



AGENDA

KERN COUNTY HOSPITAL AUTHORITY BOARD OF GOVERNORS

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

Regular Meeting
Wednesday, August 15, 2018

11:30 A.M.

BOARD TO RECONVENE

Board Members: Berjis, Bigler, Brar, Lawson, 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))

ITEMS FOR CONSIDERATION

CA

- 3) Minutes for Kern County Hospital Authority Board of Governors regular meeting on July 18, 2018 –
APPROVE

CA

- 4) Proposed Agreement with Change Healthcare Technologies, LLC, an independent contractor, containing nonstandard terms and conditions, for purchase of InterQual® software for case management and quality review to support the Cerner Millennial project, for a term of four years, effective August 15, 2018, in an amount not to exceed \$250,000 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 5) Proposed Agreement with Stericycle, Inc., an independent contractor, containing nonstandard terms and conditions, for regulated pharmaceutical and hazardous waste disposal services for a term of 36 months, effective August 15, 2018, in an amount not to exceed \$266,000 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 6) Proposed Agreement with Stericycle, Inc., an independent contractor, containing nonstandard terms and conditions, for regulated sharps disposal management services for a term of 36 months, effective August 15, 2018, in an amount not to exceed \$282,000 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 7) Proposed Agreement with Presidio Networked Solutions Group, LLC, an independent contractor, containing nonstandard terms and conditions, for lease of equipment, software and services for information technology data storage to support the Cerner Millennial project, effective August 15, 2018 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN AGREEMENT; AUTHORIZE CHIEF EXECUTIVE OFFICER TO SIGN STATEMENTS OF WORK

CA

- 8) Proposed Agreement with Presidio Technology Capital, LLC, an independent contractor, containing nonstandard terms and conditions, for financing of equipment, software and services for information technology data storage to support the Cerner Millennial project for a term of 39 months, effective on the first day of the month following receipt of equipment and/or software, in an amount not to exceed \$2,017,548 –
APPROVE; ADOPT RESOLUTION; AUTHORIZE CHAIRMAN TO SIGN

CA

- 9) Proposed Agreement with Amin Ahmed Ramzan, M.D., a contract employee, for professional medical services in the Department of Obstetrics and Gynecology from August 17, 2019 through August 16, 2022, in an amount not to exceed \$1,815,000 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 10) Proposed Change Order No. 7 to Agreement 21118 with Anderson Group International, an independent contractor, for construction management services related to the Pharmacy USP 797 Clean Room modifications, increasing the maximum payable by \$6,431, from \$699,510 to \$705,941, to cover the cost of additional services –
MAKE FINDING PROJECT IS EXEMPT FROM FURTHER CEQA REVIEW PER SECTIONS 15301 AND 15061(b)(3) OF STATE CEQA GUIDELINES; APPROVE; AUTHORIZE CHAIRMAN TO SIGN

- 11) Request of the Medical Staff of Kern Medical Center to create a Division of Trauma and Critical Care within the Department of Surgery –
APPROVE

- 12) Proposed Agreement with Acute Care Surgery Medical Group, Inc., an independent contractor, for trauma and general surgery hospitalist services in the Department of Surgery from November 5, 2018 through October 31, 2022, in an amount not to exceed \$20,510,331 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

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

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

CA

- 15) Claims and Lawsuits Filed as of July 31, 2018 –
RECEIVE AND FILE

ADJOURN TO CLOSED SESSION

CLOSED SESSION

- 16) Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) –
- 17) CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Chief Executive Officer Russell V. Judd, and designated staff - Employee organizations: Service Employees International Union, Local 521; Unrepresented Employees (Government Code Section 54957.6) –
- 18) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Eric vanSonnenberg, M.D. v. County of Kern, et al., Kern County Superior Court Case No. BCV-15-100859 –
- 19) Request for Closed Session for the purpose of discussion or taking action on authority trade secrets (Health and Safety Code Section 101855(e)(1)) –
- 20) PUBLIC EMPLOYEE PERFORMANCE EVALUATION - Title: Chief Executive Officer (Government Code Section 54957) –

RECONVENE FROM CLOSED SESSION

REPORT ON ACTIONS TAKEN IN CLOSED SESSION

ADJOURN TO WEDNESDAY, SEPTEMBER 19, 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 JULY 31, 2018 –
RECEIVE AND FILE

- A) Claim in the matter of Kimberly A. Shaw
- B) Claim in the matter of Gary Shaw
- C) Claim in the matter of Beth M. Hudson
- D) Notice of Intent to Commence Legal Action (1) in the matter of Kathryn A. Kodner, Laurie Kodner, and Michael Kodner



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, July 18, 2018**

11:30 A.M.

BOARD RECONVENED

Directors present: Berjis, Bigler, Brar, Lawson, Pelz, Sistrunk

Directors absent: McLaughlin

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!**

CARMEN MORALES-BOARD, RETIRED NURSE PRACTITIONER, CHERI ANCHETA, OUTPATIENT PHARMACY TECHNICIAN, AND DEBBIE WILLIAMS, CENTRAL SERVICES TECHNICIAN, HEARD REGARDING ONGOING LABOR NEGOTIATIONS AND PENSION SECURITY

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 WELCOMED DIRECTOR BRAR TO THE BOARD OF GOVERNORS AND ANNOUNCED THAT JULY 2018 SIGNIFIES THE START OF THE HOSPITAL AUTHORITY’S THIRD YEAR

RECOGNITION

- 3) Presentation by the Chief Executive Officer recognizing new Kern Medical resident physicians beginning July 1, 2018 –
MADE PRESENTATION

ITEMS FOR CONSIDERATION

CA

- 4) Minutes for Kern County Hospital Authority Board of Governors regular meeting on June 20, 2018 –
APPROVED
Lawson-Pelz: 6 Ayes; 1 Absent - McLaughlin

CA

- 5) Proposed Amendment No. 2 to Agreement 808-2015 with United Neuroscience, Inc., an independent contractor, for professional medical services in the Department of Medicine for the period October 1, 2015 through September 30, 2019, revising the compensation methodology for seizure and epilepsy monitoring coverage, and increasing the maximum payable by \$455,590, from \$2,758,000 to \$3,213,590, to cover the term –
APPROVED; AUTHORIZED THE CHAIRMAN TO SIGN AGREEMENT 043-2018
Lawson-Pelz: 6 Ayes; 1 Absent - McLaughlin

CA

- 6) Proposed retroactive Amendment No. 1 to Agreement 20117 with LocumTenens.com, an independent contractor, for temporary physician staffing services for the period May 22, 2017 through May 22, 2018, extending the term one year from May 23, 2018 to May 22, 2019, increasing the maximum payable by \$500,000, from \$250,000 to \$750,000, to cover the extended term, effective May 23, 2018 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 044-2018
Lawson-Pelz: 6 Ayes; 1 Absent - McLaughlin

CA

- 7) Proposed Agreement with General Electric Company, by and through its GE Healthcare division, an independent contractor, for purchase of a digital fluoroscopy machine for the Department of Radiology, in an amount not to exceed \$462,590 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN AGREEMENT 045-2018
Lawson-Pelz: 6 Ayes; 1 Absent - McLaughlin

CA

- 8) Proposed retroactive Lease/Purchase Supplement to Agreement 086-2017 with IBM Credit LLC, an independent contractor, for additional financing of the Cerner electronic health record in an amount not to exceed \$3,826,601 plus interest, effective July 1, 2018 –
APPROVED; ADOPTED RESOLUTION 2018-008; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 046-2018
Lawson-Pelz: 6 Ayes; 1 Absent - McLaughlin

CA

- 9) Proposed Amendment No. 1 to Agreement 2016-079 with Aslan Ghandforoush, D.O., a contract employee, for professional medical services in the Department of Medicine for the period November 26, 2016 through November 25, 2019, adding call coverage for interventional cardiology, and increasing the maximum payable by \$512,000, from \$3,000,000 to \$3,512,000, to cover the term, effective August 1, 2018 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 047-2018
Lawson-Pelz: 6 Ayes; 1 Absent - McLaughlin

CA

- 10) Proposed retroactive Amendment No. 15 to Agreement 98-0670 with 3M Company, an independent contractor, for purchase of coding software, education and maintenance to support the electronic health record, for a term of five years from June 21, 2018 through June 20, 2023, in amount not to exceed \$1,961,692 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 048-2018
Lawson-Pelz: 6 Ayes; 1 Absent - McLaughlin

CA

- 11) Proposed retroactive Amendment No. 5 to Agreement 1118-2009 with Health Care Interpretation Network (HCIN), an independent contractor, for language interpretation services from September 9, 2009 through June 30, 2018, extending the term for two years from July 1, 2018 through June 30, 2020, revising the compensation methodology, and increasing the maximum payable by \$250,000, from \$607,391 to \$857,391, to cover the extended term, effective July 1, 2018 – APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 049-2018
Lawson-Pelz: 6 Ayes; 1 Absent - McLaughlin

CA

- 12) Proposed resolution in the matter of delegation of authority to the Chief Executive Officer of the Kern County Hospital Authority to sign group purchasing organization vendor contracts that contain nonstandard terms and conditions – APPROVED; ADOPTED RESOLUTION 2018-009
Lawson-Pelz: 6 Ayes; 1 Absent - McLaughlin

- 13) Kern County Hospital Authority Chief Financial Officer report – RECEIVED AND FILED
Sistrunk-Pelz: 6 Ayes; 1 Absent - McLaughlin

- 14) Kern County Hospital Authority Chief Executive Officer report – RECEIVED AND FILED
Berjis-Lawson: 6 Ayes; 1 Absent - McLaughlin

CA

- 15) Claims and Lawsuits Filed as of June 30, 2018 – RECEIVED AND FILED
Lawson-Pelz: 6 Ayes; 1 Absent - McLaughlin

ADJOURNED TO CLOSED SESSION
Sistrunk-Brar

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) Request for Closed Session regarding peer review of health facilities (Health and Safety Code Section 101855(j)(2)) – SEE RESULTS BELOW
- 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)) – SEE RESULTS BELOW

- 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; Unrepresented Employees (Government Code Section 54957.6) – 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 PELZ; 1 ABSENT - DIRECTOR MCLAUGHLIN), THE BOARD APPROVED PRACTITIONERS RECOMMENDED FOR INITIAL APPOINTMENT, REAPPOINTMENT, REQUEST FOR ADDITIONAL PRIVILEGES, VOLUNTARY RESIGNATION OF PRIVILEGES, AND AUTOMATIC TERMINATION OF PRIVILEGES; NO OTHER REPORTABLE ACTION TAKEN

Item No. 17 concerning Request for Closed Session regarding peer review of health facilities (Health and Safety Code Section 101855(j)(2)) – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 18 concerning Request for Closed Session for the purpose of discussion or taking action on authority trade secrets (Health and Safety Code Section 101855(e)(1)) – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 19 concerning CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Chief Executive Officer Russell V. Judd, and designated staff - Employee organizations: Service Employees International Union, Local 521; Unrepresented Employees (Government Code Section 54957.6) – HEARD; NO REPORTABLE ACTION TAKEN

ADJOURNED TO WEDNESDAY, AUGUST 15, 2018, AT 11:30 A.M.

Sistrunk

/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**

August 15, 2018

Subject: Proposed Agreement with Change Healthcare Technologies, LLC, for the purchase of InterQual® software

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical requests your Board approve the proposed Agreement with Change Healthcare Technologies, LLC, for the purchase of InterQual® software which is a system of industry-standard case Management guidelines used to determine if patients meet medical necessity criteria for inpatient hospitalization. The interrater review component allows for case management administration to validate consistent interpretation of the guidelines across case management staff.

The Agreement contains non-standard terms and cannot be approved as to form by Counsel due to a limitation of liability to six months of fees, indemnification limited to infringement and does not include any indemnification for possible malfeasance, fees for cooperation in possible litigation due to breaches of privacy laws, and strict notification terms for requests of documents.

The proposed Agreement is for a term of four years with a maximum not to exceed of \$250,000.

MASTER AGREEMENT

THIS MASTER AGREEMENT (“MA”) is binding as of the latest date in the signature block below (the “Effective Date”), between Change Healthcare Technologies, LLC (“Change Healthcare”), and the customer identified below (“Customer”), and consists of the MA Terms and Conditions, Order Forms, and Exhibits. This MA governs all Products and Services supplied by Change Healthcare to Customer in the U.S. during the Term.

The term of this MA (“Term”) commences on the Effective Date and continues until termination or expiration of each Order Form executed hereunder, unless earlier terminated as set forth herein.

This MA is executed by an authorized representative of each party.

KERN COUNTY HOSPITAL AUTHORITY

By: _____
Name: _____
Title: _____
Date: _____

Customer Address:
1700 Mount Vernon Avenue,
Bakersfield, CA 93306

CHANGE HEALTHCARE TECHNOLOGIES, LLC

By: Dana Spiel
Name: Dana Spiel
Title: Sr. Sales Executive
Date: 8/9/18

Change Healthcare Technologies, LLC
5995 Windward Parkway
Alpharetta, Georgia 30005
Attn: General Counsel

With a copy to:
Change Healthcare Technologies, LLC
275 Grove Street
Suite 1-210
Newton, MA 02466
Attn: Vice President of Product Operations

Customer Number	KER505
Contract Number	17037

CUSTOMER – For Execution:

Change Healthcare no longer requires the exchanging and signing of hard copy contracts. Please fax or email (scanned document) the signed agreement to your sales executive or account manager.

MA No. 17037 v3
August 9, 2018

**REVIEWED ONLY
NOT APPROVED AS TO FORM**

By [Signature]
Legal Services Department

MA TERMS AND CONDITIONS

SECTION 1: DEFINITIONS

1.1 Defined Terms. Capitalized terms in this MA or an Order Form have the meanings set forth below or in Exhibit A.

SECTION 2: ORDERING PROCESS

2.1 Order Forms. Order Forms will be used to process Customer's license and purchase Products and Services.

SECTION 3: PRODUCTS AND SERVICES

3.1 Software and Clinical Content.

3.1.1 Software License. Subject to the terms of this MA, Change Healthcare grants to Customer, and Customer accepts, a limited, nonexclusive, nontransferable, non-sublicensable license to use the Software and Clinical Content identified on an Order Form for Customer's internal purposes for the license term specified in the Order Form (the "**Term**"). The Term will renew automatically as set forth in the Order Form unless otherwise set forth herein or in the Order Form and the license fee payable during any such renewal period will be at the Prevailing Rate. The license grant is expressly subject to the following conditions: (i) the Software may be installed only on equipment located at the Facility(ies) or Data Center(s) or on Portable Device(s), (ii) the Software and Clinical Content may be accessed or used only by Permitted Users in the U.S., (iii) use of the Software and Clinical Content may be limited by Facility(ies), Data Center(s) or by any usage-based variable(s) specified in an Order Form, (iv) the Software and Clinical Content may be used to provide service bureau or other similar services only if expressly permitted in an Order Form, and (v) the Third Party Software is subject to any additional terms set forth in an Order Form. Customer may copy the Software and Clinical Content as reasonably necessary to exercise its license rights under this Section 3.1, including a reasonable number of copies for testing and backup purposes.

3.1.2 ASP Software License. For any Software identified on an Order Form as "ASP Software, subject to the terms of this MA, Change Healthcare grants to Customer, and Customer accepts, a limited, non-exclusive, non-transferable, non-sublicensable license to use the object code version of the ASP Software in accordance with the Documentation herein for the ASP Term and any Renewal ASP Term (as defined below) solely for the benefit of Permitted Users. Subject to the terms of this MA, Change Healthcare grants to Customer, and Customer accepts, a limited, non-exclusive, non-transferable, non-sublicensable, license to install, operate and use the object code version of the Site Software, if any, solely in order to enable Customer to receive and use the ASP Services, on Customer's equipment that meets the minimum requirements identified by Change Healthcare. The initial term of (and any renewal term) the ASP Services will be for the number of years set forth in the Order Form (the "**Initial ASP Term**"). Following the expiration of the Initial ASP Term, subject to Customer's continued payment of applicable fees, Change Healthcare will continue to provide Customer with ASP Services for successive, automatically renewable one year periods (each a "**Renewal ASP Term**"), unless either party provides the other party with written notice of termination no less than six months prior to the end of the Initial ASP Term or a Renewal ASP Term.

3.1.3 Software Warranties.

(a) Warranty. Change Healthcare warrants that (i) Change Healthcare Software will perform in all material respects in accordance with the functional specifications set forth in the Documentation, (ii) the Change Healthcare Software will operate together with the versions of the applicable Third Party Software specified in the Order Form, and such operation will include the

integration features described in the Documentation, and (iii) Change Healthcare has the authority to license or sublicense the Software. These warranties will not apply: (1) if Customer operates the Software on equipment other than equipment that Change Healthcare specifies in the Documentation, (2) if anyone other than Change Healthcare or its authorized Third Party Vendor modifies the Software, (3) if Customer uses a version of the Software other than one of the two most current releases; or (4) during any period of time Customer has discontinued Software Maintenance Services or is past due on any undisputed license, Software Maintenance Services or Implementation Services fees.

(b) Testing. Customer may test the Software to ensure that it performs in all material respects in accordance with the functional specifications set forth in the Documentation. Such testing will begin on the Software delivery date and end 30 days after the Software Installation Date, as applicable (the “**Testing Period**”), unless, prior to the expiration of the Testing Period, Customer provides Change Healthcare with a reasonably detailed written report identifying a material and reproducible nonconformity of the Software with its functional specifications as set forth in the Documentation. In such event, the Testing Period will continue until Change Healthcare corrects all such nonconformities identified in the error report to the extent necessary for the Software to perform in all material respects in accordance with the functional specifications set forth in the Documentation.

(c) No Viruses. Change Healthcare warrants that the Software, as delivered, does not include any viruses or malicious code.

(d) Third Party Software. Third Party Software is subject to, and Customer agrees to be bound by, the Third Party Terms upon review of the terms. Customer warrants it has reviewed the terms and shall re-review the terms at a reasonable occurrence. Third Party Software is licensed for use only in connection with the related Change Healthcare Software. Change Healthcare may substitute different Software for any Third Party Software licensed to Customer, if Change Healthcare reasonably demonstrates the need to do so.

3.1.4 Software License Restrictions.

(a) Copying and Modification. Customer will not copy or modify the Software except as expressly permitted in this MA. Customer will not alter any trademark, copyright notice, or other proprietary notice on the Software or Documentation, and will duplicate each such trademark or notice on each copy of the Software and Documentation.

(b) Facility Limitation. The Software will be installed only at the Facility(ies) or Data Center(s), except that the Software may be installed on a temporary basis at an alternate location in the U.S. if Customer is unable to use the Software at such Facility(ies) or Data Center(s) due to equipment malfunction or Force Majeure Event. Customer will promptly notify Change Healthcare of the alternate location if such temporary use continues for longer than 30 days.

(c) Government Customer Rights. If this MA is performed under a federal government contract, then Change Healthcare intends that any Products or Services provided under this MA constitute “commercial item(s)” as defined in Federal Acquisition Regulation (“**FAR**”) 2.101, including any Software, Clinical Content, Site Software, Third Party Software, Documentation or technical data. Additionally, all Software, Site Software, Third Party Software, Documentation, or technical data provided by Change Healthcare under this MA will be considered related to such “commercial item(s)”. If Customer seeks rights in Software, Site Software, Third Party Software, Documentation, or technical data provided by Change Healthcare under this MA, then Change Healthcare grants only those rights established under any FAR or FAR Supplement clauses which are flowed down to Change Healthcare under this MA consistent with the delivery of “commercial item(s)”. If Customer contends that any Software, Site Software, Third Party Software, Documentation, or technical data provided under this MA does not constitute “commercial item(s)” as defined in FAR 2.101, then Customer promptly will notify

Change Healthcare of the same, and identify what rights Customer contends exist in such Software, Site Software, Third Party Software, Documentation, or technical data. No rights in any such Software, Site Software, Third Party Software, Documentation, or technical data will attach other than rights related to "commercial item(s)" unless Customer provides such notice to Change Healthcare, and Change Healthcare expressly agrees in writing that such rights are granted under this MA.

