2.5%	\$ 329,178,997	11%	
Contractual Deductions	(274,517,720)	(269,967,335)	1.7%	(242,406,847)	13%	
Net Revenue	90,580,841	86,132,460	5%	86,772,150		
Indigent Funding	45,294,006	47,631,265	(5%)	38,107,190	19%	
Correctional Medicine	9,880,635	9,881,091	(0.005%)	9,869,284	0.1%	
County Contribution	1,426,055	1,467,123	(3%)	1,436,994	(1%)	
Net Patient Revenue	147,181,537	145,111,939	1%	136,185,619	8%	
Other Operating Revenue	5,761,403	5,265,710	9%	4,866,883	18%	
Other Non-Operating Revenue	143,284	170,066	(16%)	122,243	17%	
Total Operating Revenue	153,086,224	150,547,715	2%	141,174,745	8%	
Expenses						
Salaries	61,313,057	60,980,148	1%	55,661,692	10%	
Employee Benefits	26,015,681	30,286,097	(14%)	26,212,808	(0.8%)	
Contract Labor	6,070,735	4,482,402	35%	4,367,143	39%	
Medical Fees	6,510,484	7,028,259	(7%)	6,874,935	(5%)	
Other Professional Fees	6,800,007	8,779,385	(23%)	7,866,299	(14%)	
Supplies	20,780,492	20,810,727	(0.1%)	19,443,464	7%	
Purchased Services	9,088,883	7,747,620	17%	6,640,843	37%	
Other Expenses	7,529,988	6,434,979	17%	7,315,158	3%	
Operating Expenses	144,109,327	146,549,617	(2%)	134,382,343	7%	
Earnings Before Interest, Depreciation, and Amortization (EBIDA)	8,976,897	3,998,098	125%	6,792,402	32%	
EBIDA Margin	6%	3%	121%	5%	22%	
Interest	109,615	212,877	(49%)	111,483	(1.7%)	
Depreciation	2,733,518	2,382,420	15%	2,331,087	17%	
Amortization	132,743	125,001	6%	127,786	4%	
Total Expenses	147,085,203	149,269,915	(1%)	136,952,699	7%	
Operating Gain (Loss)	6,001,021	1,277,800	370%	4,222,046	42%	
Operating Margin	3.9%	0.8%	362%	3%	31%	

3-Month Trend Analysis: Cash Indicators

November 30, 2017

		SEPTEMBER	OCTOBER	NOVEMBER	BUDGET NOVEMBER	VARIANCE POS (NEG)	PY NOVEMBER
CASH							
	Total Cash	33,511,276	43,900,559	73,821,664	36,530,778	102%	60,613,182
	Days Cash On Hand	35	50	77	38	102%	68
	Days In A/R - Gross	87.46	84.77	84.79	76.00	12%	101.93
	Patient Cash Collections	\$ 20,743,356	\$ 18,188,575	\$ 18,693,217	N/A	N/A	\$ 23,203,984
	Patient Cash Goal	\$ 16,847,034	\$ 19,271,035	\$ 17,739,762	N/A	N/A	\$ 17,742,157
	Projected Year End Cash Balance	59,085,203	59,085,203	59,085,203	N/A	N/A	N/A

3-Month Trend Analysis: Operating Metrics

November 30, 2017

	SEPTEMBER	OCTOBER	NOVEMBER	BUDGET NOVEMBER	VARIANCE POS (NEG)	PY NOVEMBER
Operating Metrics						
Total Expense per Adjusted Admission	19,897	16,495	16,988	19,310	(12%)	18,388
Total Expense per Adjusted Patient Day	4,067	3,484	3,588	3,690	(2.7%)	3,778
Supply Expense per Adjusted Admission	2,758	2,373	2,438	2,704	(9.9%)	2,858
Supply Expense per Surgery	1,518	1,033	1,285	1,766	(27%)	2,040
Supplies as % of Net Patient Revenue	14%	14%	15%	14%	5%	15%
Pharmaceutical Cost per Adjusted Admission	993	1,024	963	1,105	(13%)	1,146
Net Revenue Per Adjusted Admission	\$ 12,368	\$ 10,229	\$ 9,971	\$ 11,303	-12%	\$ 11,802