3.1.5 Clinical Content.

3.1.5.1 Copying of Clinical Content.

(a) In this section "Member", "Insured", "Participant" and "Beneficiary" are used interchangeably to mean an enrollee, covered person, policy holder, or subscriber of an insurance carrier, "Provider" means a health care professional or facility and a Provider may be referred to as participating, non-participating, contracted, non- contracted or out-of-network to identify whether the Provider has a contractual relationship with an insurance carrier.

(b) Customer may disclose the Clinical Content on an ad-hoc basis in the smallest increments or portions feasible under the circumstances or as legally required for disclosure with the Change Healthcare Statement of Disclosure, all as set forth below:

(i) to a Member included as one of Customer's Covered Lives under this MA when the Clinical Content have been referenced in the process of denying, limiting, or discontinuing authorization of services for the Member;

(ii) to a Member for the sole purpose of satisfying Customer's contractual obligations to report review results;

(iii) to a participating or out-of-network Provider of health care services subject to Customer's medical necessity review and for use in case specific discussions;

(iv) to a public agency or independent review organization in connection with conducting an independent external review of or conducting an appeal of Customer's medical necessity determination in a specific case when the Clinical Content have been referenced in the process of making said determination

(v) to a public agency to comply with a statutory or regulatory mandate requiring the Clinical Content to be filed with the agency (electronic access to the copy to be furnished to Change Healthcare as soon as practicable prior to any disclosure so that Change Healthcare may, at its option, object to or dispute the disclosure;

(vi) pursuant to a judicial order or subpoena (copy to be furnished to Change Healthcare by at least five (5) business days notice prior to any disclosure so that Change Healthcare

may, at its option, object to or dispute the disclosure, or, if the scheduled time for the disclosure is less than five (5) business days, then as soon as possible prior to disclosure.

(c) As provided under the Federal Mental Health Parity and Addiction Equity Act of 2008 as amended:

(i) Access to Clinical Content for plan medical necessity determinations with respect to mental health or substance use disorder benefits or health insurance coverage offered in connection with the plan with respect to these benefits, shall be made available by the plan administrator or health insurance issuer offering the coverage to any current or potential participant, beneficiary, or contracting provider upon request in accordance with regulations. The current or potential participant, beneficiary, or contracting provider is to identify the specific treatments or services that are the subject of the above mentioned medical necessity determination. If a potential participant, beneficiary, or contracting provider requests Clinical Content that are not for identified specific treatments or services, Customer and Change Healthcare agree to work cooperatively to provide an appropriate response.

(ii) Access to Clinical Content also will be provided to a plan participant or beneficiary, or contracting provider when requesting the reason for any denial of reimbursement or payment for services with respect to mental health or substance use disorder benefits. The plan participant, beneficiary, or contracting provider is to identify the specific treatments or services that are the subject of the above mentioned denial of reimbursement or payment. If a plan participant, beneficiary, or contracting provider requests Clinical Content that are not for identified specific treatments or services, Customer and Change Healthcare agree to work cooperatively to provide an appropriate response.

(d) If Customer has reason to request flexibility to disclose Clinical Content beyond the requirements set forth in the subsections above, Customer and Change Healthcare agree to work cooperatively prior to disclosure to ensure appropriate measures are in place for protecting Change Healthcare's intellectual property, trade secrets and confidential information.

(e) Customer's disclosure and Change Healthcare's agreement for disclosure of Clinical Content pursuant to this section to comply with regulatory or legal requirements does not constitute a waiver of Change Healthcare's rights to protect its intellectual property, trade secrets and confidential information.

(f) In connection with each disclosure/distribution, all Clinical Content copies shall prominently display on the cover page and/or introductory screen Change Healthcare's trademark and copyright notices and Proprietary Notice, as provided herein, and Customer shall maintain and furnish the disclosure/distribution to Change Healthcare upon request.

(g) The following is the Change Healthcare Statement of Disclosure to be provided with each disclosure/distribution of the Clinical Content.

Change Healthcare's Statement of Disclosure:

The Clinical Content you are receiving is confidential and proprietary information and is being provided to you solely as it pertains to the information requested. Under copyright law, the Clinical Content may not be copied, distributed, or otherwise reproduced. In addition, the Clinical Content may contain advanced clinical knowledge which we recommend you discuss with your physician upon disclosure to you.

The Clinical Content reflects clinical interpretations and analyses and cannot alone either (a) resolve medical ambiguities of particular situations; or (b) provide the sole basis for definitive decisions. The Clinical Content is intended solely for use as screening guidelines with respect to medical appropriateness of healthcare services and not for final clinical or payment determinations concerning the type or level of medical care provided, or proposed to be provided, to a patient; all ultimate care decisions are strictly and solely the obligation and responsibility of your health care provider.

3.1.5.2 Responsibility of Clinical Content. The authority and responsibility to determine whether to adopt any Clinical Content, how and when to apply Clinical Content, and the final determination with respect to such Clinical Content will rest entirely and solely with Customer.

3.1.5.3 Transition of Clinical Content. The parties acknowledge and agree that Change Healthcare currently provides the Clinical Content in a variety of formats. Change Healthcare reserves the right to change the format and to provide such Clinical Content to Customer in a different medium at mutually agreed upon license fees.

3.1.5.4 Historical Versions of Clinical Content. If Customer purchases Historical Versions of Clinical Content, Customer acknowledges and agrees that it shall (i) use the Historical Versions solely in the performance of retrospective reviews and (ii) use only the relevant Clinical Content for the applicable Clinical Content year the care was rendered. Customer further acknowledges and agrees that (i) Change Healthcare shall have no further obligations whatsoever with regard to the Historical Versions, including, but not limited to, any obligation to deliver support services or provide maintenance or updates related to the Historical Versions, (ii) the Historical Versions are provided "as is" and any and all warranties relating to the Historical Versions have lapsed and become null and void, and (iii) any and all other obligations and/or liabilities of CHANGE HEALTHCARE relating to the Historical Versions (including, without limitation, any indemnity obligations and any escrow obligations) have also lapsed and become null and void. For purposes of this Section, Historical Versions shall mean the Clinical Content that is no longer in production and is not one of the two most current versions.

3.2 Size Representation. Customer will furnish to Change Healthcare a written report detailing the volume of Customer's usage-based variable as set forth in each applicable Order Form at least 60 days prior to each anniversary of the Order Form Effective Date, as of such date.

3.3 Services.

3.3.1 Software Maintenance Services. Change Healthcare will provide Software Maintenance Services to Customer in accordance with the Change Healthcare Support Manual. The fees for Software Maintenance Services are included in the license fees for the applicable Software.

3.3.2 Implementation Services. Implementation Services, if any, will be identified on the applicable Order Form, and are further described in, and will be performed by Change Healthcare in accordance with, the Change Healthcare Implementation Services and Training Guide. Customer acknowledges and agrees that Customer is responsible for, and the Implementation Services are

conditioned upon, Customer's provision of the required Customer resources and performance of the Customer responsibilities as described in the Change Healthcare Implementation Services and Training Guide. Change Healthcare may change the Implementation Services and associated fees to reflect additional costs to Change Healthcare caused by Customer's delay in complying with the foregoing implementation obligations or an incorrect implementation assumption set forth in an Order Form. Unless otherwise expressly set forth in an Order Form, Implementation Services associated with a specific Software product must be used within 18 months after the Order Form Effective Date. After such 18-month period, any unused Implementation Services will be deemed forfeited, and no refunds or credits will be due to Customer for any such forfeited Implementation Services. If Customer does not purchase Implementation Services for the relevant Products, Services and Facilities identified in an Order Form, then Change Healthcare will have no obligation to implement such Products or Services at such Facility(ies) or Data Centers. Change Healthcare will not grant any credits, refunds, or rights of exchange for Software or Services related to any Products or Services that are not implemented.

3.3.3 Professional Services. Any Professional Services to be provided by Change Healthcare will be described on statements of work attached to an Order Form. Nothing will preclude or limit Change Healthcare from providing Professional Services or developing software or materials for itself or other customers, irrespective of the possible similarity of screen formats, structure, organization and sequence to materials which may be delivered to Customer.

3.3.4 Scope Change. All changes in the scope of Services will be made in accordance with the Change Control Process. The "**Change Control Process**" is as follows: Change Healthcare will prepare a written proposal for change(s) to the scope of any Services. If Customer agrees to such proposal, then the parties will execute a written amendment to the Order Form documenting such change(s). If Customer does not agree to such proposal, or the parties otherwise fail to execute the amendment, then such change(s) will not take effect.

3.3.5 Services Warranty. Change Healthcare warrants that all Services will be performed in a professional manner consistent with industry standards by trained and skilled personnel.

3.3.6 Excluded Provider Warranty. Change Healthcare warrants that neither it nor any of its employees assigned to perform material Services under this MA have been convicted of a criminal offense related to health care or been listed as debarred, excluded, or otherwise ineligible for participation in a federal or state health care program. Change Healthcare will notify Customer if Change Healthcare becomes aware that it or any of its employees assigned to perform material Services under this MA have been excluded or is otherwise ineligible for participation in a federal health care program or is currently under sanction (criminal or civil) by any federal or state enforcement, regulatory, administrative, or licensing agency.

3.3.7 Suspension of Services. Change Healthcare reserves the right to suspend provision of any Services (a) 10 days after notice to Customer of nonpayment of undisputed sums owed to Change Healthcare that are 30 days or more past due, where such breach remains uncured or (b) such suspension is necessary to comply with any applicable law or order of any governmental authority.

3.4 Customer Responsibilities. Change Healthcare's provision of Services is dependent on Customer fully performing any Customer responsibilities identified in an Order Form to the MA, including but not limited to, providing mutually agreed-upon access to servers.

3.5 Customer Information. Change Healthcare will configure the Products and provide the Implementation Services according to the information provided by Customer so that the Products included in the Order Form are sufficient for such included Software to perform in all material respects in accordance with the functional specifications set forth in the Documentation. If the information provided

by Customer is incorrect, then Customer may need to purchase additional Products and Implementation Services to achieve full Software functionality.

3.6 Use of Products and Services. Customer will use all Products and Services in accordance with the Documentation and in compliance with applicable laws, ordinances, rules and regulations. This MA is subject to governmental laws, orders, and other restrictions regarding the export, import, re-export, or use (“**Control Laws**”) of the Products and Documentation, including technical data and related information (“**Regulated Materials**”). Customer agrees to comply with all Control Laws pertaining to the Regulated Materials in effect in, or which may be imposed from time to time by, the U.S. or any country into which any Regulated Materials are shipped, transferred, or released. Customer may permit use of the Products or Services by any outsourcing or facility management service provider only with Change Healthcare’s prior written consent.

3.7 Interface/Integration. Customer may not install any interface and/or integration to the Software without the prior written consent of Change Healthcare, which consent shall not be unreasonably withheld.

3.8 Disclaimer; Exclusive Remedy. THE WARRANTIES IN THIS MA ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHICH WARRANTIES ARE HEREBY SPECIFICALLY DISCLAIMED. CHANGE HEALTHCARE DOES NOT WARRANT THAT THE PRODUCTS OR SERVICES WILL YIELD ANY PARTICULAR BUSINESS OR FINANCIAL RESULT OR THAT THE SERVICES WILL BE PERFORMED WITHOUT ERROR OR INTERRUPTION. CUSTOMER’S SOLE AND EXCLUSIVE REMEDY FOR CHANGE HEALTHCARE’S BREACH OF ANY WARRANTY WILL BE THE REPAIR, REPLACEMENT, OR RE-PERFORMANCE BY CHANGE HEALTHCARE OF THE NONCONFORMING PRODUCT OR SERVICE. IF CHANGE HEALTHCARE FAILS TO DELIVER THIS REMEDY, THEN CUSTOMER MAY PURSUE ANY OTHER REMEDY THAT IS OTHERWISE PERMITTED UNDER THIS MA.

3.9 Clinical Content Disclaimer. THE CLINICAL CONTENT (WITHOUT REGARD TO THE MEDIA IN WHICH IT IS EMBODIED OR EXPRESSED), IS PROVIDED ON AN “**AS-IS**” BASIS. With respect to a claim that the Clinical Content has proved materially defective in material or workmanship, Customer shall provide Change Healthcare with prompt written notice of the claim and an explanation of the circumstances of any such claim. CUSTOMER’S SOLE AND EXCLUSIVE REMEDY IN THE EVENT OF A MATERIAL DEFECT IN THE CLINICAL CONTENT IS EXPRESSLY LIMITED TO THE CORRECTION OF SUCH BY CHANGE HEALTHCARE AT CHANGE HEALTHCARE’S SOLE EXPENSE.

SECTION 4: PAYMENT

4.1 Invoicing Terms. Customer will pay all fees and other charges in U.S. dollars within 35 days after invoice date.

4.2 Expenses. Prices do not include packing, delivery, and insurance charges. Such expenses will be separately invoiced and paid by Customer. Customer will reimburse Change Healthcare for all other reasonable out-of-pocket expenses incurred in the course of providing Services, including travel and living expenses.

4.3 Taxes. All amounts payable under this MA are exclusive of sales, use, value-added, withholding, and other taxes and duties (except for taxes payable on Change Healthcare’s net income). Customer will promptly pay, and indemnify Change Healthcare against, all such taxes and duties, unless Customer provides Change Healthcare satisfactory evidence of an applicable tax exemption prior to the Order Form Effective Date.

4.4 Late Payments. Customer will reimburse Change Healthcare for all reasonable costs and expenses incurred (including reasonable attorneys' fees) in collecting any undisputed overdue amounts. If Customer does not pay undisputed fees, charges, or expenses when due, then Change Healthcare may require reasonable advance payments as a condition to providing Products and Services.

4.5 Audit. Upon reasonable advance notice and no more than twice per year, Change Healthcare may conduct an audit to ensure that Customer is in compliance with this MA. Such audit will be conducted during regular business hours, and Customer will provide Change Healthcare with reasonable access to all relevant equipment and records. If an audit reveals that Customer's use of any Product or Service during the period being audited exceeds the number of Facility(ies), Data Center(s) transactions, or usage-based variables described in the Order Form, then Change Healthcare may invoice Customer for all such excess use based on Change Healthcare's Prevailing Rate(s) in effect at the time the audit is completed, and Customer will pay any such invoice. If such excess use exceeds five percent of the licensed use, then Customer will also pay Change Healthcare's reasonable costs of conducting the audit.

SECTION 5: GENERAL TERMS

5.1 Confidentiality and Proprietary Rights

5.1.1 Use and Disclosure of Confidential Information. Each party may disclose to the other party Confidential Information. Except as expressly permitted by this MA, neither party will: (a) disclose the other party's Confidential Information except (i) to its employees or contractors who have a need to know and are bound by confidentiality terms no less restrictive than those contained in this Section 5.1; or (ii) to the extent required by law following prompt notice of such obligation to the other party; or (b) use the other party's Confidential Information for any purpose other than performing its obligations under this MA or in evaluating new Change Healthcare products and new Change Healthcare product development. Change Healthcare is aware that Customer 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. Each party will use all reasonable care in handling and securing the other party's Confidential Information and will employ all security measures used for its own proprietary information of similar nature. Following the termination of this MA, each party will, upon written request, return or destroy all of the other party's tangible Confidential Information in its possession and will promptly certify in writing to the other party that it has done so. This provision limits how and to whom the parties may disclose Confidential Information, and what the parties must do with the Confidential Information once the MA has been terminated.

5.1.2 Period of Confidentiality. The restrictions on use, disclosure and reproduction of Confidential Information set forth in this Section will, with respect to Confidential Information that constitutes a "trade secret" (as that term is defined under applicable law), be perpetual, and will, with respect to other Confidential Information, remain in full force and effect during the term of this MA and for three years following the termination of this MA.

5.1.3 Injunctive Relief. The parties agree that the breach, or threatened breach, of any provision of this Section 5.1 may cause irreparable harm without adequate remedy at law. Upon any such breach or threatened breach, a party will be entitled to injunctive relief to prevent the other party from commencing or continuing any action constituting such breach, without having to post a bond or other security and without having to prove the inadequacy of other available remedies. Nothing in this paragraph will limit any other remedy available to either party.

5.1.4 Retained Rights. Customer's rights in the Products and Services will be limited to those expressly granted in this MA. Change Healthcare and its Third Party Vendors reserve all intellectual

property rights not expressly granted to Customer. All changes, modifications, improvements or new modules made or developed with regard to the Products or Services, whether or not (a) made or developed at Customer's request, (b) made or developed in cooperation with Customer, or (c) made or developed by Customer, will be solely owned by Change Healthcare or its Third Party Vendors. Customer acknowledges that the Products contain trade secrets of Change Healthcare or its Third Party Vendors, and Customer agrees not to take any step to derive a source code equivalent of the Software (e.g., disassemble, decompile, or reverse engineer the Software) or to permit any third party to do so. Change Healthcare retains title to all material, originated or prepared for the Customer under this MA. Customer is granted a license to use such materials in accordance with this MA.

5.1.5 Security of Software or Clinical Content. Customer agrees to use commercially reasonable security measures to prevent unauthorized access to the Software and/or Clinical Content. Customer agrees to be responsible for any breach of the MA or any other unauthorized dissemination of the Software and/or Clinical Content or the content contained therein by any user accessing the Software and/or Clinical Content via Customer's Website.

5.2 Intellectual Property Infringement.

5.2.1 Duty to Defend. Change Healthcare will defend, indemnify, and hold Customer harmless from any action or other proceeding brought against Customer to the extent that it is based on a claim that (a) the use of any Change Healthcare Software and/or Clinical Content (other than Third Party Software and/or Clinical Content) delivered under this MA infringes any U.S. copyright or U.S. patent or (b) the Change Healthcare Software and/or Clinical Content (other than Third Party Software and/or Clinical Content) incorporates any misappropriated trade secrets. Change Healthcare will pay costs and damages finally awarded against Customer as a result thereof; provided, that Customer (i) notifies Change Healthcare of the claim within ten business days, (ii) provides Change Healthcare with all reasonably requested cooperation, information and assistance, and (iii) gives Change Healthcare sole authority to defend and settle the claim.

5.2.2 Exclusions. Change Healthcare will have no obligations under Section 5.2.1 with respect to claims arising from: (a) Change Healthcare Software modifications that were not performed by Change Healthcare or authorized by Change Healthcare in writing; (b) custom interfaces, file conversions, or other programming for which Change Healthcare does not exclusively develop the specifications or instructions; (c) use of any Change Healthcare Software in combination with products or services not provided by Change Healthcare, if use of the Change Healthcare Software alone would not result in liability under Section 5.2.1; or (d) any use of the Change Healthcare Software not authorized by this MA or the Documentation.

5.2.3 Infringement Remedies. If a claim of infringement or misappropriation for which Customer is entitled to be indemnified under Section 5.2.1 arises, Change Healthcare may, at its sole option and expense: (a) obtain for Customer the right to continue using such Change Healthcare Software; (b) replace or modify such Change Healthcare Software to avoid such a claim, provided that the replaced or modified Change Healthcare Software is substantially equivalent in function to the affected Change Healthcare Software; or (c) take possession of the affected Change Healthcare Software and terminate Customer's rights and Change Healthcare's obligations under this MA with respect to such Change Healthcare Software. Upon any such termination, Change Healthcare will refund to Customer a prorated portion of the fees paid for that Change Healthcare Software based upon a period of depreciation equal to the license period, with depreciation deemed to have commenced on the corresponding Software Installation Date, if any, or the corresponding date of delivery.

5.2.4 Exclusive Remedy. THE FOREGOING ARE CHANGE HEALTHCARE'S SOLE AND EXCLUSIVE OBLIGATIONS, AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES, WITH

RESPECT TO INTELLECTUAL PROPERTY INFRINGEMENT OR TRADE SECRET MISAPPROPRIATION.

5.3 Limitation of Liability.

5.3.1 Total Damages. EXCEPT FOR ANY LIABILITY OF CHANGE HEALTHCARE PURSUANT TO SECTION 5.2 OF THIS MA, CHANGE HEALTHCARE'S TOTAL CUMULATIVE LIABILITY UNDER, IN CONNECTION WITH, OR RELATED TO THIS MA WILL BE LIMITED TO (A) WITH RESPECT TO ANY PRODUCT, THE TOTAL FEES PAID (LESS ANY REFUNDS OR CREDITS) BY CUSTOMER TO CHANGE HEALTHCARE UNDER THE APPLICABLE ORDER FORM FOR THE PRODUCT GIVING RISE TO THE CLAIM OR (B) WITH RESPECT TO ANY SERVICE, THE TOTAL FEES PAID (LESS ANY REFUNDS OR CREDITS) BY CUSTOMER TO CHANGE HEALTHCARE UNDER THE APPLICABLE ORDER FORM FOR THE SERVICE GIVING RISE TO THE CLAIM DURING THE 12 MONTH PERIOD PRECEDING THE DATE OF THE CLAIM, AS APPLICABLE, WHETHER BASED ON BREACH OF CONTRACT, WARRANTY, TORT, PRODUCT LIABILITY, OR OTHERWISE.

5.3.2 Exclusion of Damages. IN NO EVENT WILL CHANGE HEALTHCARE BE LIABLE TO CUSTOMER UNDER, IN CONNECTION WITH, OR RELATED TO THIS MA FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR LOSS OF GOODWILL, WHETHER BASED ON BREACH OF CONTRACT, WARRANTY, TORT, PRODUCT LIABILITY, OR OTHERWISE, AND WHETHER OR NOT CHANGE HEALTHCARE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

5.3.3 Material Consideration. THE PARTIES ACKNOWLEDGE THAT THE FOREGOING LIMITATIONS ARE A MATERIAL CONDITION FOR THEIR ENTRY INTO THIS MA.

5.3.4 NOTHING IN THIS SECTION 5.3.4 SHOULD BE CONSTRUED TO LIMIT EITHER PARTY'S LIABILITY DIRECTLY TO ANY THIRD PARTY AND NOTHING IN THIS SECTION 5.3 SHALL OPERATE TO WAIVE EITHER PARTY'S RIGHT TO PROPERLY IMPEAD THE OTHER PARTY INTO A LAWSUIT.

5.3.5 It is hereby stipulated and agreed between Change Healthcare and Customer, that with respect to any claim or action arising out of the performance of their respective obligations under or pursuant to this MA, each entity shall only be liable for payment of that portion of any and all liability, costs, expenses, demands, settlements or judgments resulting from the negligent acts or omissions of its own agents, representatives and employees.

5.4 Indemnification. CUSTOMER ACKNOWLEDGES AND AGREES THAT ANY CLINICAL CONTENT FURNISHED BY CHANGE HEALTHCARE HEREUNDER (WHETHER SEPARATELY OR INCLUDED WITHIN A PRODUCT) IS AN INFORMATION MANAGEMENT AND DIAGNOSTIC TOOL ONLY AND THAT ITS USE CONTEMPLATES AND REQUIRES THE INVOLVEMENT OF TRAINED INDIVIDUALS. CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT CHANGE HEALTHCARE HAS NOT REPRESENTED ITS PRODUCTS AS HAVING THE ABILITY TO DIAGNOSE DISEASE, PRESCRIBE TREATMENT, OR PERFORM ANY OTHER TASKS THAT CONSTITUTE THE PRACTICE OF MEDICINE. The parties understand that all ultimate care and payment decisions are strictly and solely the obligation and responsibility of Customer and its providers and reviewers with Change Healthcare having no right or standing to direct or control their uses of the Software and/or Clinical Content. Accordingly, Customer agrees to and hereby does indemnify, defend and hold Change Healthcare harmless from and against all claims, suits, losses, demands, damages or expenses (including reasonable attorneys' fees, court costs and expert witness fees and expenses) arising out of Customer's use of or inability to use, the Clinical Content or the Software (or the use of or inability to use the Clinical Content or the Software by any person receiving the Clinical Content or the Software by or

through Customer) provided, however, that Change Healthcare (a) promptly notifies Customer in writing by certified mail of such claim, suit or proceeding; (b) gives Customer the right to control and direct investigation, preparation, defense and settlement of any claim, suit or proceeding; and (c) gives assistance and full cooperation for the defense of same. Customer will not be liable for amounts payable in connection with any settlement or compromise entered into by Change Healthcare without Customer's prior written authorization.

5.5 Internet Disclaimer. CERTAIN PRODUCTS AND SERVICES PROVIDED BY CHANGE HEALTHCARE UTILIZE THE INTERNET. CHANGE HEALTHCARE DOES NOT WARRANT THAT SUCH SERVICES WILL BE UNINTERRUPTED, ERROR-FREE OR COMPLETELY SECURE. CHANGE HEALTHCARE DOES NOT AND CANNOT CONTROL THE FLOW OF DATA TO OR FROM CHANGE HEALTHCARE'S OR CUSTOMER'S NETWORK AND OTHER PORTIONS OF THE INTERNET. SUCH FLOW DEPENDS IN LARGE PART ON THE INTERNET SERVICES PROVIDED OR CONTROLLED BY THIRD PARTIES. ACTIONS OR INACTIONS OF SUCH THIRD PARTIES CAN IMPAIR OR DISRUPT CUSTOMER'S CONNECTIONS TO THE INTERNET (OR PORTIONS THEREOF). ACCORDINGLY, CHANGE HEALTHCARE DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO THE ABOVE EVENTS.

5.6 Termination.

5.6.1 Termination. A party may terminate the MA or any Order Form issued under this MA immediately upon notice to the other party if the other party: (a) materially breaches the MA or such Order Form and fails to remedy, or fails to commence reasonable efforts to remedy, such breach within 60 days after receiving notice of the breach from the terminating party; (b) infringes the terminating party's intellectual property rights and fails to remedy, or fails to commence reasonable efforts to remedy, such breach within ten days after receiving notice of the breach from the terminating party; (c) materially breaches the MA or such Order Form in a manner that cannot be remedied; or (d) commences dissolution proceedings or ceases to operate in the ordinary course of business. Termination of the MA or any Order Form will not affect the parties' rights and obligations under any other Order Forms executed by the parties prior to such termination or expiration, and all such other Order Forms will remain in full force and effect, unless and until terminated in accordance with these terms.

5.6.2 Non-appropriation. Customer, as a government entity, reserves the right to terminate this Agreement in the event insufficient funds are appropriated for this Agreement in any fiscal year under the provisions of California Constitution Article 16 section 18a. Customer's fiscal year is July 1 to June 30 of each calendar year. Upon such termination, Customer will be released from any further financial obligation to Change Healthcare, 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. Upon such termination, Customer agrees to remit all amounts due and payable up to and including the date of termination. Change Healthcare will be given 30 days' prior written notice in the event that Customer requires such an action

5.6.3 Obligations upon Termination or Expiration. Upon the termination or expiration of this MA or an Order Form, Customer will promptly (a) cease using all Software and Clinical Content, (b) purge all Software and Clinical Content from all computer systems (including servers and personal computers), (c) return to Change Healthcare or destroy all copies (including partial copies) of the Software and Clinical Content, and (d) deliver to Change Healthcare written certification of an officer of Customer that Customer has complied with its obligations under this Section. Notwithstanding the above, one hardcopy of the InterQual Clinical Content may be retained in Customer's compliance office for archiving purposes only, provided that the MA or Order Form has not been terminated for Customer's default.

5.6.4 Survival of Provisions. Those provisions of this MA that, by their nature, are intended to survive termination or expiration of this MA will remain in full force and effect, including, without limitation, the following Sections of this MA: 4 (Payment), 5.1 (Confidentiality and Proprietary Rights), 5.2

(Intellectual Property Infringement), 5.3 (Limitation of Liability), 5.6.3 (Obligations upon Termination), 5.6.4 (Survival of Provisions), 5.7 (Books and Records), 5.9 (Discount Reporting) and 5.11 - 5.25 (Governing Law – Entire Agreement).

5.7 Books and Records. If required by Section 952 of the Omnibus Reconciliation Act of 1980, 42 U.S.C. Section 1395x(l)(i)(ii), for a period of four years after the Services are furnished, the parties agree to make available, upon the written request of the Secretary of Health and Human Services, the Comptroller General, or their representatives, this MA and such books, documents, and records as may be necessary to verify the nature and extent of the Services with a value or cost of \$10,000 or more over a 12 month period.

5.8 Business Associate. The parties agree that no Protected Health Information will be exchanged without a Business Associate Agreement executed by the parties.

5.9 Discount Reporting. The transaction covered by an Order Form may involve a discount, rebate or other price reduction on the items covered by the Order Form. Customer may have an obligation to report such price reduction or the net costs in its cost reports or in another appropriate manner in order to meet the requirements of applicable federal and state anti-kickback laws, including 42 U.S.C. Sec. 1320a-7b (b) (3) (A) and the regulations found at 42 C.F.R. Sec. 1001.952(h). Customer will be responsible for reporting, disclosing, and maintaining appropriate records with respect to such price reduction or net cost and making those records available under Medicare, Medicaid or other applicable government health care programs.

5.10 Disposition of Existing Agreements. Any and all existing agreements between Customer and Change Healthcare (“**Existing Agreements**”) will continue in full force and effect in accordance with their terms. The Existing Agreements will not apply to any Products or Services acquired by Customer on or after the Effective Date, all of which will be governed by this MA, except as otherwise agreed by the parties.

5.11 Governing Law. This MA is governed by and will be construed in accordance with the laws of the State of California, exclusive of its rules governing choice of law and conflict of laws and any version of the Uniform Commercial Code. Any action relating to this MA, other than collection of outstanding payments, must be commenced within one year after the date upon which the cause of action accrued.

5.12 Assignment and Subcontracts. Customer will not assign this MA without the prior written consent of Change Healthcare, which will not be unreasonably withheld, unless required by law. Customer shall notify Change Healthcare of such assignment required by law within a reasonable timeframe. Change Healthcare may, upon notice to Customer, assign this MA to any affiliate or to any entity resulting from the transfer of all or substantially all of Change Healthcare’s assets or capital stock or from any other corporate reorganization. Change Healthcare may subcontract its obligations under this MA.

5.13 Severability. If any part of a provision of this MA is found illegal or unenforceable, it will be enforced to the maximum extent permissible, and the legality and enforceability of the remainder of that provision and all other provisions of this MA will not be affected.

5.14 Notices. All notices relating to the parties’ legal rights and remedies under this MA will be provided in writing and will reference this MA. Such notices will be deemed given if sent by: (a) postage prepaid registered or certified U.S. Post mail, then five working days after sending; or (b) commercial courier, then at the time of receipt confirmed by the recipient to the courier on delivery. All notices to a party will be sent to its address set forth on the cover page hereto, or to such other address as may be designated by that party by notice to the sending party.

5.15 Waiver. Failure to exercise or enforce any right under this MA will not act as a waiver of such right.

5.16 Force Majeure. Except for the obligation to pay money, a party will not be liable to the other party for any failure or delay caused by a Force Majeure Event, whether or not such matters were foreseeable, and such failure or delay will not constitute a material breach of this MA.

5.17 Amendment. This MA may be modified, or any rights under it waived, only by a written document executed by the authorized representatives of both parties. For avoidance of doubt, this MA may not be amended via electronic mail or other electronic messaging service.

5.18 No Third Party Beneficiaries. Except as specifically set forth in an Order Form, nothing in this MA will confer any right, remedy, or obligation upon anyone other than Customer and Change Healthcare.

5.19 Relationship of Parties. Each party is an independent contractor of the other party. This MA will not be construed as constituting a relationship of employment, agency, partnership, joint venture or any other form of legal association. Neither party has any power to bind the other party or to assume or to create any obligation or responsibility on behalf of the other party or in the other party's name.

5.20 Non-solicitation of Employees. Neither party, who knows or should know that an individual is an employee of the other party, will directly or indirectly solicit for employment any employee of the other party during the term of the applicable Order Form and for a period of one year thereafter without the written consent of the other party. This prohibition will not apply if an employee answers a party's notice of a job listing or opening, advertisement or similar general publication of a job search or availability for employment.

5.21 Publicity. The parties may publicly announce that they have entered into this MA and describe their relationship in general terms, excluding financial terms. Neither party will make any other public announcement or press release regarding this MA or any activities performed hereunder without the prior written consent of the other party.

5.22 Acquisitions. If Customer acquires a health plan or health care facility ("**Acquired Entity**") that entered into a license for Software, Clinical Content, or ASP Services ("**Pre-Existing Contract**") prior to such acquisition, that Pre-Existing Contract will remain in effect until its termination. Upon the termination of the Pre-Existing Contract, or upon Customer's acquisition of an Acquired Entity that does not have a Pre-Existing Contract, Customer will pay Change Healthcare for any additional usage-based variables specified in the applicable Order Form, including, but not limited to Covered Lives, Beds, Users, Seats, etc. ("**Usage-Based Variables**"), regardless of location, resulting from the acquisition of the Acquired Entity in accordance with this Order Form. Customer will disclose to Change Healthcare the increase in the Usage-Based Variables it gained through the Acquired Entity within 30 days after such acquisition. If the Acquired Entity will not use the Software, Clinical Content, and ASP Services, no additional license fees will be due.

5.23 Construction of Agreement. This MA will not be presumptively construed for or against either party. Section titles are for convenience only. As used in this MA, "will" means "shall," and "include" means "includes without limitation." The parties may execute this MA and each Order Form in one or more counterparts, each of which will be deemed an original and one and the same instrument.

5.24 Conflict Between Agreement and Order Form. In the event of any conflict or inconsistency in the interpretation of this MA (including all Order Forms executed hereunder), such conflict or inconsistency will be resolved by giving precedence according to the following order: (a) the Order Form; (b) the MA Terms and Conditions and Exhibits; (c) documents incorporated by reference.

5.25 Entire Agreement. This MA, including Exhibits and Order Forms, is the complete and exclusive agreement between the parties with respect to the subject matter hereof, superseding and replacing all prior agreements, communications, and understandings (written and oral) regarding its subject matter.

Terms and conditions on or attached to Customer purchase orders will be of no force or effect, even if acknowledged or accepted by Change Healthcare.

EXHIBITS

The following Exhibits are incorporated into the terms of the MA:

Exhibit A Definitions

EXHIBIT A
DEFINITIONS

“ASP” MEANS APPLICATION SERVICE PROVIDER.

“ASP Services” means the ASP Software and related Change Healthcare hardware, Software Maintenance Services and Implementation Services.

“ASP Software” means any Software licensed to Customer for use remotely or via the internet by accessing the Software located on the Change Healthcare or Third Party Vendor hardware, as indicated on the Order Form.

“Beds” means the number of hospital beds regularly maintained (set up and staffed for use) for inpatients by Customer or a Facility.

“Claim” means a request for payment or a reported encounter received by Customer from a Provider, or from a Covered Life seeking reimbursement for such services, comprised of any number of lines.

“Clinical Content” means medical or clinical information such as terminology, vocabularies, decision support rules, alerts, drug interaction knowledge, care pathway knowledge, standard ranges of normal or expected result values, and any other clinical content or rules provided to Customer under an Order Form, together with any related Documentation and Upgrades. Depending on the intended usage, Clinical Content may be provided in either paper or electronic formats. Examples of Clinical Content include the InterQual Clinical Decision Support Criteria, Clinical Evidence Summaries, InterQual SmartSheets, KnowledgePacks, Change Healthcare Analytics Advisor™, and Medical Necessity Content. Clinical Content may be either (i) owned by Change Healthcare, or (ii) Third Party Clinical Content.

“Concurrent User” means a Permitted User identified by a unique user ID issued by Customer that is one user out of a maximum number of users permitted to access the Software simultaneously.

“Confidential Information” means non-public information, whether related to currently licensed Products or other product offerings, including technical, marketing, future product development, roadmap, new features and functionality, product pricing, participation in customer focus groups, financial, personnel, planning, and other information that is marked confidential or which the receiving party should reasonably know to be confidential. Confidential Information will not include: (a) information lawfully obtained or created by the receiving party independently of the disclosing party’s Confidential Information without breach of any obligation of confidence, (b) information that enters the public domain without breach of any obligation of confidence or (c) Protected Health Information or PHI (as defined in the Business Associate Agreement negotiated by the parties), the protection of which will be governed by the Business Associate Agreement executed by the parties.

“Covered Lives” means a primary member, subscriber or eligible dependent covered under a health plan or member who is included under a delegated risk arrangement under an agreement with Customer.

“Customer’s Website” means Customer’s secured website, to which access is limited to Providers who present a unique identifier and a password that corroborates the binding between the Provider and the unique identifier.

“Data Center” means a data center facility located in the U.S. and operated by Customer, Change Healthcare or an approved third party so identified in an Order Form.

“Documentation” means user guides or operating manuals, containing the functional specifications for the Products that Change Healthcare provides to Customer, as may be reasonably modified from time to time by Change Healthcare.

“Enhancements” means enhancements or new releases of the Software, Documentation, Clinical Content, or Services providing new or different functionality that are separately priced and marketed by Change Healthcare.

“Exhibits” means any exhibit or attachment to this MA or an Order Form.

“Facility” means a healthcare facility or health plan located in the U.S. and operated by Customer that is identified in an Order Form. Customer acknowledges and agrees that notwithstanding Customer’s Provider Identification Number or Tax Identification Number, each physical location shall constitute a separate Facility.

“Force Majeure Event” means any cause beyond the reasonable control of a party that could not, by reasonable diligence, be avoided, including acts of God, acts of war, terrorism, riots, embargoes, acts of civil or military authorities, denial of or delays in processing of export license applications, fire, floods, earthquakes, accidents or strikes.

“Generally Available” means available as a non-development product, licensed by Change Healthcare in the general commercial marketplace.

“Implementation Services” means the implementation services, training and education listed in an Order Form to be performed by Change Healthcare for Customer in accordance with the Change Healthcare Implementation Services and Training Guide, which may include, but are not limited to, software loading, data conversion, software interface services, software testing assistance, , and services set-up.

“Live Date” means Software Installation Date.

“Change Healthcare Implementation Services and Training Guide” means Change Healthcare’s written Implementation Services and training procedures for the applicable Product or Service as contained in the applicable implementation and training guide, incorporated herein by reference, as may be reasonably modified from time to time.

“Change Healthcare Support Manual” means Change Healthcare’s written Software Maintenance Services procedures for the applicable Product or Service as contained in the applicable support manual, incorporated herein by reference, as may be reasonably modified from time to time.

“Change Healthcare Software” means any Change Healthcare-owned Software licensed to Customer under an Order Form.