Year-to-Date: Operating Metrics

November 30, 2017

		ACTUAL	BUDGET	VARIANCE	PY	PY VARIANCE
		FYTD	FYTD	POS (NEG)	FYTD	POS (NEG)
Operating Metrics						
	Total Expense per Adjusted Admission	18,998	19,274	(1%)	17,939	6%
	Total Expense per Adjusted Patient Day	3,796	3,817	(1%)	3,623	5%
	Supply Expense per Adjusted Admission	2,684	2,687	(0.1%)	2,547	5%
	Supply Expense per Surgery	1,327	1,759	(25%)	2,049	(35%)
	Supplies as % of Net Patient Revenue	14%	14%	(1.5%)	14%	(1.1%)
	Pharmaceutical Cost per Adjusted Admission	1,115	1,097	2%	966	15%
	Net Revenue Per Adjusted Admission	\$ 11,700	\$ 11,122	5%	\$ 11,366	3%

INDIGENT PATIENT CARE FUNDING - MTD & YTD

FOR THE MONTH NOVEMBER 30 , 2017

MTD ACTUAL	MTD BUDGET	VAR \$ FAV/(UNFAV)	VAR %	DESCRIPTION	YTD ACTUAL	YTD BUDGET	VAR \$ FAV/(UNFAV)	VAR %
117,123	123,288	(6,164)	-5.0%	MEDI-CAL HOSPITAL QUALITY ASSURANCE FEE	597,329	628,767	(31,438)	-5.0%
2,017,258	2,123,429	(106,171)	-5.0%	MEDI-CAL EXPANSION REVENUE FROM HMO	10,288,016	10,829,490	(541,475)	-5.0%
0	189,926	(189,926)	-100.0%	COUNTY REALIGNMENT FUNDS	0	968,625	(968,625)	-100.0%
1,154,188	1,214,935	(60,747)	-5.0%	MEDI-CAL SUPPLEMENTAL FUNDING	5,902,455	6,196,166	(293,711)	-4.7%
2,108,219	2,219,178	(110,959)	-5.0%	PRIME - NEW WAIVER	10,751,918	11,317,808	(565,890)	-5.0%
2,052,781	2,160,822	(108,041)	-5.0%	GPP - NEW WAIVER	10,469,182	11,020,192	(551,010)	-5.0%
1,228,602	1,293,265	(64,663)	-5.0%	WHOLE PERSON CARE	6,265,869	6,595,652	(329,783)	-5.0%
0	14,621	(14,621)	-100.0%	MEANINGFUL USE	1,019,237	74,565	944,672	1266.9%
8,678,171	9,339,464	(661,293)	-7.1%	SUB-TOTAL - GOVERNMENTAL REVENUE	45,294,006	47,631,265	(2,337,259)	-4.9%
1,976,127	1,937,469	38,658	2.0%	CORRECTIONAL MEDICINE	9,880,635	9,881,091	(456)	0.0%
285,211	287,671	(2,460)	-0.9%	COUNTY CONTRIBUTION	1,426,055	1,467,123	(41,068)	-2.8%
10,939,509	11,564,604	(625,095)	-5.4%	TOTAL INDIGENT CARE & COUNTY FUNDING	56,600,696	58,979,479	(2,378,783)	-4.0%