“Medical Necessity Content” means Change Healthcare-created decision support rules, including diagnosis and procedure code pairs developed by the Centers for Medicare and Medicaid Services and Medicare Administrative Contractors, related to Medicare payment eligibility for medical services, treatment procedures, and medical technologies, including medical necessity determination.

“Order Form” means Change Healthcare’s form addendum to this MA, duly executed by both parties, pursuant to which Customer may order specific Products or Services.

“Order Form Effective Date” means the effective date of an Order Form, as set forth therein.

“Portable Devices” means, with respect to Software that is licensed on a per device basis, the number of laptops, PDAs, handhelds or other similar portable devices for which the applicable Software is licensed, as indicated on an Order Form.

“Permitted User” or “User” means any individual, whether on-site or at a Facility or from a remote location, (a) Customer employee, (b) consultant or independent contractor who has need to use the Products or Services based upon a contractual relationship with Customer, so long as (i) such consultant or independent contractor is not a Change Healthcare competitor, (ii) Customer remains responsible for use of the Products or Services by such consultant or independent contractor, and (iii) such consultant or independent contractor is subject to confidentiality and use restrictions at least as strict as those contained in this MA, (c) physician with admitting privileges at a Facility, (d) employee of such physician, and (e) medical professional authorized to perform services at a Facility.

“Prevailing Rate” means the Change Healthcare standard fee(s) in effect for the applicable Software, Clinical Content, or Services, on the date that the Software, Clinical Content, or Services are to be provided.

“Productive Use” means the date in which the Software is available to process live data for purposes of other than testing or evaluation.

“Products” means Software, Clinical Content and any other products that Change Healthcare provides to Customer pursuant to an Order Form.

“Professional Services” means any consulting, programming or other professional services that Change Healthcare provides to Customer pursuant to an Order Form.

“Provider” means (a) a healthcare professional who provides services to Customer’s members, and (b) such authorized employees of such Provider who are acting on behalf of the Provider. For purposes of the Change Healthcare’s Transparency, Clear Orders™ and Clear Coverage™ only, the definition of Provider will not include hospitals, health centers or other treatment facilities. For purposes of Clear Orders™ only, the definition of Provider will include free-standing labs that conduct Exams, but will not include labs within hospitals, health centers or other treatment facilities. For purposes of Change Healthcare’s Network Performance Management, the definition of Provider will also include any institution that provides a medical or medical-related service (e.g., group practice, hospital, laboratory, etc.).

“Release” means an updated version of the Software which contains Software changes and/or configuration change(s), as applicable.

“Reviews” means each individual determination of clinical appropriateness performance for a patient.

“Seat” means a unique physical device such as a personal computer, work station, or terminal utilized to access the Software, either directly or at the physical device on which the Software is located or the location of the entity that has a license to use the Clinical Content.

“Services” means Software Maintenance Services, Implementation Services, Professional Services, ASP Services, and any other services that Change Healthcare provides to Customer under an Order Form.

“Site Preparation Guide” means Change Healthcare’s applicable written guide or written instructions as to the preparation of Customer’s Facility or Data Center prior to installation and the maintenance of Customer’s Facility or Data Center following installation.

“Site Software” means, the client portion of the Software (e.g., set-up executable) provided by Change Healthcare to Customer, if any, for installation at Customer’s site and required for Customer to access the ASP Services.

“Software” means software in object code form only (and related Documentation) identified in an Order Form or otherwise provided by Change Healthcare to Customer, including any Upgrades that Change Healthcare provides to Customer.

“Software Installation Date” means the earlier of (a) the date when the Software is first available for Productive Use, or (b) the date specified in the applicable implementation plan when the Software, is intended to be available for Productive Use, except that such date will be extended for each day that the Product or Service is not available for Productive Use due to direct fault of Change Healthcare.

“Software Maintenance Services” means support services for only the two most current releases of the Software and Clinical Content consisting of telephone support, problem resolution, and Upgrades delivered by Change Healthcare, all in accordance with the Change Healthcare Support Manual. Software Maintenance Services do not include: (a) development of custom code or customizations for any Software, (b) support of Software modifications generated by anyone other than Change Healthcare, (c) services to implement Upgrades (d) services to correct improper installation or integration of the Software that was not performed by Change Healthcare-authorized personnel, (e) system administrator functions, (f) help desk services, and (g) Enhancements. Software Maintenance Services do not include services required as a result of (i) improper use, abuse, accident or neglect, including Customer’s failure to maintain appropriate environmental conditions for the Products, or (ii) modifications or additions to the Products.

“Third Party Clinical Content” means any Clinical Content that is owned by a third party and sublicensed to Customer under an Order Form.

“Third Party Product” means any Product identified in an Order Form as **“Third Party Product,”** which may contain Third Party Clinical Content and Third Party Software.

“Third Party Software” means any software that is owned by a third party and sublicensed to Customer under an Order Form.

“Third Party Terms” means any additional terms and conditions that are applicable to Third Party Software, including those referenced in or attached to an Order Form.

“Third Party Vendor” means a vendor other than Change Healthcare from whom Change Healthcare or Customer (with prior written consent from Change Healthcare) obtains Third Party Product, Third Party Clinical Content or Third Party Software.

“Upgrades” means corrections, modifications, improvements, updates or releases of the Software, Documentation, Clinical Content, or Services designated by Change Healthcare as “Upgrades,” which are Generally Available and generally provided to customers as part of Software Maintenance Services. Upgrades do not include Enhancements.

ORDER FORM

This **ORDER FORM** amends the MA No. 17037, dated contemporaneously herewith and incorporating all referenced Exhibits, Schedules, and Attachments ("**Order Form**") between Change Healthcare Technologies, LLC ("**Change Healthcare**") and Kern County Hospital Authority ("**Customer**") and is made binding as of the latest date in the signature block below. In the event the OF Effective Date (defined below) is prior to the Effective Date provided in the MA, the OF Effective Date is automatically amended to be the same as the Effective Date provided in the MA. The parties agree as follows:

Exhibits

A-1	Payment Schedule, Term and Administration
A-2	Reserved
A-3	Decision Management Terms for InterQual® Products
B-1	Implementation, Education, and Consulting Services
C-1	Alliance Partner Terms
D-1	Reserved
E-1	Products and ASP Services

AUTHORIZATION. The pricing in this Order Form and Change Healthcare's corresponding offer to Customer expires unless Change Healthcare receives this Order Form signed by Customer on or before September 30, 2018.

PURCHASE ORDER. Customer's purchase order ("**PO**") is required in order for Change Healthcare to process shipping. Terms on or attached to Customer's PO will be of no force or effect as between the parties. Failure to provide Change Healthcare with a PO order or copy will not relieve Customer of any obligation, including any payment obligation, under this Order Form.

By signing this Order Form, Customer acknowledges and agrees that (a) Change Healthcare has made no warranty or commitment with regard to any functionality not Generally Available as of the OF Effective Date, whether or not included as part of Software Maintenance Services, for any Product licensed by this Order Form; and (b) Customer is not relying on the availability of any future version of the purchased Product or any other future Product in executing this Order Form.

Each signatory hereto represents and warrants that it is duly authorized to sign, execute, and deliver this Order Form on behalf of the party it represents and the applicable Facilities. Each party is signing this Order Form on the date below its signature.

KERN COUNTY HOSPITAL AUTHORITY

CHANGE HEALTHCARE TECHNOLOGIES, LLC

By: _____
 Name: _____
 Title: _____
 Date: _____
 Customer PO. No. _____

By: Dana Spiel
 Name: Dana Spiel
 Title: Sr. Sales Executive
 Date: 8-9-18

CUSTOMER – For Execution:
 Change Healthcare no longer requires the exchanging and signing of hard copy contracts. Please fax or email (scanned document) the signed agreement to your sales executive or account manager.

Change Healthcare Technologies, LLC
 5995 Windward Parkway
 Alpharetta, Georgia 30005
 Attn: General Counsel

With a copy to:
 Change Healthcare Technologies, LLC
 275 Grove Street
 Suite 1-210
 Newton, MA 02466
 Attn: Vice President of Product Operations

Customer Number	KER505
Service Contract Number	MHS13480
SAP Number	TBD
Contract Number	30757
Quote Number	154845

**REVIEWED ONLY
 NOT APPROVED AS TO FORM**

By: [Signature]
 Legal Services Department

EXHIBIT A-1

PAYMENT SCHEDULE, TERM AND ADMINISTRATION

PAYMENT SCHEDULE FOR PRODUCTS AND ASP SERVICES LICENSE FEES. Notwithstanding anything to the contrary in the MA, the annual payments for the Software, Clinical Content, and ASP Services, and the number of Beds set forth herein are not subject to decrease.

\$ 33,385.50*	due on the OF Effective Date.	Such fee includes a thirty percent (30%) discount.
\$ 35,770.18*	due on the first anniversary of the OF Effective Date.	Such fee includes a twenty-five percent (25%) discount.
\$ 38,154.86*	due on the second anniversary of the OF Effective Date.	Such fee includes a twenty percent (20%) discount.
\$ 40,539.53*	due on the third anniversary of the OF Effective Date.	Such fee includes a fifteen percent (15%) discount.
\$ 42,924.21*	due on the fourth anniversary of the OF Effective Date.	Such fee includes a ten percent (10%) discount.

*Plus applicable taxes.

PAYMENT SCHEDULE FOR SERVICES FEES.

\$ 18,000.00*	due on the OF Effective Date.
\$ 2,250.00*	due on the first anniversary of the OF Effective Date.
\$ 2,250.00*	due on the second anniversary of the OF Effective Date.
\$ 2,250.00*	due on the third anniversary of the OF Effective Date.
\$ 2,250.00*	due on the fourth anniversary of the OF Effective Date.

*Plus applicable taxes.

MIGRATION TO INTERQUAL CONNECT™: Upon Change Healthcare's notice, Customer may migrate to InterQual Connect™- Medical Review Service during the Term of this Order Form. If Customer elects to migrate during the Term, Customer will execute a new contract for InterQual Connect- Medical Review Service prior to the start of the migration. The license fees will remain the same during the Term as shown in this Order Form. However, the contract for InterQual Connect- Medical Review Service will identify applicable Implementation, Services and other fees.

UPGRADES. Installation and/or implementation of the Software by Change Healthcare as a result of Upgrades to the Software and/or new Releases of the Software are beyond the scope of the Services outlined hereunder. Unless otherwise addressed by this Order Form, such additional services shall be contracted for separately and additional fees will apply. Change Healthcare and Customer will determine the scope of the additional services to be provided and the terms and conditions pursuant to which such additional services shall be provided by Change Healthcare.

Upgrades to the ASP Software are included within the ASP Services contemplated herein. Notwithstanding the foregoing, the parties agree to execute an amendment to this Order Form for additional services in the event of any Customer-specific integrations, data mapping or configuration of any business rules, or additional training that may be needed as a result of such Upgrades, and additional fees will apply. Change Healthcare and Customer will determine the scope of the additional services to be provided and the terms and conditions pursuant to which such additional services shall be provided by Change Healthcare.

TERM. The initial term of this Order Form begins on the latest date this Order Form is executed by the parties (the **“OF Effective Date”**) and shall continue for five (5) years (the **“Initial Term”**). This Order Form will renew automatically for one year terms (each, a **“Renewal Term”**, together the Initial Term and Renewal Terms constitute the **“Term”**) upon the expiration of the Initial Term and each subsequent Renewal Term, unless either party provides written notice of nonrenewal to the other party not less than 60 days prior to the beginning of the next Renewal Term. The license fee payable during any Renewal Term will be the Prevailing Rate.

INCREASE IN USAGE BASED VARIABLES. If during the Initial Term Customer’s Usage-Based Variables increase above the limitation set forth in this Order Form for any reason other than Customer’s acquisition of another entity (**“Natural Growth”**), Customer shall pay the Prevailing Rates for such increased Usage-Based Variables. Pursuant to this Section, Customer shall provide notification of any increase in the Usage-Based Variables, and Change Healthcare shall bill Customer accordingly for any increase in fees.

DISCOUNT REPORTING. Customer is solely responsible for reporting all discounts or appropriate net prices received from Change Healthcare pursuant to this Order Form on cost reports filed by Customer with any government entity.

TAXES. Unless prior to the OF Effective Date Customer provides Change Healthcare with satisfactory evidence of exemption (including evidence of renewal if applicable) from applicable sales, use, value-added, or other similar taxes or duties, Change Healthcare will invoice Customer for all such taxes applicable to the transactions under this Order Form.

ADMINISTRATION.

Sold To:	Bill To:
Kern County Hospital Authority	Kern Medical Center
1700 Mount Vernon Avenue	1700 Mount Vernon Avenue
Bakersfield, CA 93306	Bakersfield, CA 93306
	Attention: Glenn Goldis, CMO/CMIO
	Telephone: 661-428-8685
	E-mail: glenn.goldis@kernmedical.com
Taxable: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Ship To**: See Facility information on Exhibit E-1.	Download Central Administrator:
**If Customer is not tax-exempt, taxes will be based on the state Customer provides in the “Ship To” section of this Order Form.	Matt Regalado, System Engineer
	E-mail: Matt.Regalado@kernmedical.com
	Customer IRR Administrator:
	Jose Zuniga, Clinical Director of Case Management
	E-mail: jose.zuniga@kernmedical.com

EXHIBIT A-3

DECISION MANAGEMENT TERMS FOR INTERQUAL® PRODUCTS

The following terms apply only to the Decision Management Software, Clinical Content, and ASP Services, which for purposes of this Order Form includes the following Product(s): CareEnhance® Review Manager Enterprise, InterQual® Interrater Reliability Suite and InterQual® Learning Basics (collectively referred to herein as "Decision Management").

SECTION 1: ASP SERVICES. The following terms and conditions only apply to the provision of ASP Services by Change Healthcare for Customer:

1.1 Internet Access and Use. Customer acknowledges and agrees that the ASP Services and/or Clinical Content will be accessed by Customer via the internet and the ASP Services and/or Clinical Content will be located on a remote server. Customer acknowledges and agrees that the use of the ASP Services, Software, and/or Clinical Content are strictly for Customer's use solely related to the Change Healthcare Clinical Content, and for no other purpose.

1.2 Interruption. CHANGE HEALTHCARE DOES NOT WARRANT THAT THE INTERNET ACCESS WILL BE UNINTERRUPTED, ERROR-FREE OR COMPLETELY SECURE. CHANGE HEALTHCARE DOES NOT AND CANNOT CONTROL THE FLOW OF DATA TO OR FROM CHANGE HEALTHCARE, CUSTOMER'S NETWORK, AND OTHER PORTIONS OF THE INTERNET. SUCH FLOW DEPENDS IN LARGE PART ON SERVICES PROVIDED OR CONTROLLED BY THIRD PARTIES. AT TIMES, ACTIONS OR INACTIONS OF SUCH THIRD PARTIES CAN IMPAIR OR DISRUPT CUSTOMER'S CONNECTIONS TO THE INTERNET (OR PORTIONS THEREOF). CHANGE HEALTHCARE CANNOT GUARANTEE THAT SUCH EVENTS WILL NOT OCCUR. ACCORDINGLY, CHANGE HEALTHCARE DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO SUCH EVENTS UNLESS CAUSED SOLELY BY OR OCCURS SOLELY AS A RESULT OF ANY ACT OR OMISSION BY CHANGE HEALTHCARE, ITS EMPLOYEES OR AGENTS.

1.3 Security. Customer is solely responsible for acquiring, servicing, maintaining, and updating all equipment, computers and software (including anti-virus software) not owned or operated by or on behalf of Change Healthcare, that allows Customer and its Permitted Users to access the Software, Clinical Content and ASP Services. Customer agrees to use commercially reasonable security measures to prevent unauthorized access to the Software and/or Clinical Content. Customer agrees to be responsible for any breach of the MA or any other unauthorized dissemination of the Software and/or Clinical Content or the content contained therein by any user accessing the Software and/or Clinical Content via Customer's Website.

1.4 Proprietary Rights. Customer acknowledges that the ASP Services, including all applicable rights to patents, copyrights, trademarks, and trade secrets inherent therein and appurtenant thereto, is the sole and exclusive property of Change Healthcare or Third Party Vendors who have licensed such rights to Change Healthcare. Customer agrees and acknowledges that under this Order Form, Customer is not purchasing title to the ASP Services but is only being granted a license to use the ASP Services during the term of the license. Customer agrees (a) that all rights, title, and interest in the ASP Services will be deemed to vest and remain vested in Change Healthcare, including, but not limited to, patents, copyrights, trade secrets, and other intellectual property rights, and (b) to hereby assign any and all rights that Customer may have in such ASP Services to Change Healthcare and to execute all further documents reasonably requested by Change Healthcare to evidence such assignment.

1.5 Location. Change Healthcare may provide the ASP Services from any Data Center and may from time to time transfer any or all of the ASP Services being provided hereunder to any new Data Center or relocate the personnel, equipment and other resources used in providing the ASP Services.

1.6 Customer's Website. In operation of Customer's Website, Customer will comply with all applicable laws and regulations.

SECTION 2: CAREENHANCE® REVIEW MANAGER ENTERPRISE SOFTWARE

The following terms apply only to the CareEnhance® Review Manager Enterprise Software and Clinical Content (“**Review Manager**”):

2.1 Symphonia HL-7 Interface. Customer acknowledges that the Symphonia HL-7 Interface Enabler licensed from Change Healthcare is Third Party Software that allows Customer to develop an interface to Review Manager and that Change Healthcare is not delivering an interface to Customer nor will Change Healthcare support, maintain or develop any such interface unless expressly agreed to in writing by Change Healthcare and Customer. Customer further acknowledges and agrees that changes to any such interface may be required as a result of the installation of new Releases of, or Upgrades to, Review Manager.

2.2 Interface/Integration. Only interfaces and/or integrations that have been approved by Change Healthcare in writing may be used in conjunction with Review Manager. Customer is solely responsible for securing the installation, support, and maintenance of any interface and/or integration.

2.3 Display of CPT Codes. The display and search functionality of the CPT within Review Manager and the InterQual SmartSheets is for Customer’s internal use only. Should Customer desire to make the Clinical Content available over the internet or to its Provider network, the parties shall first execute an amendment for such expanded use.

SECTION 3: INTERQUAL® INTERRATER RELIABILITY SUITE

The following terms apply only to the licensure of the InterQual® Interrater Reliability Suite Software, Clinical Content, and corresponding ASP Services (“**InterQual Interrater Reliability Suite**”):

3.1 Data. Customer acknowledges that Change Healthcare may use the data collected from Customer’s use and customization of the InterQual Interrater Reliability Suite for various internal purposes, including, but not limited to product development and improvement, marketing, benchmark reporting and identifying additional Customer-specific training opportunities. All information collected will be used and maintained in accordance with the provisions of the MA and this Product Schedule.

3.2 Limitation on License Grant. Customer may not use the InterQual Interrater Reliability Suite to prepare tests unrelated to the Clinical Content.

3.3 Permitted Access. Customer represents and warrants that only Customer and its Permitted Users will be permitted access to the InterQual Interrater Reliability Suite and only for the uses described herein. Each Permitted User must be required to register and receive a login ID and password before accessing the InterQual Interrater Reliability Suite. After the initial registration, Customer shall ensure that all additional Permitted Users are authorized and receive login IDs and passwords. Customer shall take all measures necessary to ensure compliance by all Permitted Users with all terms and conditions of the MA and this Order Form. Change Healthcare may terminate the access of any Permitted User to the InterQual Interrater Reliability Suite in the event of any such violation, in addition to other remedies allowed under the MA or this Order Form. Change Healthcare may rely upon the certification, statement, or electronic representation thereof, in providing the InterQual Interrater Reliability Suite to Customer and its Permitted Users. Customer shall (i) be responsible for determining and identifying the Permitted Users who will be granted access to the InterQual Interrater Reliability Suite; (ii) provide a list of those authorized Permitted Users to Change Healthcare; and (iii) update this list as needed. Should there be a change to a specific Permitted User (termination of employment, change of job status, etc.), Customer shall notify Change Healthcare of such change within 30 days from the date of occurrence in order for Change Healthcare to disallow access for such Permitted User. Additionally, Customer shall not provide access to any Permitted User until such time as notification has been provided to Change Healthcare.

EXHIBIT B-1

IMPLEMENTATION, EDUCATION, and CONSULTING SERVICES

InterQual Review Manager™ (“Review Manager”) Implementation Services and InterQual® Learning Source (“ILS”) Training

1.0 SERVICE PRICING (MHS13480-C)

Table 1: Services for Kern Medical Center

InterQual Services	Number of Participants	Fee (Year 1)	Fee (Years 2-5)
<u>InterQual Review Manager™ with HL7 Implementation Services</u> <ul style="list-style-type: none"> Remote Project Management Support Remote Technical Installation Services Remote Technical Consulting on the HL-7 Interface 		\$12,750.00	
<u>ILS: System Administrators</u> <ul style="list-style-type: none"> ILT - System Administration <i>Year 1: ILT/On-site (Material 75005613)</i> 	Up to 4 participants	\$1,500.00	
<u>ILS: Review Manager Reports</u> <ul style="list-style-type: none"> ILT - Review Manager Reports <i>Year 1: ILT/On-site (Material 75005614)</i> 	Up to 4 participants	\$1,500.00	
<u>ILS LOC: InterQual® Acute</u> <ul style="list-style-type: none"> LOC: InterQual Acute Criteria <i>Year 1: ILT/On-site (Material 75005605)</i> <i>Years 2-5: VILT/Web (Material 75005568)</i> 	Up to 10 participants annually	\$2,250.00	\$2,250.00
Fixed Fee Total:		\$18,000.00	\$2,250.00

Payment Terms - Services Fees

See Exhibit A-1

2.0 STATEMENT OF PROJECT SCOPE

The Services in this Exhibit will be delivered in accordance with the Change Healthcare Guide to Standard Implementation and Training Services (“Services Guide”) which may be amended at Change Healthcare’s discretion and is incorporated herein by reference. To obtain the most current version of the Services Guide, contact your Change Healthcare Sales Executive, Account Manager or download from Customer Hub. At no time will there be a material change that will reduce or adversely affect the services to be delivered during the term of the agreement.

3.0 ASSUMPTIONS

- 3.1 Customer will incur additional fees and training material costs for each additional participant beyond the agreed upon maximum number of participants identified herein and/or each participant attending New User shared session(s) when available and/or each additional instructor-led session requested beyond the Change Healthcare recommended number of session(s). Customer will be billed separately for additional participants and/or sessions not covered by this Order Form.
- 3.2 Customer acknowledges that Services will be provided only for Facilities licensed under the MA.
- 3.3 Training Services will not be carried over from prior years.
- 3.4 Training includes all applicable self paced trainings.

- 3.5 All applicable self paced trainings should be completed prior to any ILT and/or VILT session(s).
- 3.6 Contract year one onsite trainings will occur during the same visit. Customer will be responsible for travel related to a separate onsite visit to deliver the year one training.
- 3.7 Change Healthcare will pay for travel related expenses related to contract year one end user training. Customer will be responsible for all other Change Healthcare travel-related expenses per the Services Guide. Change Healthcare agrees to comply with Customer's travel policy set forth at <https://www.gsa.gov/travel/plan-book/per-diem-rates>.

4.0 DEFINITIONS

"InterQual Review Manager™" (**"Review Manager"**) also referred to as "the Software."

"Fixed Fee ("FF")" means that the Services will be delivered by Change Healthcare at a set price, determined by Change Healthcare, considering the project scope and the time and resources necessary to complete the Services.

"ILT" means on-site instructor-led training at Customer's site.

"New User" refers to staff that are new to the use of InterQual criteria

"VILT" means virtual instructor-led training. This method of delivering traditional classroom courses using the Internet and teleconferencing technologies whereby the instructor and students are at independent locations.

EXHIBIT C-1

ALLIANCE PARTNER TERMS

“Alliance Partner” means a Change Healthcare approved third party (a) which has manufactured a healthcare software application, and Change Healthcare has validated the integration between the application and the Product, and (b) from whom Customer directly licenses such application, including interface software, updates, maintenance and support of said application, as applicable.

Pursuant to the MA, Change Healthcare hereby acknowledges that Customer may integrate the licensed Software and/or Clinical Content with the Alliance Partner application listed below. The parties may update and amend the Alliance Partner information via electronic mail or letter without formally amending the Order Form.

For each Facility: Kern Medical Center

Alliance Partner: Cerner Corporation

Currently Validated Alliance Partner Application: Acute Case Management

Upon Customer written notice, (1) the Alliance Partner set forth above will be added to this Order Form and the Alliance Partner Terms of this exhibit will apply and (2) Customer's right to use Third Party Product, Orion – Symphonia HL7 Interface Enabler and any related support or other applicable services will be terminated at the Kern Medical Center Facility in which sections 2.1 and 2.2 of Exhibit A-3 will no longer apply.

Customer may not install any integration to the Software and/or Clinical Content without the prior written consent of Change Healthcare. Only integrations from Change Healthcare's Alliance Partners, or that otherwise have been approved by Change Healthcare in writing may be used in conjunction with the Software and/or Clinical Content. Additionally, notwithstanding anything to the contrary in the MA or this Order Form, Customer is solely responsible for securing the installation, updates, support, and maintenance of any integration. Customer shall not implement an Alliance Partner integration for a new release or update until the Alliance Partner has obtained a validation certificate from Change Healthcare. If Customer's or Change Healthcare's relationship with the Alliance Partner terminates and Customer chooses to integrate the Software and/or Clinical Content into Customer's workflow system, additional services may be required and contracted for separately.

WITH RESPECT TO ANY PRODUCT OR INTEGRATION MANUFACTURED BY AN ALLIANCE PARTNER OR NOT MANUFACTURED BY CHANGE HEALTHCARE, CUSTOMER WILL LOOK TO THE ALLIANCE PARTNER OR MANUFACTURER OF THE PRODUCT OR INTEGRATION FOR ANY WARRANTY. CHANGE HEALTHCARE DOES NOT REPRESENT OR WARRANT THAT ANY ALLIANCE PARTNER REFERENCED HEREIN OR UNDER ANY APPLICABLE ORDER FORM HAS VALIDATED WITH ANY PARTICULAR VERSION OF THE SOFTWARE AND/OR CLINICAL CONTENT. NO ORAL OR WRITTEN INFORMATION OR ADVICE PROVIDED BY CHANGE HEALTHCARE, ITS AGENTS OR EMPLOYEES WILL CREATE ANY WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF THE WARRANTIES EXPRESSLY PROVIDED IN THE MA AND ORDER FORM.

EXHIBIT E-1

PRODUCTS AND ASP SERVICES

1. Products and ASP Services. The licenses in this Order Form for the Products and ASP Services set forth on the following page begin on the OF Effective Date.
2. Copies. On the following page, any Product for which the "No. of Copies" is blank or "0" is either available online or included in another Product.
3. Requirements. Customer shall maintain the associated licenses, hardware and software set forth in the Certified Environments Guide / Technical Configurations, for the Software and ASP Services, as applicable.
4. ASP Services. InterQual Interrater Reliability Software and InterQual Learning Basics Software set forth on the following page are part of the ASP Services.
5. Third Party Terms.

The portal referenced below contains Third Party Terms that may apply to the Products under this Order Form. In addition, with respect to Third Party Products included in the Products, Customer shall comply with the Third Party Terms (including attributions and notices) contained in or referenced in the Product Documentation or which Change Healthcare otherwise makes available to Customer. To the extent the Third Party Terms conflict with this Order Form or the MA, then the Third Party Terms control solely with respect to the Third Party Product to which they apply. This Agreement does not prevent modification or reverse engineering of Third Party Software if and only to the extent Third Party Terms expressly permit modification or reverse engineering of that Third Party Software. However, Customer shall notify Change Healthcare before modifying any Third Party Software, and Change Healthcare's support, warranty and indemnification obligations (if any) do not apply where Third Party Software has been modified. Unless specifically set forth in this Order Form or the Third Party Terms, the warranty, support, or other obligations or liability created by this Order Form or MA are not the responsibility of the Third Party Product developer or licensor.

With regard to the Third Party Software on the following page, Customer agrees to the applicable Third Party Terms, as set forth at <http://customerportal.mckesson.com>, which Customer may access using the following confidential login information:

User ID: contractprovisions@mckesson.com
Password (case sensitive): Portal!Access

In the event that a Third Party Vendor raises its licensing fees of such Third Party Products, Change Healthcare may increase its annual license fees upon the next anniversary of this Order Form. Change Healthcare may modify or remove Third Party content at any time in its sole discretion.

Facility

Kern Medical Center
1700 Mount Vernon Avenue
Bakersfield, CA 93306

Attn: Jose Zuniga, Clinical Director of Case Management

Tel: +1 (661) 326-2319

E-Mail: jose.zuniga@kernmedicalr.com

	Size / Type	Users	No. of Copies
InterQual® Clinical Content			
InterQual® Acute Adult Criteria	198 / Beds	0	
InterQual® Acute Pediatric Criteria	222 / Beds	0	
InterQual® Behavioral Health Procedures Criteria	24 / Beds	0	
InterQual® Child and Adolescent Psychiatry	24 / Beds	0	
InterQual® Procedures Criteria	198 / Beds	0	
Software			
InterQual Learning Basics	222 / Beds	0	
InterQual® Interrater Reliability Standard Tests	222 / Beds	0	
InterQual® Review Manager (Non-Production)	222 / Beds	0	
InterQual® Review Manager (SQL)	222 / Beds	0	
InterQual® View (Included)	222 / Beds	0	
InterQual® View (SQL)	222 / Beds	0	
3rd Party			
AMA CPT Codes IQ	222 / Beds	0	
Oracle - JRE	222 / Beds	0	
Oracle OJDBC6 (v11) Driver	222 / Beds	0	
Orion - Symphonia HL7 Interface Enabler	222 / Beds	0	
SAP - Business Objects Crystal Reports – 2008 Runtime	222 / Beds	0	

BUSINESS ASSOCIATE AGREEMENT (“BAA”)

SECTION 1: DEFINITIONS

“**Electronic Protected Health Information**” or “**Electronic PHI**” will have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. § 160.103, as applied to the information that Change Healthcare creates, receives, maintains or transmits from or on behalf of Customer.

“**Privacy Rule**” will mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Part 160 and Part 164, Subparts A and E and California Civil Code Sections 56-56.16.

“**Protected Health Information**” or “**PHI**” will have the same meaning as the term “protected health information” in 45 C.F.R. § 160.103, as applied to the information created, received, maintained or transmitted by Change Healthcare from or on behalf of Customer.

“**Security Rule**” will mean the Security Standards at 45 C.F.R. Part 160 and Part 164, Subparts A and C

Capitalized Terms. Capitalized terms used in this BAA and not otherwise defined herein will have the meanings set forth in the Privacy Rule and the Security Rule which definitions are incorporated in this BAA by reference.

SECTION 2: PERMITTED USES AND DISCLOSURES OF PHI

- 2.1 Uses and Disclosures of PHI Pursuant to the Agreement. Except as otherwise limited in this BAA, Change Healthcare may use or disclose PHI to perform functions, activities or services for, or on behalf of, Customer as specified in the Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by Customer.
- 2.2 Permitted Uses of PHI by Change Healthcare. Except as otherwise limited in this BAA, Change Healthcare may use PHI for the proper management and administration of Change Healthcare or to carry out the legal responsibilities of Change Healthcare.
- 2.3 Permitted Disclosures of PHI by Change Healthcare. Except as otherwise limited in this BAA, Change Healthcare may disclose PHI for the proper management and administration of Change Healthcare, provided that the disclosures are Required by Law, or Change Healthcare obtains written assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person (which purpose must be consistent with the limitations imposed upon Change Healthcare pursuant to this BAA), and that the person agrees to notify Change Healthcare of any instances in which it is aware that the confidentiality of the information has been breached.

2.4 Data Aggregation. Except as otherwise limited in this BAA, Change Healthcare may use PHI to provide Data Aggregation services for the Health Care Operations of the Customer as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

2.5 De-identified Data. Change Healthcare may de-identify PHI in accordance with the standards set forth in 45 C.F.R. § 164.514(b) and may use or disclose such de-identified data unless prohibited by applicable law.

SECTION 3: OBLIGATIONS OF CHANGE HEALTHCARE

3.1 Appropriate Safeguards. Change Healthcare will use appropriate administrative, physical, and technical safeguards to comply with the Security Rule with respect to Electronic PHI, to prevent use or disclosure of such information other than as provided for by the Agreement and this BAA. Except as expressly provided in the Agreement or this BAA, Change Healthcare will not assume any obligations of Customer under the Privacy Rule. To the extent that Change Healthcare is to carry out any of Customer's obligations under the Privacy Rule, Change Healthcare will comply with the requirements of the Privacy Rule that apply to Customer in the performance of such obligations.

3.2 Reporting of Improper Use or Disclosure, Security Incident or Breach. Change Healthcare will report to Customer any use or disclosure of PHI not permitted under this BAA, Breach of Unsecured PHI or any Security Incident, without unreasonable delay, and in any event no more than five (5) days following discovery; provided, however, that the Parties acknowledge and agree that this Section constitutes notice by Change Healthcare to Customer of the ongoing existence and occurrence of attempted but Unsuccessful Security Incidents (as defined below). "Unsuccessful Security Incidents" will include, but not be limited to, pings and other broadcast attacks on Change Healthcare's firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of PHI. Change Healthcare's notification to Customer of a Breach will comply with the requirements set forth in 45 C.F.R. § 164.404 and in California Civil Code Sections 56-56.16.

3.3 Change Healthcare's Agents. Change Healthcare will enter into a written agreement with any agent or subcontractor that creates, receives, maintains or transmits PHI on behalf of Change Healthcare for services provided to Customer, providing that the agent agrees to restrictions and conditions that are no less restrictive than those that apply through this BAA to Change Healthcare with respect to such PHI.

3.4 Access to PHI. To the extent Change Healthcare agrees in the Agreement to maintain any PHI in a Designated Record Set, Change Healthcare agrees to make such information available to Customer

pursuant to 45 C.F.R. § 164.524, within ten (10) business days of Change Healthcare's receipt of a written request from Customer; provided, however, that Change Healthcare is not required to provide such access where the PHI contained in a Designated Record Set is duplicative of the PHI contained in a Designated Record Set possessed by Customer.

3.5 Amendment of PHI. To the extent Change Healthcare agrees in the Agreement to maintain any PHI in a Designated Record Set, Change Healthcare agrees to make such information available to Customer for amendment pursuant to 45 C.F.R. § 164.526 within ten (10) business days of Change Healthcare's receipt of a written request from Customer.

3.6 Documentation of Disclosures. Change Healthcare will document disclosures of PHI and information related to such disclosures as would be required for Customer to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

3.7 Accounting of Disclosures. Change Healthcare will provide to Customer, within twenty (20) business days of Change Healthcare's receipt of a written request from Customer, information collected in accordance with Section 3.6 of this BAA, to permit Customer to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

3.8 Governmental Access to Records. Change Healthcare will make its internal practices, books and records relating to the use and disclosure of PHI received from, or created or received by Change Healthcare on behalf of, Customer available to the Secretary for purposes of the Secretary determining compliance with the Privacy Rule and the Security Rule.

3.9 Mitigation. To the extent practicable, Change Healthcare will cooperate with Customer's efforts to mitigate a harmful effect that is known to Change Healthcare of a use or disclosure of PHI by Change Healthcare that is not permitted by this BAA.

3.10 Minimum Necessary. Change Healthcare will request, use and disclose the minimum amount of PHI necessary to accomplish the purpose of the request, use or disclosure, in accordance with 45 C.F.R. § 164.514(d), and any amendments thereto.

3.11 Data Breach Notification and Mitigation Under Other Laws. In addition to the requirements of Sections 2.3.1 and 2.3.2, Business Associate agrees to implement reasonable systems for the discovery and prompt reporting of any breach of individually identifiable information (including but not limited to PHI, and referred to hereinafter as "Individually Identifiable Information") that, if misused, disclosed, lost or stolen, Covered Entity believes would trigger an obligation under applicable state security breach notification laws ("State Breach") to notify the individuals who are the subject of the information. Business Associate agrees to: (i) cooperate and assist Covered Entity with any investigation into any State Breach or alleged State Breach; (ii) cooperate and assist Covered Entity with any investigation into any State Breach or alleged State Breach conducted by a state agency or Attorney General; (iii) comply with Covered Entity's determinations regarding Covered Entity's and Business Associate's obligations to mitigate to the extent practicable any potential harm to the individuals impacted by the State Breach; and (iv) assist with

the implementation of any decision by Covered Entity or any State agency to notify individuals impacted or potentially impacted by a State Breach.

SECTION 4: CHANGES TO PHI AUTHORIZATIONS

Customer will notify Change Healthcare fifteen (15) days, if practicable, prior to the effective date of (1) any limitation(s) in its notice of privacy practices in accordance with 45 C.F.R. § 164.520, (2) any changes in, or revocation of, permission by an Individual to use or disclose PHI, or (3) any restriction to the use or disclosure of PHI that Customer has agreed to in accordance with 45 C.F.R. § 164.522. Customer will make such notification to the extent that such limitation, restriction, or change may affect Change Healthcare's use or disclosure of PHI.

SECTION 5: TERM AND TERMINATION

5.1 Term. The term of this BAA will commence as of the Effective Date, and will terminate when all of the PHI provided by Customer to Change Healthcare, or created or received by Change Healthcare on behalf of Customer, is destroyed or returned to Customer.

5.2 Termination for Cause. Upon either Party's knowledge of a material breach by the other Party of this BAA, such Party may terminate this BAA immediately if cure is not possible. Otherwise, the non-breaching party will provide written notice to the breaching Party detailing the nature of the breach and providing an opportunity to cure the breach within thirty (30) business days. Upon the expiration of such thirty (30) day cure period, the non-breaching Party may terminate this BAA and the affected underlying product or service if the breaching party does not cure the breach or if cure is not possible.

5.3 Effect of Termination.

5.3.1 Except as provided in Section 5.3.2, upon termination of the Agreement or this BAA for any reason, Change Healthcare will return or destroy all PHI received from Customer, or created or received by Change Healthcare on behalf of Customer, at Customer's expense, and will retain no copies of the PHI. This provision will apply to PHI that is in the possession of subcontractors or agents of Change Healthcare.

5.3.2 If it is infeasible for Change Healthcare to return or destroy the PHI upon termination of the Agreement or this BAA, Change Healthcare will: (a) extend the protections of this BAA to such PHI and (b) limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Change Healthcare maintains such PHI.

5.3.3 The respective rights and obligations of Change Healthcare under Section 5.3 of this BAA will survive the termination of this BAA and the Agreement.