OTHER REVENUE

FOR THE MONTH NOVEMBER 30, 2017

OTHER OPERATING REVENUE

	MTD ACTUAL	MTD BUDGET	VARIANCE	YTD ACTUAL	YTD BUDGET	VARIANCE
MEDICAL POSTGRAD EDUC TUITION	333,587	357,607	(24,020)	1,670,733	1,823,794	(153,060)
STAFF DEVELOPMENT EDUC FEES	228	701	(473)	6,598	3,576	3,022
TRAUMA EDUCATION REG FEES	0	88	(88)	350	449	(99)
CAFETERIA REVENUE	76,477	85,547	(9,070)	389,328	436,290	(46,962)
FINANCE CHARGES-PATIENT AR	28,340	20,593	7,747	80,009	104,878	(24,869)
SALE OF SCRAP AND WASTE	(23)	100	(123)	(23)	512	(535)
REBATES AND REFUNDS	3,555	75,852	(72,297)	465,052	386,847	78,204
DRUG CO. CASH BACK	393	0	393	3,879	0	3,879
PHOTOCOPY FEES	2,160	1,741	419	9,980	8,878	1,102
JURY WITNESS FEES	0	315	(315)	456	1,609	(1,153)
MEDICAL RECORDS FEES	3,210	2,888	322	12,244	14,729	(2,485)
PHYSICIAN PRO FEE-ER LOCKBOX	11,610	45,370	(33,760)	124,061	231,386	(107,325)
OTHER REVENUE	20	31,656	(31,636)	99,689	161,441	(61,752)
CANCELLED OUTLAWED WARRANTS	440	60	380	9,291	308	8,983
GRANTS - KHS	1,068,119	123,288	944,832	1,678,322	628,767	1,049,554
GRANT-SONG BROWN	0	80	(80)	0	406	(406)
MADDY FUNDS-EMERG MEDICAL SVCS	0	44,561	(44,561)	104,287	227,261	(122,974)
PRIMARY CARE INCENTIVE PAYMENT	29	0	29	979	0	979
VETERANS ADMIN REVENUE	(7,309)	7,646	(14,955)	14,258	38,996	(24,738)
JAMISON CENTER MOU	15,639	28,558	(12,919)	78,195	145,646	(67,451)
MENTAL HEALTH MOU	118,420	181,558	(63,138)	872,071	925,947	(53,876)
PATERNITY DECLARATION REV	1,080	1,173	(93)	6,120	5,980	140
PEDIATRIC FORENSIC EXAMS	0	9,930	(9,930)	53,000	50,645	2,355
FOUNDATION CONTRIBUTIONS	0	0	0	27,745	0	27,745
DONATED EQUIPMENT	1,599	0	1,599	1,599	0	1,599
WORKERS COMPENSATION REFUNDS	1,543	13,209	(11,665)	53,180	67,363	(14,184)

TOTAL OTHER OPERATING REVENUE	1,659,117	1,032,521	626,597	5,761,403	5,265,710	495,693
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OTHER NON-OPERATING REVENUE

OTHER MISCELLANEOUS REVENUE	224	871	(647)	1,155	4,444	(3,289)
INTEREST ON FUND BALANCE	53,663	32,475	21,188	142,129	165,623	(23,494)
TOTAL OTHER NON-OPER REVENUE	53,887	33,346	20,540	143,284	170,066	(26,782)