SECTION 6: COST REIMBURSEMENT

6.1 Cost Reimbursement. In the event of a Breach caused solely by Change Healthcare or its employees or subcontractors and the Privacy Rule and Security Rule require notice to Individuals pursuant to 45 C.F.R. §§ 164.404 and 164.406 and California Civil Code Sections 56-56.16, Change Healthcare agrees to reimburse Customer for the reasonable and substantiated costs related to the following: providing notifications to affected individuals, the media, or the Secretary, providing credit monitoring services to the affected individuals, if appropriate, for up to one (1) year, any fines, penalties, and investigation costs, assessed against Customer directly attributable to a Breach by Change Healthcare or its employees or subcontractors, investigation costs, and mitigation efforts required under the Privacy Rule or Security Rule.

6.2 CHANGE HEALTHCARE'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS BAA IS EXPRESSLY SUBJECT TO THE LIMITATION OF LIABILITY SET FORTH IN THE AGREEMENT GOVERNING THE APPLICABLE SERVICE OR PRODUCT.

SECTION 7: COOPERATION IN INVESTIGATIONS

The Parties acknowledge that certain breaches or violations of this BAA may result in litigation or investigations pursued by federal or state governmental authorities of the United States resulting in civil liability or criminal penalties. Each Party will cooperate in good faith in all respects with the other Party in connection with any request by a federal or state governmental authority for additional information and documents or any governmental investigation, complaint, action or other inquiry.

SECTION 8: COMPLIANCE WITH LAW

Change Healthcare will comply with all applicable federal privacy and security laws governing PHI, as they may be amended from time to time.

SECTION 9: AMENDMENT

This BAA may be modified, or any rights under it waived, only by a written document executed by the authorized representatives of both Parties. In addition, if any relevant provision of the Privacy Rule or the Security Rule is amended in a manner that changes the obligations of Change Healthcare or Customer that are embodied in terms of this BAA, then the Parties agree to negotiate in good faith appropriate non-financial terms or amendments to this BAA to give effect to such revised obligations.

[Signature page follows]

Each signatory represents and warrants that it is duly authorized to sign, execute, and deliver this Agreement on behalf of the Party it represents.

Change Healthcare Technologies, LLC

Kern County Hospital Authority

Address:

1700 Mount Vernon Avenue

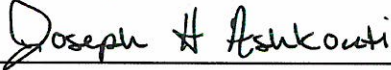
Address:

Bakersfield, CA 93306

5995 Windward Parkway

Alpharetta, Georgia 30005

DocuSigned by:



Signed

D6ECD73C98F1469...

Joseph H Ashkouti

Signed

Name

Managing Sr. Counsel, Corporate Functions

Name

Title

8/7/2018 2:06:27 PM PDT

Title

Date

Date



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

August 15, 2018

Subject: Proposed Agreement with Stericycle, Inc., for regulated pharmaceutical and hazardous waste disposal services

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical requests your Board approve the proposed agreement with Stericycle, Inc., to provide regulated pharmaceutical and hazardous waste disposal services for the main hospital. This agreement is for a term of 3 years with a not-to-exceed cost of \$266,000.

The Agreement contains non-standard terms and cannot be approved as to form by Counsel due to Stericycle's liquidated damages clause that entitles Stericycle to collect liquidated damages for any early termination of the agreement.



Master Service Agreement

Customer Billing Information:

Company Name	<u>Kern County Hospital Authority</u>	Billing Attention	_____
Address 1	<u>1700 Mount Vernon Ave</u>	Billing Name	_____
Address 2	_____	Contact Phone #	_____
City/State/Zip	<u>Bakersfield/CA/93305</u>	Contact Fax #	_____
Contact Title	_____	Contact Email	_____

This Agreement is entered into, and effective as of Customer Signed by Date between Kern County Hospital Authority (hereinafter referred to as Customer), for itself and on behalf of any of its operating subsidiaries and Stericycle, Inc., a Delaware Corporation having a principal place of business at 28161 N. Keith Dr., Lake Forest, Illinois 60045 (hereinafter referred to as "Stericycle").

Services to be Provided		
<input type="checkbox"/> Regulated Medical Waste Disposal Treatment and disposal of medical and Bio-hazardous waste	<input type="checkbox"/> Sharps Disposal Management Comprehensive proactive sharps disposal service with reusable containers	<input type="checkbox"/> Integrated Waste Stream Solutions All-encompassing on-site waste stream management services
<input checked="" type="checkbox"/> Pharmaceutical Waste Disposal Help characterize, segregate, transport and properly dispose of pharmaceutical waste	<input checked="" type="checkbox"/> Hazardous Waste Disposal Environmentally sound and flexible solution for all hazardous waste streams	<input type="checkbox"/> Medical Product Supplies On-demand product/supplies containers or Mail Back auto replenishment
Service Details are referenced in Corresponding Attachments included herein.		

Agreement Effective Date: Customer Signed by Date

Master Agreement ID: HealthTrust 2621 E-3b

Terms of Agreement: 36 Months

See Master Agreement ID (The Master) for services between the Customer and Supplier. The execution of this Customer Agreement constitutes the Customer's agreement to participate in this Agreement. All capitalized terms not defined in this Customer Agreement will survive the term of the GPO agreement. The Member's obligation and responsibilities under the Agreement are set forth. The Member shall agree to be bound by and shall comply with all applicable provisions of the Agreement, which is incorporated by reference.

Stericycle, Inc.

Service Provider
 Name: Stericycle, Inc.
 Representative Name: Jessica Ontiveroz
 Representative Title: Major Account Executive
 Date: 08/09/2018
 Signature: Jessica Ontiveroz

Customer

Customer/ Company Name: Kern County Hospital Authority
 Signee Name: Russell Bigler
 Signee Title: Chairman, Board of Governors
 Date: _____
 Signature: _____

By signing above I acknowledge that I am the Customer's authorized officer or agent and that I have the authority to bind Customer to this Agreement. Customer agrees to be bound by the terms and conditions that appear on following pages hereof and comply with Stericycle's Waste Acceptance Policy, both of which are integral parts of this Agreement.

REVIEWED ONLY
 NOT APPROVED AS TO FORM

By [Signature]
 Legal Services Department

GPO Agreement: HPG-2621 (GPO Agreement):

HealthTrust Purchasing Group, LP, a Delaware limited partnership ("HPG") and Stericycle, Inc. ("Stericycle" or "Vendor") have entered into a group purchasing agreement entitled HPG Waste Streams Management Services Agreement HPG-2621, effective November 1, 2012 (the "GPO Agreement") for the benefit of certain third-party beneficiaries (the "Purchasers," as further defined in the GPO Agreement). The GPO Agreement expressly incorporates this Agreement. Vendor offers the services described in this Agreement pursuant to the GPO Agreement, and this Agreement is subject to the terms and conditions of the GPO Agreement. In the event of a conflict between a term or condition in this Agreement and a term or condition in the GPO Agreement, the GPO Agreement controls. The term of this Agreement will survive the term of the GPO Agreement. All capitalized terms not defined in this Agreement have the meanings given to them in the GPO Agreement.

TERMS AND CONDITIONS

- 1.0 **Description of Services.** The Services are described with greater particularity in the corresponding Exhibits. The descriptions in each Exhibit corresponding to the Services are incorporated herein by reference. Any description corresponding to a Service that is not selected above shall be deemed excluded from this Agreement even if not physically removed from the Parties' copies. Customer acknowledges that it has carefully reviewed each Exhibit corresponding to the Services and agrees that it adequately identifies the Services to be performed.

Prices and Payment

- 2.0 **Price.** The price for each Stericycle performance item comprising each Service is set forth in the corresponding Exhibit. If this Agreement is not executed within sixty days of Effective date of Agreement, quoted prices are null and void.
- 2.1 **Price Changes.** Prices for Services may not be increased for the first twelve (12) months of the of a 36 month Term or the first twenty four (24) months of a 60 month Term. Thereafter, prices may be increased annually, but by no more than the lesser of (i) three and a half percent (3.5%), or (ii) the percentage increase in Consumer Price Index for all Medical Services (CPI-Medical Services) for the U.S. City Average, 1982-84 = 100, during the then prior twelve (12) month period. Additionally, Stericycle may adjust the Rate Structure (i) to account for operational changes it implements to comply with changes in law, regulatory changes, in the waste treatment location, or to otherwise cover unforeseen, significant cost escalation. STERICYCLE has instituted a per invoice energy surcharge to manage and isolate the impact of Diesel fuel price fluctuations. The energy surcharge is based on the U.S. 'On Highway' Diesel Price Index. A table outlining the Energy Surcharge can be found on Attachment 4 of this agreement.
- 2.2 **Billing and Payment.** Stericycle shall invoice Customer for all Services performed. Payment is due in full within 30 days of the receipt of the invoice by Customer.
- 2.3 **Taxes.** In addition to Stericycle's charges for services and products under this Agreement, the Customer shall pay all taxes imposed or levied by any governmental authority with respect to such services or products. These taxes include all sales, use, excise, occupation, franchise and similar taxes and tax-like fees and charges (but do not include any taxes on Stericycle's net income). Stericycle shall cooperate with the Customer to determine the applicability of any exemption certificates that the Customer provides to Stericycle in a timely manner.
- 2.4 **Purchase Orders.** Any terms or conditions contained in any Purchase Order, Purchase Order Agreement, or other invoice acknowledgment, Order by Customer or proposed at any time by Customer in any manner, which vary from, or conflict with the terms and conditions in this Agreement are deemed to be material alterations and are objected to by Stericycle without need of further notice of objection and shall be of no effect nor in any circumstances binding upon Stericycle unless expressly accepted in writing. If Customer's standard purchase order form is provided to Stericycle in connection with this Agreement, the terms and conditions for that Purchase Order will be superseded by the provisions of this Agreement and the use of the purchase order shall be only to facilitate Customer's payment of fees to Stericycle. Written acceptance or rejection by Stericycle of any such terms or conditions shall not constitute an acceptance of any other additional terms or conditions.

Term and Termination

- 3.0 **Term and Extension Term(s).** This Agreement shall be for the term set forth on the first page of this Agreement.
- 3.1 **Termination Prior to Expiration.**
- (a) If Customer breaches this Agreement by terminating Stericycle's collections prior to the expiration of its Term or in any other way violates this agreement in such a way that Stericycle's continued performance is rendered impossible or commercially impracticable, then Stericycle shall be entitled to collect from Customer an amount in liquidated damages equal to 50% of Customer's average charge on a monthly basis based on the 12 months' billings prior to the cessation of collections (or based on any lesser period if the contract began less than twelve months earlier) times the number of months, including prorated partial months, remaining until the expiration date of the Term or Extension Term. Customer hereby acknowledges (i) that Stericycle's damages resulting from the premature termination of collections include lost profits, inefficiencies resulting from route changes and reduced treatment plant throughput, increased administrative overhead, unrecoverable sunk training/instruction costs, and other elements of injury, (ii) that such damages are extremely difficult to quantify as they relate to any one Customer, and (iii) that the foregoing liquidated damages amount is a reasonable estimate of actual expected damages and is not a penalty. Liquidated damages as described herein is Stericycle's sole remedy for Customer's improper early termination.

(b) Cancellation with cause for non-performance: In the event either party fails to perform according to the terms and conditions outlined in this Agreement, written notice shall be provided to the other which outlines the performance issue(s) in question. In the event resolution is not achieved within 30 days of notice, the non-breaching party shall have the right to terminate this Agreement without penalty upon written notice to the breaching party.

(c) Stericycle shall have the right to terminate this Agreement at any time by giving Customer at least sixty (60) days notice in the event that it is unable to continue performing its obligations under this Agreement due to the suspension, revocation, cancellation or termination of any permit or required to perform this Agreement or in the event that a change in any law, regulation or ordinance makes it impractical or uneconomical, in Stericycle sole discretion, to continue performing this Agreement.

(d) Non-appropriation. Customer, as a government entity, reserves the right to terminate this Agreement in the event insufficient funds are appropriated for this Agreement in any fiscal year under the provisions of California Constitution Article 16 section 18a. Customer's fiscal year is July 1 to June 30 of each calendar year. Upon such termination, Customer will be released from any further financial obligation to Stericycle, 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. Stericycle will be given 30 days' prior written notice in the event that Customer requires such an action.

3.2 **Survival of Obligations.** Any provision which by its terms is meant to survive the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement. This Agreement shall survive the expiration or termination of the GPO Agreement.

Exclusivity and Extent of Services

4.0 Stericycle shall be the exclusive provider of pharmaceutical waste compliance services at all locations and facilities listed on Exhibit C-1, provided that if there are any exceptions to exclusivity with respect either to locations and facilities, or Services, they shall be listed in Exhibit C-2. Customer shall provide Stericycle with a list of all facilities that will receive pharmaceutical waste compliance Services from Stericycle and shall promptly notify Stericycle of any additions or deletions to the current service list of its Customer locations. Customer shall advise all such locations and facilities (other than Excluded Locations) of Stericycle's exclusive status with respect to the Services. All hazardous and non-hazardous Pharmaceutical Waste generated by such listed Acute Care facilities will be collected, transported, and disposed of exclusively by Stericycle or Stericycle's subcontractors.

Compliance with Laws and Regulations

5.0 **Laws and Regulations.** Each Party shall comply with all federal, state, and local statutes, regulations, agency rulings, local ordinances, and other laws applicable to their activities. Stericycle shall acquire and maintain all necessary permits, licenses, and other federal, state or local authorizations required to perform the Services and will furnish copies of these to Customer upon request. Customer shall acquire and maintain all necessary permits, licenses, and other federal, state, or local authorizations required with respect to any of its facilities using the Services and will furnish copies of these to Stericycle upon request.

5.1 **Recordkeeping.** Each Party shall maintain complete and accurate books and records in compliance with all recordkeeping, documentation, and manifesting requirements of applicable law, and in any case such books and records shall be sufficient to permit the parties to perform their obligations under this Agreement. The books and records shall include, but may not be limited to, inventories, personnel records, correspondence, instructions, plans, receipts, vouchers, copies of manifests and tracking records and any other records or reports or memoranda consistent with and for the periods required by applicable regulatory requirements and guidelines pertaining to storage, handling, transportation, transfer, and destruction of pharmaceutical products.

5.2 **Audits.** Stericycle shall cooperate with all audits conducted or performed by Customer to enable Customer to ensure compliance with applicable laws and regulations and the terms of this Agreement. Customer shall give Stericycle reasonable notice of its desire to audit Stericycle's performance. Stericycle shall give Customer reasonable, prompt, and complete access to its books, records, and employees necessary for Customer to complete the audit. Such audits may take place no more frequently than once annually (measured by the year between successive anniversaries of the Effective Date) unless audits are required more frequently by any applicable law or regulation, or unless Stericycle consents. Customer shall disclose the results of its audits to Stericycle to enable Stericycle to confirm its regulatory and contract compliance and to ensure Customer's continued satisfaction with the Services. Stericycle reserves the right to audit Customer waste and programs to ensure compliance. Stericycle will provide reasonable time and notice to Customer for audit.

Allocation of Risk; Insurance

6.0 **Allocation of Risk.** Unless the parties otherwise agree in writing in any particular case:

(a) **Pharmaceutical Waste and Third-Party Claims.** As between Customer and Stericycle, Customer shall be solely liable for all Losses to third parties (including Stericycle personnel or Stericycle's agents) caused by the handling,

storage, transport, possession, ingestion, application, or other use of Pharmaceutical Waste until such time, if any, as it is accepted by Stericycle for disposal, as evidenced by the signature of Stericycle's representative, at which point Stericycle shall be solely liable for such Losses unless cause of such losses were due to improper packaging, marking or handling by the Customer. These risk-of-loss provisions may be enforced by a claim for indemnification by the party not having the risk of loss hereunder in an action brought against such Party by a third party claimant, and the Party not having the risk of loss. This provision is not intended to impose upon the party bearing the risk of loss hereunder the additional duty to defend a third-party claim brought against the Party not having the risk of loss, but it may assume such duty if the Parties so agree.

(b) **Other Third-Party Claims.** As between Customer and Stericycle, the allocation of loss respecting a Party's Losses caused by other third-party claims shall be provided by the state whose law applies to the substance of the third-party claim.

6.1 **Cooperation.** The parties shall reasonably cooperate in responding to or defending against any third-party claims.

6.2 **Insurance.**

(a) **Inter-Party Agreements.** Any agreement between the Parties respecting a loss or third-party claim may include as parties their respective insurers.

(b) **Assignment.** Either Party may assign its right to indemnity (or, if state law so provides, contribution) (whether contractual, common-law, or statutory) to its insurer.

(c) **Insurance Required.** Each Party shall maintain general liability insurance in amounts ordinary and customary for their respective lines of business and level of activity.

(d) **Insurance Does Not Replace Indemnification.** Maintenance of the insurance coverages in the minimum specified amounts shall not be construed to relieve the Parties for any liability, whether within, outside, or in excess of the coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude a Party⁸ from taking other actions as are available to it under this Agreement or under Applicable Law.

Use of Subcontractors

7.0 **Use of Subcontractors.** Subject to the restrictions contained in the GPO Agreement, Stericycle may perform any of its obligations under this Agreement through subcontractors. Stericycle shall remain primarily liable to Customer for the performance of all such obligations. Stericycle shall use due care in the selection and supervision of subcontractors.

Proprietary Waste Characterization

8.0 **Proprietary Waste Characterization**

Stericycle's Waste Characterization software, processes, protocols data, reports, and other related intellectual property is proprietary and confidential and shall remain the property of Stericycle. Customer agrees not to disclose Stericycle's proprietary and confidential waste characterization software, processes, protocols, reports, or data except on a need to know basis only for Customer's employees whose job function requires access and use of the data, and as required by law. Customer agrees that any disclosure by Customer or Customer's employees of Stericycle's proprietary and confidential Waste Characterization software, processes, protocols, data, reports and other related intellectual property is a breach of this Agreement and will cause Stericycle irreparable harm.

General

9.0 **Integration and Amendment.** This Agreement supersedes all prior and contemporaneous agreements and understandings between the Parties relating to its subject matter and, together with its Exhibits and the GPO Agreement, is the complete and exclusive statement of the terms of their Agreement. It may be amended only by a writing signed by the Parties expressly described as an amendment to this Agreement.

9.1 **Effect of Exhibits and Attachments.** The Exhibits and Attachments are incorporated by reference in this Agreement. In the event of inconsistent provisions, the Exhibits and Attachments shall control this Agreement.

9.2 **Independent Contractor.** The relationship hereby established between Stericycle and Customer is solely that of independent contractors and this Agreement shall not create an agency, partnership, joint venture or employer/employee relationship, and nothing hereunder shall be deemed to authorize either Party to act for, represent or bind the other except as expressly provided in this Agreement.

9.3 **HIPAA.** This agreement in no way implicates the operation or application of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and the Parties are not Business Associates of one another as defined therein. If at a

later time Stericycle falls under the HIPAA definition of a Business Associate, the Parties will enter into a Business Associate Agreement at that time.

- 9.4 **Force Majeure.** No act or failure to act that is not in compliance with this agreement shall be deemed a breach hereof, and a Party's performance of this Agreement may be temporarily suspended, if such act, failure to act, or suspension is proximately caused by: (a) lightning, storms, earthquakes, landslides, flood, washouts, or other acts of God; (b) fires, explosions, or breakage of or accidents to plant, machinery, equipment, or storage; (c) strikes, lockouts, or other labor disturbances; (d) civil disturbances, sabotage, war, terrorism, blockades, insurrections, vandalism, riots, or epidemics; (e) acts of any governmental agency (other than acts to enforce laws or regulations in effect as of the Effective Date) or military authority; (f) unavailability of utilities or transportation; or, (g) any other cause, whether enumerated herein or otherwise, that is not reasonably within the control of the Party claiming suspension, which by the exercise of commercially practicable efforts, such Party is unable to overcome. A Party's claiming suspension or relief under this Section shall take all practicable steps to overcome the force majeure and to limit its duration and severity, and such relief shall cease upon the cessation of the force majeure. Notwithstanding the foregoing, any Party's lack of finances for whatever reason (including but not limited to general economic conditions), or a Party's or industries or geographical areas general financial condition, shall in no event be, a force majeure.
- 9.5 **Assignment Prohibited.** Subject to Stericycle's right to use subcontractors, neither Party shall assign this Agreement without the prior written consent of the other, provided that either Party may assign this Agreement without the others consent to a Party acquiring substantially all of the business or assets of such Party to which the performance of this Agreement relates. Either Party may assign this Agreement without the others approval to any wholly-owned subsidiary or to any company of which it is a wholly-owned subsidiary, provided that in the case of Customer, the effect of such assignment is not to materially decrease the amount of business transacted under this Agreement.
- 9.6 **Severability.** If any provision of this Agreement or the application thereof to any Party or circumstance shall to any extent be ruled invalid or unenforceable in any jurisdiction, that provision shall be severed from this Agreement as to such jurisdiction (but, to the extent permit by law, not elsewhere), and shall not affect the remainder hereof.
- 9.7 **Notices.** All notices, communications, demands and payments required or permitted to be given or made pursuant to this Agreement shall be in writing and sent by receipt by certified or registered mail, postage prepaid, overnight messenger service with proof of delivery, facsimile, or personal delivery. All notices sent by certified or registered mail shall be considered to have been given two business days after being deposited in the mail. All notices sent by overnight messenger service, facsimile, or personal delivery should be considered to have been given when actually received by the intended recipient. Either Party may change the address designated by notifying the other Party in writing. A Party giving notice shall send a notice to any changed address of the recipient of which it has actual knowledge, whether or not the recipient has given them notice of its changed address hereunder.
- 9.8 **Non-Waiver.** No waiver of any obligation or right of either Party shall be effective unless in writing, executed by the Party against whom it is being enforced. Any such waiver shall not preclude a Party from exercising any other right or later exercising the same right. No delay in seeking a remedy for breach hereunder shall be deemed a waiver of such remedy, nor does any waiver of any right under this Agreement imply waiver of any other right or waiver of any remedy for any subsequent breach.
- 9.9 **Interpretation.** The headings contained in this Agreement are inserted for convenience of reference only and shall not be a part, control or affect the meaning hereof. Ambiguities, if any, in this Agreement shall not be construed against any Party which may have, or may be deemed or claimed to have, authored the provision claimed to be ambiguous. Where necessary to read the agreement in a sensible fashion, the singular shall include the plural, the masculine shall include the feminine and neuter genders, and the present shall include the past and future, in all cases vice versa.
- 9.10 **No Third-Party Beneficiary.** This Agreement is entered into for the exclusive benefit of the Parties and their Affiliates. Neither Party intends that any other entity be a third-party beneficiary of this Agreement, and this Agreement shall not be deemed to be for the benefit of any third parties regardless of the parties' intentions.
- 9.11 **Choice of Law.** The interpretation and enforcement of this Agreement shall be governed by the law of the state of California, without reference to its conflict of laws rules, unless this Agreement otherwise provides.
- 9.12 **Counterparts; Facsimile Signatures.** This Agreement may be executed in counterparts, which together shall be deemed a single Instrument. This Agreement may be executed through the exchange of faxed signature pages. Faxed signatures shall have the same effect as original signatures.
- 9.13 **No Brokers.** Stericycle reserves the right to deal solely with the Customer and not with any third party agents of the customer for all purposes relating to this Agreement (other than as contemplated by the GPO Agreement). Customer represents and warrants to Stericycle that it is the medical waste generator and is acting for its own account and not through a broker or agent. Stericycle shall be entitled to terminate this agreement and seek all available legal remedies, including but not limited to liquidated damages, in the amount set forth herein for Customer's breach of this representation and warranty.

EXHIBIT A

STERICYCLE PHARMACEUTICAL WASTE COMPLIANCE PROGRAM

Stericycle, your partner in the management of regulated medical waste, is committed to helping your facility implement regulatory compliant solutions for your Rx Waste disposal needs. Our Pharmaceutical Waste Compliance Program is a hospital-wide program that will minimize environmental impact and regulatory exposure from improper identification, collection, and disposal of pharmaceutical waste. Stericycle's comprehensive, turn-key service will provide the Customer with the best possible management of risk and long term liability due to our financial strength, regulatory expertise, and commitment to environmentally sound solutions for compliance needs.

PHARMACEUTICAL WASTE COMPLIANCE SERVICES

Stericycle shall provide pharmaceutical waste compliance services to the Customer. These services shall include:

Phase I: Rx Formulary Waste Characterization, Program Design & Start-Up

Rx Formulary Waste Characterization

The Formulary Waste Characterization provides your facility with information necessary to be compliant with Federal EPA/RCRA and DOT regulations concerning identification, sorting, packaging, labeling, and documentation of RCRA hazardous and non-RCRA hazardous pharmaceutical waste.

Stericycle will utilize its proprietary database - based on National Drug Codes (NDC numbers) - to characterize your facility's pharmaceutical formulary to identify:

- EPA/RCRA defined hazardous pharmaceuticals
- U.S. DOT waste class per NDC numbered pharmaceutical

Rx waste characterization data will be provided in electronic format.

Typically, there are some NDC's in the hospital formulary that are not found in Stericycle's database (currently contains over 350,000 NDC's). These include NDC's that are:

- Not identified by an NDC number
- Identified by a Customer designated NDC number
- Compounded drugs

These items will require research and analysis by Stericycle staff to complete the waste characterization. Labor costs for research and analysis activities performed by Stericycle will be charged to the customer.

Pharmaceutical Waste Program Design & Start-Up

Stericycle will assist your facility in designing the program elements needed for an effective Rx Waste Compliance Program. The program design, implementation, and training includes:

- Assist in establishing the internal labeling system for pharmaceuticals dispensed from the pharmacy in order to allow hospital staff to properly identify waste streams.
- Evaluating the customer's current hazardous waste storage area and making recommendations on the space requirements, material flow, and necessary equipment to establish a central hazardous waste accumulation area appropriate for the customer's Rx waste compliance needs.
- Identification of satellite accumulation areas and recommendation on the container system to be used in the satellite accumulation areas. This container system is designed to work with the internal labeling system for pharmaceuticals dispensed from the Customer's pharmacy to make it simple for clinicians to follow and be in compliance.
- Assist in developing and implementing the internal logistics system for satellite container supply, transfer, and storage
- Set-up of satellite accumulation areas / points of collection including placement of accumulation containers and instructional materials.
- Rx Waste Compliance Program training materials provided via CD upon service implementation include:
 - Clinicians & EVS Power Point Training Presentations (separate presentations)
 - Q&A Sheet and Competency Quiz
 - Disposal Container Poster

Phase II: On-site Segregation & Disposal

Stericycle shall provide on-site pharmaceutical waste packing and labeling services by a Field Technician trained in proper handling and safety procedures. Customer is solely responsible for segregating non-hazardous waste, hazardous waste, incompatible (non-compatible) hazardous waste and dual (mixed infectious/hazardous) waste.

Transportation & Disposal services include:

- Manifested pickup of hazardous pharmaceutical waste from Customer sites
- Documented pickup of non-hazardous pharmaceutical waste from Customer sites
- DOT Waste disposal containers with labeling
- Transport to a regulated destruction facility for disposal

DOT compliant waste disposal containers are used for the segregation, transport and disposal of pharmaceutical waste from the generator's (Customer) designated hazardous waste accumulation area. The initial supply of waste disposal containers will be shipped to the Customer based upon the number and type of DOT waste streams identified as a function of the initial Rx Formulary Waste Characterization and DOT Waste Stream Analysis.

Phase III: On-going Rx Waste Characterization, Consulting, and Training

In order to keep the hospital's formulary waste characterization current, the hospital will submit NDC's and drug information for new or added pharmaceuticals to Stericycle for waste characterization. This will follow the same procedures as the initial waste characterization. This service is included in the monthly fee.

Customer will receive characterization report updates each time a characterization is completed. Characterization report updates will be provided to Customer electronically. A service fee will be charged for any hardcopy characterization reports requested by the Customer.

A study research fee will be charged for waste characterization of Clinical Investigation compounds – including multi-component blinded studies.

Stericycle will keep the customer up-to-date with regulations, training and program performance through Stericycle's After Care program. After Care consists of on-going, hospital-wide service reviews by Stericycle's trained Healthcare Compliance Specialists.

After Care program performance review includes an audit of the Satellite and Central Accumulation Areas, required regulatory paperwork, as well as waste disposal and segregation practices. Stericycle will assist the Customer in improving any deficiencies found.

After Care annual training will consist of regulatory updates and review, as well as program review (helpful for new employees). The hospital training staff is expected to attend the annual training class. As in the start-up training class, clinicians are invited to attend to reduce the burden on the hospital training staff. The intent of the annual training is to train-the-trainers.

If requested by the Customer, Stericycle will provide additional consulting and training services beyond what is included in the Phase 1 Start-up services or Phase 3 On-going Rx Waste Characterization, Consulting and Training. This could include additional training for the Customer's staff. There will be a fee for any additional training.

Hazardous Waste Disposal	\$ Included*
Dual Waste Disposal	\$ Included
Hazardous Transportation Containers/	\$ Included
	\$ Included (See leasing attachment 1)

Optional Services

Characterization of Clinical Study Drugs	\$500.00 each
Additional Training	\$150 per hour plus travel expenses
Unscheduled Stop Charge	\$204 per stop
Zip lock Baggies 1 Qt(500)	\$58.32
Zip lock Baggies 1 gallon(250)	\$52.48

Schedule B

Kern Medical Center Service Description & Fee Schedule

Item Description	Unit Measure	*Rate/Unit	Disposal method	Notes
Mobilization: (Per site)				
Transportation/Mobilization	Each	\$400.00	N/A	From San Jose, CA
Labor:				
Chemist/Technician	Hour (Hr)	\$75.00	N/A	On-Site Services Time, Per Person, Per Hour
Professional Services- Consulting, Policy and Procedure Reviews, Reporting	Hour (Hr)	\$105.00	N/A	HAZWOPER Training, Contingency Plan, Permits, to Be Proposed on a Project-By-Project Basis
Fluorescent Lamps: (Totals)				
4 Ft	LB	\$0.95	Recycling	\$35.00 Minimum Per Container
8 Ft	LB	\$0.95	Recycling	\$35.00 Minimum Per Container
Compacts, U-Shaped/Circular Fluorescent	LB	\$0.95	Recycling	\$35.00 Minimum Per Container
HID	LB	\$2.76	Recycling	\$35.00 Minimum Per Container
Ballasts:				
PCB Ballasts	Pound (lb)	\$2.85	Incineration	\$175.00 Minimum Per Container
Non-PCB Ballasts	Pound (lb)	\$1.25	Recycling	\$50.00 Minimum Per Container

Batteries: (Must be sorted by individual battery type or sorting fees apply)				
Alkaline	Pound (lb)	\$1.45	Recycling	Must Meet DOT Packaging \$50.00 Minimum Per Container
Nickel Cadmium	Pound (lb)	\$1.25	Recycling	Must Meet DOT Packaging \$50.00 Minimum Per Container
Lead Acid	Pound (lb)	\$0.40	Recycling	Must Meet DOT Packaging \$50.00 Minimum Per Container
Lithium	Pound (lb)	\$4.25	Recycling	Must Meet DOT Packaging \$50.00 Minimum Per Container
Mercury Waste:				
Devices containing Mercury (Recycle) - 5 Gallon Pail	5G	\$325.00	Recycling	
Devices containing Mercury (Recycle) - 15 Gallon Drum	15G	\$650.00	Recycling	
Lab Packs:				
Dual Waste	5G	\$250.00	Incineration	
Non-Reactive Lab Pack, RCRA Pharmaceuticals (Incin.) - 5 gallon drum	5G	\$125.00	Incineration	
Non-Reactive Lab Pack, RCRA Pharmaceuticals (Incin.) - 15 gallon drum	15G	\$195.00	Incineration	
Non-Reactive Lab Pack, RCRA Pharmaceuticals (Incin.) - 30 gallon drum	30G	\$275.00	Incineration	
Non-Reactive Lab Pack, RCRA Pharmaceuticals (Incin.) - 55 gallon drum	55G	\$355.00	Incineration	
ALL OTHER LABPACK WASTE QUOTED ON A CASE-BY-CASE BASIS				

Attachment 1
to
Pharmaceutical Waste Service Agreement
Leasing Agreement For Flat Fee Pricing Only

LICENSED EQUIPMENT

All containers and other equipment furnished by STERICYCLE to CUSTOMER (“Pharmaceutical Waste Equipment”) are provided pursuant to a License as more fully described below:

- (a) **License Grant.** STERICYCLE grants to CUSTOMER, as Licensee, under intellectual and personal property rights, and Licensee hereby accepts, a non-exclusive, non-transferable, revocable, non-sublicenseable right and license, during the Term and subject to payment of the applicable Fees, to use the STERICYCLE equipment solely and exclusively for the purpose of Pharmaceutical Waste Services on the Premises.
- (b) **Terms and Restriction of Use.** The Licensee is permitted to use the Pharmaceutical Waste Equipment exclusively in conjunction with STERICYCLE Rx Waste Services. Licensee may not, directly or indirectly, allow any other person to use or access the pharmaceutical waste Equipment, and may not, directly or indirectly, use or permit the use of Pharmaceutical Waste Equipment for any purpose other than STERICYCLE Rx Waste Services. Without limiting the foregoing, Licensee is expressly prohibited from selling, renting, sublicensing, leasing or otherwise making available the Pharmaceutical Waste Equipment for any purpose including but not limited to, reverse engineering, disassembling, or outsourcing for the benefit of any third parties, except to the extent otherwise expressly permitted by applicable law; or
- (c) **Notices of Unauthorized Use or Alleged Infringement.** Licensee agrees to notify STERICYCLE immediately if it becomes aware of any unauthorized use or disclosure of the Pharmaceutical Waste Equipment or if it becomes aware of any alleged facts that, if true, would support a claim that a third party is infringing the rights of STERICYCLE in the Pharmaceutical Waste Equipment. Licensee will advise STERICYCLE of the specific details of the unauthorized use or infringement claim.
- (d) **Reservation of Rights.** Any use of the Pharmaceutical Waste Equipment not specifically permitted by this Attachment is expressly prohibited. All rights not expressly granted hereunder by STERICYCLE are expressly reserved by STERICYCLE or its licensors, and no other license or right is granted to Licensee by implication, estoppel or otherwise.

Exhibit C-1
Service Locations
Customer locations, serviced by Stericycle under this agreement

Additional Locations: In the event that Customer acquires, leases, takes control or otherwise adds a location in a Stericycle service area, Customer shall notify Stericycle of the new location, and upon receiving notification, Stericycle shall add those serviced locations under the provisions of this service agreement, via an addendum.

In the event any new Customer Location is party to an existing agreement for services similar to the Services by a vendor other than Stericycle: (i) Customer will use commercially reasonable efforts to terminate such agreement as soon as possible; and (ii) such locations shall immediately become a Customer Location upon the expiration of such agreement.

Cust-Site	Location Name	Type	Address	Service Frequency
6071928-750	RxW/Kern County Hosp. Autho.	Hospital	1830 Flower St, Bakersfield, CA, 93305	Weekly

Locations For Hazardous Waste Services:

Cust-Site	Location Name	Type	Address	Service Frequency
6071928-750	RxW/Kern County Hosp. Autho.	Hospital	1830 Flower St, Bakersfield, CA, 93305	Weekly
	Sagebrush Clinic	Off-site	1111 Columbus St , Bakersfield CA 93305	On-Call

Exhibit C-2
EXCEPTIONS TO EXCLUSIVITY AND EXCLUDED LOCATIONS

Customer shall contract exclusively with Stericycle for the Services at all Acute Care Locations, with the following exceptions (to be left blank in the case of Customer-wide exclusivity for all Services):

(1) Acute Care Locations and facilities with respect to which Services shall be nonexclusive (i.e., they may receive Service from other providers):

(2) Services that shall be nonexclusive Customer-wide (i.e., Customer may receive these identified types of Services from other providers at any customer location):

(3) Excluded Acute Care Locations: Location and facilities where Stericycle shall provide no Services:



STERICYCLE NON HAZARDOUS PHARMACEUTICAL WASTE ACCEPTANCE POLICY

ACCEPTED WASTE WHICH MUST BE IDENTIFIED AND SEGREGATED FOR INCINERATION:

- ✓ **Trace-Chemotherapy Contaminated Waste** – RCRA Empty drug vials, syringes and needles, spill kits, IV tubing and bags, contaminated gloves and gowns, and related materials as defined in applicable laws, rules, regulations, or guidelines.
- ✓ **Non-RCRA Hazardous Pharmaceuticals** – Must be characterized and certified as non-RCRA hazardous material by the generator. Consult Stericycle Representative for specific requirements.

WASTE NOT ACCEPTED BY STERICYCLE

- ✗ **RCRA Hazardous Pharmaceutical Waste**
- ✗ **Chemicals** – Formaldehyde, formalin, acids, alcohol, waste oil, solvents, reagents, fixer, developer
- ✗ **Hazardous Waste** – Drums or other Containers with a hazard warning symbol, batteries, and other heavy metals
- ✗ **Radioactive Waste** – Any Container with a radioactivity level that exceeds regulatory or permitted limits; lead-containing materials
- ✗ **Bulk Chemotherapy Waste**
- ✗ **Compressed Gas Cylinders, Canisters, Inhalers, and Aerosol Cans**
- ✗ **Any Mercury-Containing Material or Devices** – Any mercury thermometers, sphygmomanometers, laboratory or medical devices
- ✗ **Mercury-Containing Dental Waste** – Non-contact and contact amalgam and products, chairside traps, amalgam sludge or vacuum pump filters, extracted teeth with mercury fillings, and empty amalgam capsules

RESPONSIBILITY FOR PROPER SEGREGATION

Customer is solely responsible for ensuring the proper segregation of non-RCRA hazardous waste. If any of the Waste Not Accepted by Stericycle (Non-conforming Waste) is found in the non-RCRA hazardous waste stream, then Customer will be solely responsible for all costs associated with clean-up, transportation, treatment, and disposal of the Non-conforming Waste by a company or companies permitted to clean-up, transport, treat, and dispose of such Non-conforming Waste.

ADDITIONAL POLICIES

Additional waste acceptance policies may apply based on state or permit specific requirements.

Exhibit D - Energy Charge

Percent of Invoice Fuel Surcharge

Stericycle uses an index-based surcharge that is adjusted monthly. Changes to the surcharge will be effective the first business day of each month. The surcharge will be based on the National U.S. Average 'On Highway' Diesel Fuel Price reported by the U.S. Department of Energy for the prior month to the adjustment.

The prices on these indexes are published by the U.S. Dept. of Energy and Stericycle is not responsible for the information provided.