KERN MEDICAL		
BALANCE SHEET		
	November 2017	November 2016
CURRENT ASSETS:		
CASH	\$73,821,664	\$60,159,765
CURRENT ACCOUNTS RECEIVABLE (incl. CLINIC CHARGES RECEIVABLE)	201,788,510	216,984,292
ALLOWANCE FOR UNCOLLECTIBLE RECEIVABLES - CURRENT	(165,525,707)	(179,380,047)
-NET OF CONT ALLOWANCES	36,262,803	37,604,244
MD SPA	4,327,179	2,524,644
HOSPITAL FEE RECEIVABLE	619,901	4,532,367
CPE - O/P DSH RECEIVABLE	5,862,684	6,464,004
MENTAL HEALTH MOU	968,584	42,917
MANAGED CARE IGT (RATE RANGE)	11,604,722	20,887,383
RECEIVABLE FROM LIHP	(6,547,536)	(5,722,111)
OTHER RECEIVABLES	3,526,337	1,505,380
PRIME RECEIVABLE	9,430,123	11,965,873
AB85/75% DEFAULT PCP RECEIVABLE	5,118,433	613,856
GPP (Global Payment Program)	3,994,806	5,165,550
WPC (Whole Person Care)	4,939,679	0
INTEREST ON FUND BALANCE RECEIVABLE	59,574	34,150
MANAGED CARE IGT (SPD)	(7,953,923)	0
OTHER NON PATIENT RECEIVABLE	0	2,207,079
WAIVER RECEIVABLE FY07	(745,824)	(745,824)
WAIVER RECEIVABLE FY08	(6,169,000)	(6,169,000)
WAIVER RECEIVABLE FY09	(2,384,000)	(2,384,000)
WAIVER RECEIVABLE FY10	579,696	579,696
WAIVER RECEIVABLE FY11	(10,493,878)	(10,493,878)
WAIVER RECEIVABLE FY12	679,308	679,308
WAIVER RECEIVABLE FY14	0	(28,564,908)
WAIVER RECEIVABLE FY15	(11,223,792)	(23,770,144)
WAIVER RECEIVABLE FY16	(2,819,361)	(2,819,361)
PREPAID EXPENSES	3,846,163	3,092,204
PREPAID MORRISON DEPOSIT	799,706	751,926
INVENTORY AT COST	4,204,244	3,518,040
TOTAL CURRENT ASSETS	122,308,291	81,659,161
PROPERTY, PLANT & EQUIPMENT:		
LAND	170,395	168,115
EQUIPMENT	48,546,864	44,248,058
BUILDINGS	82,462,922	82,462,622
CONSTRUCTION IN PROGRESS	7,541,591	1,758,301
LESS: ACCUMULATED DEPRECIATION	(86,345,457)	(80,376,029)
NET PROPERTY, PLANT & EQUIPMENT	52,376,316	48,261,067
NET INTANGIBLE ASSETS		
INTANGIBLE ASSETS	12,638,783	10,753,091
ACCUMULATED AMORTIZATION INTANGIBLES	(10,683,111)	(10,356,543)
NET INTANGIBLE ASSETS	1,955,672	396,548
LONG-TERM ASSETS:		
LONG-TERM PATIENT ACCOUNTS RECEIVABLE		
DEFERRED OUTFLOWS - PENSIONS	71,902,645	49,355,076
CASH HELD BY COP IV TRUSTEE	912,973	906,469
TOTAL LONG-TERM ASSETS	72,815,618	50,261,545
TOTAL ASSETS	\$249,455,896	\$180,578,320

KERN MEDICAL BALANCE SHEET		
	November 2017	November 2016
CURRENT LIABILITIES:		
ACCOUNTS PAYABLE	\$18,548,727	\$16,725,471
ACCRUED SALARIES & EMPLOYEE BENEFITS	24,373,718	10,654,276
OTHER ACCRUALS	5,291,283	4,208,078
ACCRUED CWCAP LIABILITY	131,998	1,314,250
CURRENT PORTION - CAPITALIZED LEASES	337,560	265,039
CURR LIAB - COP 2011 PAYABLE	1,085,718	1,032,670
CURR LIAB - P.O.B.	1,560,318	1,447,698
MEDICARE COST REPORT LIAB PAYABLE	3,794,129	2,638,492
HOSPITAL FEE-IGT PAYABLE	0	1,143,153
MEDI-CAL COST REPORT LIABILITY	1,430,435	978,764
INDIGENT FUNDING PAYABLE	14,754,295	5,890,305
DSH PAYABLE FY14	24,746,355	5,599,450
CREDIT BALANCES PAYABLES	3,737,529	4,071,306
DEFERRED REVENUE - COUNTY CONTRIBUTION	4,715,828	4,066,390
TOTAL CURRENT LIABILITIES	104,507,895	60,035,342
LONG-TERM LIABILITIES:		
LONG-TERM LIABILITY-COP 2011	1,131,693	2,217,410
NET UNAMORTIZED DISCOUNT COP	59,978	79,971
LONG-TERM LIABILITY - CAPITAL LEASES	1,387,154	1,924,541
NET OPEB (OTHER POST EMPLOYMENT BENEFITS)	4,201,203	5,354,890
NET PENSION LIABILITY	329,935,445	345,262,534
L.T. LIAB. - P.O.B. INTEREST PAYABLE 08	14,722,232	17,201,707
L.T. LIAB. - P.O.B. INTEREST PAYABLE 03	3,917,723	3,528,303
L.T. P.O.B. PAYABLE 03	16,695,541	18,326,891
L.T. P.O.B. PAYABLE 08	5,392,893	5,392,893
ACCRUED PROFESSIONAL LIABILITY	3,474,640	4,149,059
ACCRUED WORKERS' COMPENSATION PAYABLE	6,773,000	0
DEFERRED INFLOWS - PENSIONS	22,238,926	15,299,688
PENSION OBLIGATION BOND PAYABLE	3,678,145	4,721,626
ACCRUED COMPENSATED ABSENCES	3,830,085	8,980,349
TOTAL LONG-TERM LIABILITIES	417,438,657	432,439,862
NET POSITION		
RETAINED EARNINGS - CURRENT YEAR	39,814,215	44,036,262
RETAINED EARNINGS - PRIOR YEAR	(312,304,871)	(355,933,146)
TOTAL NET POSITION	(272,490,656)	(311,896,884)
TOTAL LIABILITIES & NET POSITION	\$249,455,896	\$180,578,320



**BOARD OF GOVERNORS
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

January 17, 2018

Subject: Kern County Hospital Authority, Chief Executive Officer Report

Recommended Action: Receive and File

Summary:

The Chief Executive Officer has provided the attached 3-month trend Analysis: Volume and Strategic Indicators for Kern Medical.



150 YEARS
Health for Life.

**BOARD OF GOVERNORS' VOLUMES REPORT
KERN MEDICAL – NOVEMBER 2017**

JANUARY 2018



3-Month Trend Analysis: Volume and Strategic Indicators

November 30, 2017

	SEPTEMBER	OCTOBER	NOVEMBER	BUDGET NOVEMBER	VARIANCE POS (NEG)	PY NOVEMBER
VOLUME						
Adjusted Admissions (AA)	1,533	1,691	1,736	1,523	14%	1,484
Adjusted Patient Days	7,501	8,007	8,217	7,970	3%	7,225
Admissions	824	929	790	793	(0.4%)	798
Average Daily Census	134	142	128	138	(8%)	129
Patient Days	4,031	4,398	3,825	4,151	(8%)	3,885
Available Occupancy %	62.8%	66.3%	59.6%	64.7%	(8%)	60.5%
Average LOS	4.9	4.7	4.8	5.2	(7%)	4.9
Surgeries						
Inpatient Surgeries (Main Campus)	226	258	225	244	(8%)	220
Outpatient Surgeries (Main Campus)	212	281	257	242	6.0%	272
Total Surgeries	438	539	482	487	(1%)	492
Births	207	259	203	223	(9%)	214
ER Visits						
Admissions	427	427	424	416	1.8%	388
Treated & Released	3,655	3,655	3,942	3,733	5.6%	3,119
Total ER Visits	4,082	4,082	4,366	4,149	5%	3,507
Outpatient Clinic Visits						
Total Clinic Visits	11,207	12,846	12,008	10,810	11%	11,352

Year-to-Date: Volume and Strategic Indicators

November 30, 2017

		ACTUAL	BUDGET	VARIANCE	PY	PY VARIANCE
		FYTD	FYTD	POS (NEG)	FYTD	POS (NEG)
VOLUME						
	Adjusted Admissions (AA)	7,742	7,744	(0.03%)	7,634	1%
	Adjusted Patient Days	38,746	39,103	(0.9%)	37,797	3%
	Admissions	4,184	4,034	4%	4,016	4.2%
	Average Daily Census	137	133	3%	130	5%
	Patient Days	20,939	20,366	3%	19,900	5.2%
	Available Occupancy %	64.0%	62.2%	3%	60.8%	5.2%
	Average LOS	5.0	5.0	(0.9%)	5.0	1%
	Surgeries					
	Inpatient Surgeries (Main Campus)	1,201	1,156	4%	1,145	5%
	Outpatient Surgeries (Main Campus)	1,260	1,314	(4%)	1,301	(3%)
	Total Surgeries	2,461	2,470	(0.4%)	2,446	1%
	Births	1,099	1,136	(3%)	1,162	(5%)
	ER Visits					
	Admissions	2,152	2,117	2%	1,949	10%
	Treated & Released	18,709	18,981	(1%)	17,045	10%
	Total ER Visits	20,861	21,098	(1%)	18,994	10%
	Outpatient Clinic Visits					
	Total Clinic Visits	58,511	44,097	33%	53,208	10%

3-Month Trend Analysis: Payor Mix

November 30, 2017

	SEPTEMBER	OCTOBER	NOVEMBER	BUDGET NOVEMBER	VARIANCE POS (NEG)	PY NOVEMBER
PAYOR MIX - Charges						
Commercial FFS	6.0%	6.6%	4.0%	3.6%	12%	3.3%
Commercial HMO/PPO	7.1%	7.7%	5.1%	5.5%	(7%)	7.0%
Medi-Cal	28.6%	28.8%	31.2%	28.3%	10%	27.2%
Medi-Cal HMO - Kern Health Systems	27.5%	29.9%	32.0%	31.4%	2%	24.6%
Medi-Cal HMO - Health Net	8.1%	8.7%	9.4%	8.3%	13%	14.6%
Medi-Cal HMO - Other	1.0%	1.0%	1.1%	1.0%	10%	2.1%
Medicare	9.8%	10.3%	9.9%	11.1%	(11%)	9.4%
Medicare - HMO	2.5%	2.7%	1.5%	1.3%	19%	2.8%
County Programs	1.3%	0.2%	0.3%	2.1%	(88%)	1.5%
Workers' Compensation	1.7%	0.4%	0.6%	0.8%	(27%)	0.4%
Self Pay	6.6%	3.7%	4.9%	6.6%	(25%)	7.1%
Total	100.0%	100.0%	100.0%	100.0%		100.0%

Year-to-Date: Payor Mix

November 30, 2017

		ACTUAL	BUDGET	VARIANCE	PY	PY VARIANCE
		FYTD	FYTD	POS (NEG)	FYTD	POS (NEG)
PAYOR MIX - Charges						
	Commercial FFS	5.1%	3.8%	36%	3.8%	36%
	Commercial HMO/PPO	6.2%	6.3%	(1%)	6.3%	(1%)
	Medi-Cal	29.4%	27.7%	6%	27.7%	6%
	Medi-Cal HMO - Kern Health Systems	30.2%	27.9%	8%	27.9%	8%
	Medi-Cal HMO - Health Net	8.9%	11.6%	(23%)	11.6%	(23%)
	Medi-Cal HMO - Other	1.0%	1.1%	(2%)	1.1%	(2%)
	Medicare	9.7%	8.9%	9%	8.9%	9%
	Medicare - HMO	2.0%	2.1%	(4%)	2.1%	(4%)
	County Programs	0.5%	2.4%	(77%)	2.4%	(77%)
	Workers' Compensation	1.2%	0.6%	105%	0.6%	105%
	Self Pay	5.6%	7.8%	(28%)	7.8%	(28%)
	Total	100.0%	100.0%		100.0%	

3-Month Trend Analysis: Labor and Productivity Metrics

November 30, 2017

	SEPTEMBER	OCTOBER	NOVEMBER	BUDGET NOVEMBER	VARIANCE POS (NEG)	PY NOVEMBER
Labor Metrics						
Productive FTEs	1,355.25	1,404.23	1,338.01	1,346.94	(1%)	1,230.89
Non-Productive FTEs	204.75	181.60	245.86	206.16	19%	254.33
Contract Labor FTEs	86.60	96.72	89.81	64.79	39%	68.91
Total FTEs	1,560.00	1,585.83	1,583.87	1,553.10	2%	1,485.22
FTE's Per AOB Paid	6.24	6.14	6.65	6.02	10%	6.01
FTE's Per AOB Worked	5.42	5.44	5.62	5.22	8%	4.98
Labor Cost/FTE (Annualized)	131,111.46	125,653.23	125,420.17	128,858.82	(3%)	124,929.84
Benefits Expense as a % of Benefitted Labor Expense	65%	58%	58%	66%	(12%)	67%
Salaries & Benefits as % of Net Patient Revenue	64%	63%	66%	66%	0.02%	63%

Year-to-Date: Labor and Productivity Metrics

November 30, 2017

		ACTUAL	BUDGET	VARIANCE	PY	PY VARIANCE
		FYTD	FYTD	POS (NEG)	FYTD	POS (NEG)
Labor Metrics						
	Productive FTEs	1,360.94	1,333.07	2%	1,230.72	11%
	Non-Productive FTEs	209.81	204.11	3%	201.75	4%
	Contract Labor FTEs	88.82	64.26	38%	65.96	35%
	Total FTEs	1,570.75	1,537.18	2%	1,432.47	10%
	FTE's Per AOB Paid	6.20	6.01	3%	5.80	7%
	FTE's Per AOB Worked	5.38	5.22	3%	4.98	8%
	Labor Cost/FTE (Annualized)	127,632.69	132,015.51	(3%)	128,625.28	(0.8%)
	Benefits Expense as a % of Benefitted Labor Expense	57%	66%	(14%)	64%	(10%)
	Salaries & Benefits as % of Net Patient Revenue	63%	66%	(4%)	63%	0.2%

**KERN COUNTY HOSPITAL AUTHORITY
BOARD OF GOVERNORS
PUBLIC STATEMENT REGARDING CLOSED SESSION**

Health and Safety Code Section 101855(j)(2)

On the recommendation of the Chief Executive Officer, the Board of Governors will hold a closed session on January 17, 2018, to discharge its responsibility to evaluate and improve the quality of care rendered by health facilities and health practitioners. The closed session involves:

 X Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) –

**KERN COUNTY HOSPITAL AUTHORITY
BOARD OF GOVERNORS
PUBLIC STATEMENT REGARDING CLOSED SESSION**

Health and Safety Code Section 101855(e)(1)

On the recommendation of the Chief Executive Officer, the Board of Governors will hold a closed session on January 17, 2018, the premature disclosure of which would create a substantial probability of depriving the authority of a substantial economic benefit or opportunity. The closed session involves:

 X Request for Closed Session for the purpose of discussion or taking action on authority trade secrets (Health and Safety Code Section 101855(e)(1)) –

**KERN COUNTY HOSPITAL AUTHORITY
BOARD OF GOVERNORS
PUBLIC STATEMENT REGARDING CLOSED SESSION**

On the recommendation of the Chief Executive Officer, the Board of Governors will hold a closed session on January 17, 2018, to consider:

- X CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Chief Executive Officer Russell V. Judd, and designated staff - Employee organizations: Service Employees International Union, Local 521 (Government Code Section 54957.6)

**KERN COUNTY HOSPITAL AUTHORITY
BOARD OF GOVERNORS
PUBLIC STATEMENT REGARDING CLOSED SESSION**

Government Code Section 54956.9

Based on the advice of Counsel, the Board of Governors is holding a closed session on January 17, 2018, to confer with, or receive advice from Counsel regarding pending litigation, because discussion in open session concerning this matter would prejudice the position of the authority in the litigation. The closed session involves:

 X CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Farzin Tayefeh, M.D.,
et al. v. County of Kern, et al., Kern County Superior Court, Case No. BCV-15-
100647 LHB –

**KERN COUNTY HOSPITAL AUTHORITY
BOARD OF GOVERNORS
PUBLIC STATEMENT REGARDING CLOSED SESSION**

Government Code Section 54956.9

Based on the advice of Counsel, the Board of Governors is holding a closed session on January 17, 2018, to confer with, or receive advice from Counsel regarding pending litigation, because discussion in open session concerning this matter would prejudice the position of the authority in the litigation. The closed session involves:

 X CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Kern Emergency Physicians Medical Group, a California general partnership v. County of Kern, et al., Kern County Superior Court, Case No. S-1500-CV-283225 LHB –

**KERN COUNTY HOSPITAL AUTHORITY
BOARD OF GOVERNORS
PUBLIC STATEMENT REGARDING CLOSED SESSION**

Government Code Section 54956.9

Based on the advice of Counsel, the Board of Governors is holding a closed session on January 17, 2018, to confer with, or receive advice from Counsel regarding pending litigation, because discussion in open session concerning this matter would prejudice the position of the authority in the litigation. The closed session involves:

- X CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Brandy Hernandez aka Brandy Desrocher, an individual v. County of Kern, et al., Kern County Superior Court, Case No. BCV-17-102820 SDS –