Stericycle Energy Charge Table		
At Least (price per gallon)	But Less Than (price per gallon)	Surcharge (% of Invoice)
0	\$2.75	5.80%
\$2.76	\$3.00	6.30%
\$3.01	\$3.25	6.90%
\$3.26	\$3.50	7.40%
\$3.51	\$3.75	7.90%
\$3.76	\$4.00	8.50%
\$4.01	\$4.25	9.00%
\$4.26	\$4.50	9.60%
\$4.51	\$4.75	10.10%
\$4.76	\$5.00	10.70%
\$5.01	\$5.25	11.20%
\$5.26	\$5.50	11.70%
\$5.51	\$5.75	12.30%
\$5.76	\$6.00	12.80%

If the diesel rate rises above \$6.00, the 12.80% surcharge will be increased 0.6% for every \$0.25 increase in the diesel rate.

Stericycle reserves the right to update or modify the fuel table without prior notice



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

August 15, 2018

Subject: Proposed Agreement with Stericycle, Inc., for regulated sharps disposal services

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical requests your Board approve the proposed agreement with Stericycle, Inc., to provide regulated sharps disposal services for the main hospital campus and Columbus, Truxtun and Stockdale Clinics. This agreement is for a term of 3 years with a not-to-exceed cost of \$282,000.

The Agreement contains non-standard terms and cannot be approved as to form by Counsel due to Stericycle's liquidated damages clause that entitles Stericycle to collect liquidated damages for any early termination of the agreement.



Master Service Agreement

Customer Billing Information:

Company Name	<u>Kern County Hospital Authority</u>	Billing Attention	_____
Address 1	<u>1700 Mount Vernon Ave</u>	Billing Name	_____
Address 2	_____	Contact Phone #	_____
City/State/Zip	<u>Bakersfield /CA/93306</u>	Contact Fax #	_____
Contact Title	_____	Contact Email	_____

This Agreement is entered into, and effective as of Date signed by Customer between Kern County Hospital Authority (hereinafter referred to as "Customer"), for itself and on behalf of any of its operating subsidiaries, and Stericycle, Inc., a Delaware corporation, having a principal place of business at 28161 N. Keith Drive, Lake Forest, Illinois 60045 (hereinafter referred to as "Stericycle").

Services to be Provided		
<input type="checkbox"/> Regulated Medical Waste Disposal Treatment and disposal of medical and Bio-hazardous waste	<input checked="" type="checkbox"/> Sharps Disposal Management Comprehensive proactive sharps disposal service with reusable containers	<input type="checkbox"/> Integrated Waste Stream Solutions All-encompassing on-site waste stream management services
<input type="checkbox"/> Pharmaceutical Waste Disposal Help characterize, segregate, transport and properly dispose of pharmaceutical waste	<input type="checkbox"/> Hazardous Waste Disposal Environmentally sound and flexible solution for all hazardous waste streams	<input type="checkbox"/> Medical Product Supplies On-demand product/supplies containers or Mail Back auto replenishment
Service Details are referenced in Corresponding Attachments included herein.		

Agreement Effective Date: Date signed by Customer
Terms of Agreement: 36 Months

Master Agreement ID: HealthTrust HPG2621 E-2

See Master Agreement ID (The Master) for services between the Customer and Supplier. The execution of this Customer Agreement constitutes the Customer's agreement to participate in this Agreement. All capitalized terms not defined in this Customer Agreement will survive the term of the GPO agreement. The Members obligation and responsibilities under the Agreement are set forth. The Member shall agree to be bound by and shall comply with all applicable provisions of the Agreement, which is incorporated by reference.

Stericycle, Inc.

Service Provider Name: Stericycle, Inc.
 Representative Name: Jessica Ontiveroz
 Representative Title: Major Account Executive
 Date: 08/09/2018
 Signature: *Jessica Ontiveroz*

Customer

Customer/ Company Name: Kern County Hospital Authority
 Signee Name: Russell Bigler
 Signee Title: Chairman, Board of Governors
 Date: _____
 Signature: _____

By signing above I acknowledge that I am the Customer's authorized officer or agent and that I have the authority to bind Customer to this Agreement. Customer agrees to be bound by the terms and conditions that appear on following pages hereof and comply with Stericycle's Waste Acceptance Policy, both of which are integral parts of this Agreement.

Stericycle, Inc. • 4010 Commercial Ave., Northbrook, IL, 60062 • (866) 783-9816 • www.stericycle.com

**REVIEWED ONLY
 NOT APPROVED AS TO FORM**

By *[Signature]*
 Legal Services Department

ATTACHMENT 1
to
Sharps Management Service Agreement

CUSTOMER'S RESPONSIBILITIES

1. Services and Term.

(a) The term ("Term") of this Agreement is established on page one of this document, 36 months from the first day of the month in which Stericycle Re-Usable Sharps equipment is installed.

(b) During the term of this Agreement, Stericycle shall furnish the Customer with "Sharps Management Services," defined as scheduled collection and disposal of Sharps Waste from the premises. The term "Sharps Waste" as used herein is defined, for the most part, in the context of existing federal and state regulations governing the management of "Regulated Medical Waste" (RMW). Specifically, for the purpose of this Agreement, "Sharps Waste" as defined by the Federal US Department of Transportation (DOT), as: §173.134 (a)(7) Sharps means any object contaminated with a pathogen or that may become contaminated with a pathogen through handling or during transportation and also capable of cutting or penetrating skin or a packaging material. Sharps include needles, syringes, scalpels, broken glass, culture slides, culture dishes, broken capillary tubes, broken rigid plastic, and exposed ends of dental wires.

(c) Title to Sharps Waste and other Regulated Medical Waste (other than Non-Conforming Waste) shall transfer to and vest in Stericycle at such time as such waste is loaded onto Stericycle vehicles. Customer shall have title to the Sharps Waste and other Regulated Medical Waste at all prior times. Customer shall hold title to any Non-Conforming Waste at all times, whether refused for collection, returned to the Customer for proper disposal after collection or otherwise disposed of in accordance with Customer's instructions or arrangements.

2. Protection of Stericycle's Information. Except as set forth in the GPO Agreement the Customer shall not in any manner disclose any business or technical information relating to this Sharps Management Services Agreement, including pricing, length of term, or services, except as required by law. Stericycle shall not disclose any confidential information of Customer to any person except for employees, consultants, subcontractors, and agents of Stericycle who have a need to know such information.

3. Agreement Confidential. The Customer must not disclose the terms of this Sharps Management Services Agreement to any other person or entity other than as required by law or as permitted under the GPO Agreement.

4. Indemnification.

(a) **Stericycle Indemnification.** Stericycle agrees to defend, indemnify, and hold harmless HPG and each Customer, their Affiliates, successors, assigns, directors, officers, agents and employees ("HPG Indemnitees") from and against any and all liabilities, demands, losses, damages, costs, expenses, fines, amounts paid in settlements or judgments, and all other reasonable expenses and costs incident thereto, including reasonable attorneys' fees (collectively referred to as "Damages") arising out of or resulting from: (i) any claim, lawsuit, investigation, proceeding, regulatory action, or other cause of action, arising out of or in connection with the Services, or the use or omission of the Services ("Injury"), except to the extent the Injury was caused by reason of an HPG Indemnitee's negligence; (ii) the breach or alleged breach by Stericycle of the representations, warranties or covenants contained in this Agreement or in materials furnished by Stericycle, including the Warranty of Non-exclusion set forth in Section 13.5 of the Services Agreement; or (iii) any infringement, misappropriation or alleged infringement or misappropriation of any patent, trademark, copyright, trade secret or other intellectual property right resulting from the purchase of Services and/or Customers' receipt of any Services provided hereunder or anything furnished in connection with the provision of the Services.

(b) **Customer Indemnification.** Customer agrees to defend, indemnify and hold harmless Stericycle, its Affiliates, successors, assigns, directors, officers, agents and employees ("Stericycle Indemnitees") from and against any and all Damages arising out of or resulting from (i) any claim, lawsuit, investigation, proceeding, regulatory action, or other cause of action, arising out of or in connection with its performance or its obligations under this Agreement ("Claim") (including a Claim arising out of Non-Conforming Waste), except to the extent such Claim was caused by reason of a Stericycle Indemnitee's negligence; or (ii) the breach or alleged breach by Customer of the representations, warranties or covenants contained in this Agreement or in materials furnished by Customer. If the Injury or Claim, as the case may be is caused by the negligence of both Stericycle and Customer, the apportionment of said Damages shall be shared between Stericycle and Customer based upon the comparative degree of each other's negligence, and each shall be responsible for its own defense and costs, including but not limited to the costs of defense, attorneys' fees, witnesses' fees and expenses incident thereto.

(c) **Indemnification Process.** If any demand or claim is made or suit is commenced against an HPG Indemnitee or a Stericycle Indemnitee, as applicable (each, and "Indemnitee") for which the indemnifying party has an indemnity obligation under Section 5.4.2.1, above, written notice of such shall be provided to the indemnifying party, the indemnifying party shall undertake the defense of any such suit, and such Indemnitee shall cooperate with the indemnifying party in the defense of the demand, claim or suit to whatever reasonable extent the indemnifying party requires and at the indemnifying party's sole expense. The indemnifying party shall have the right to compromise such claim at the indemnifying party's expense for the benefit of such Indemnitee; provided, however, the indemnifying party shall not have the right to obligate an Indemnitee in any respect in connection with any such compromise without the written consent of such Indemnitee. Notwithstanding the foregoing, if the indemnifying party fails to assume its obligation to defend, an Indemnitee may do so to protect its interest and seek reimbursement from the indemnifying party.

(d)

5. Collection of Waste.

- (a) Sorting Waste Streams – Customer and its employees and agents shall only place Sharps Waste in the containers. Customer will make the containers accessible for pick-up on the pick-up dates and in the locations specified or agreed. Sharps Waste does not include any hazardous or radioactive waste, cytotoxic drugs or antineoplastic agents, bulk blood or liquid or any waste or other material not falling within the definition of regulated medical waste to the extent such regulations specify Sharps Waste (“Non-Conforming Waste”). The Customer will be responsible for segregating all waste in accordance with federal, state, and local regulations. Stericycle may at its discretion refuse to collect any Non-Conforming Waste or containers it reasonable suspects may contain Non-Conforming Waste.
- (b) NIOSH Optimal Installation Height - Stericycle is committed to providing the most current compliant services. Stericycle complies with the current NIOSH Optimal Installation Height recommendations for the installation of sharps containers. The Customer may choose to select heights outside of the recommendations but must notify Stericycle prior to installation.

6. Payment Terms. Stericycle shall invoice Customer for all Services performed. Payment is due in full within 30 days of the receipt of the invoice by Customer.

7. Licensed Equipment. All containers and other equipment furnished by Stericycle to Customer (“Sharps Equipment”) are provided pursuant to a License as more fully described below:

- (a) License Grant - Stericycle grants to Customer, as Licensee, under intellectual and personal property rights, and Licensee hereby accepts, a non-exclusive, non-transferable, revocable, non-sublicenseable right and license, during the Term and subject to payment of the applicable Fees, to use the Stericycle equipment solely and exclusively for the purpose of Sharps Management Services on the Premises.
- (b) Terms and Restriction of Use - The Licensee is permitted to use the Sharps Equipment exclusively in conjunction with Stericycle Sharps Management Services. Licensee may not, directly or indirectly, allow any other person to use or access the Sharps Equipment, and may not, directly or indirectly, use or permit the use of Sharps Equipment for any purpose other than in connection with the Stericycle Sharps Management Services hereunder. Without limiting the foregoing, Licensee is expressly prohibited from selling, renting, sublicensing, leasing or otherwise making available the Sharps Equipment for any purpose including but not limited to, reverse engineering, disassembling, or outsourcing for the benefit of any third parties, except to the extent otherwise expressly permitted by applicable law; or
- (c) Notices of Unauthorized Use or Alleged Infringement - Licensee agrees to notify Stericycle immediately if it becomes aware of any unauthorized use of the Sharps Equipment provided to Licensee under this Sharps Management Services Agreement and of the specific details of such unauthorized use.
- (d) Reservation of Rights. - Any use of the Sharps Equipment not specifically permitted by this Sharps Management Services Agreement or the GPO Agreement is expressly prohibited. All rights not expressly granted hereunder by Stericycle are expressly reserved by Stericycle or its licensors, and no other license or right is granted to Licensee by implication, estoppel or otherwise.

8. Emergency Procedures. If an emergency occurs while a Stericycle’s employee, agent or subcontractor is on the premises of a Customer’s facility, the Customer must make emergency services available to the person or persons, including first aid to the same extent that those emergency services would be available to a Customer’s regular employee, agent or subcontractor at the same facility.

9. Termination.

- (a) In the event of breach of any provision of this Agreement, the non-breaching party shall notify the breaching party in writing of the specific nature of the breach and shall request that it be cured. If the breaching party does not cure the breach within thirty (30) days of such notice, the non-breaching party may immediately terminate this Agreement on written notice to the breaching party, and such termination shall not preclude the non-breaching party from pursuing any and all remedies available to it at law or in equity.
- (b) Non-appropriation. Customer, as a government entity, reserves the right to terminate this Agreement in the event insufficient funds are appropriated for this Agreement in any fiscal year under the provisions of California Constitution Article 16 section 18a. Customer’s fiscal year is July 1 to June 30 of each calendar year. Upon such termination, Customer will be released from any further financial obligation to Stericycle, 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. Stericycle will be given 30 days’ prior written notice in the event that Customer requires such an action.
- (c) This Agreement shall survive the expiration or termination of the above referenced GPO Agreement.

10. Fee for Services.

- (a) Fees – As consideration for the Services, Customer shall pay the fees set forth on Exhibit A hereto.

In addition, the pricing for the Services provided under this Agreement, if Customer has at least 100 licensed acute care beds and is currently using disposable sharps containers, the Monthly Fees will include cost savings equal to at least 5% of the current

disposable sharps costs, based on findings of the baseline analysis, provided the participating location implements the recommendations that Stericycle outlines for Sharps Waste Management.

- (b) **Price Protection** – Price Protection. Customer Prices for Services may not be increased for the first twelve (12) months of the of a 36 month Term or the first twenty four (24) months of a 60 month Term. Thereafter, prices may be increased annually, but by no more than the lesser of (i) three and a half percent (3.5%), or (ii) the percentage increase in Consumer Price Index for all Medical Services (CPI-Medical Services) for the U.S. City Average, 1982-84 = 100, during the then prior twelve (12) month period. Additionally, Stericycle may adjust the Rate Structure (i) to account for operational changes it implements to comply with changes in law, regulatory changes, in the waste treatment location, or to otherwise cover unforeseen, significant cost escalation.
- (c) **Taxes** – In addition to Stericycle’s charges for services and products under this Agreement, the Customer shall pay all taxes imposed or levied by any governmental authority with respect to such services or products. These taxes include all sales, use, excise, occupation, franchise and similar taxes and tax-like fees and charges (but do not include any taxes on Stericycle’s net income). Stericycle shall cooperate with the Customer to determine the applicability of any exemption certificates that the Customer provides to Stericycle in a timely manner.
- (d) **Per Invoice Energy Surcharge** – Stericycle has instituted a per invoice fuel surcharge to manage and isolate the impact of Diesel fuel price fluctuations. The fuel surcharge is based on the U.S. ‘On Highway’ Diesel Price Index. A table outlining the Fuel Surcharge can be found in Exhibit E of this agreement.
- (e) **Container Adjustment Period** – Stericycle and Customer recognize that during the thirty (30) day period, the “Adjustment Period” following installation the number of containers on the premises or volume of containers at various locations may need modification due to a variety of factors. Stericycle fees may be increased or decreased in the event container locations and volumes vary from those originally contemplated. This increase or decrease in the monthly fee during the Adjustment Period may occur without amending this Agreement.
- (f) **Additional Containers** – After the adjustment period, additional container locations or volumes added to the Customer’s premises will result in increased monthly Service Fees of \$8.00 for each two (2), three (3) or four (4) gallon container, \$12.00 for each eight (8) gallon container and \$24.00 for each seventeen (17) gallon container. Additional container locations must be authorized by the Customer in writing.
- (g) **Liquidated Damages** – If Customer breaches this Sharps Management Services Agreement by terminating Stericycle’s collections prior to the expiration of its Term for any reason other than for Stericycle’s material breach of this Agreement or in any other way violates this Sharps Management Services Agreement in such a way that Stericycle’s continued performance is rendered impossible or commercially impracticable, then Stericycle shall be entitled to collect from Customer an amount in liquidated damages equal to 50% of Customer’s average charge on a monthly basis based on the 12 months’ billings prior to the cessation of collections (or based on any lesser period if the contract began less than twelve months earlier) times the number of months, including prorated partial months, remaining until the expiration date of the Term or Extension Term. Customer hereby acknowledges (i) that Stericycle’s damages resulting from the premature termination of collections include lost profits, inefficiencies resulting from route changes and reduced treatment plant throughput, increased administrative overhead, unrecoverable sunk training/instruction costs, and other elements of injury, (ii) that such damages are extremely difficult to quantify as they relate to any one customer, and (iii) that the foregoing liquidated damages amount is a reasonable estimate of actual expected damages and is not a penalty. Liquidated damages as described herein is Stericycle’s sole remedy for Customer’s improper early termination.

11. Title to Waste. Title to and risk of loss for Conforming Waste shall pass from Customer to Stericycle when it is loaded into vehicles of Stericycle. Title to and risk of loss for Nonconforming Waste shall remain with Customer at all times. Stericycle shall exercise reasonable care in handling Nonconforming Waste. Stericycle may, in its sole discretion, return any Nonconforming Waste to the Customer or to Customer’s designee.

12. Exclusivity. Customer agrees to use no other Regulated Medical Waste disposal service or method for Sharps Disposal Management at the locations listed on Exhibit B during the Term of this Agreement and any Extension Term.

13. Notices. All notices, requests, demands and other communications required or permitted to be given under this Agreement shall be in writing and shall be either served personally on the party to whom notice is to be given (in which case, such notice shall be deemed to have been duly given on the date of such service) or mailed to the party to whom notice is to be given, by first class mail, registered or certified, return receipt requested, postage prepaid, and properly addressed as follows (in which case, such notice shall be deemed to have been duly given on the third (3rd) day following the date of such mailing):

Stericycle:	Stericycle, Inc. Attn: Brent Arnold, VP LQ Business Unit 28161 North Keith Drive Lake Forest, IL 60045
Customer:	Kern Medical Center 1700 Mount Vernon Avenue Bakersfield, CA 93306 Attn: Chief Executive Officer

14. Failure To Return Equipment. All special function items including Funnel Tops, Traps, and Floor Dollies, will be supplied by Stericycle as needed. Customer will be responsible for all replacement charges for equipment not returned to Stericycle in usable condition upon expiration or termination of this Sharps Management Services Agreement or for replacement of equipment destroyed, damaged or discarded by Customer during any Term of this Sharps Management Services Agreement. Replacement costs on the date of this Sharps Management Services Agreement are listed below:

Cabinet for 3 Gallon Sharps Container	\$28.00
Cabinet for 2 Gallon Sharps Container	\$28.00
Cabinet for 4 Gallon Sharps Container	\$38.00
Plastic, Wall Mount for 2, 3 & 4 gal Sharps Container	\$20.00
Wall Bracket for 8 Gallon Sharps Container	\$38.00
Stability Base for 2 & 3 Gallon Sharps Container	\$20.00
Wire Dolly for 8 Gallon Sharps Container	\$48.00
Wire, Step-On Dolly for 8 Gallon Sharps Container	\$58.00
Black Dolly for 17 Gallon Sharps Container	\$58.00
Wire, Step-On Dolly (Slide Top) for 17 Gallon Sharps Container	\$68.00
Wire, Step-On Dolly (Hamper Lid) for 17 Gallon Sharps Container	\$68.00
4 Gallon Sharps Container	\$28.00
3 Gallon Sharps Container	\$22.00
2 Gallon Sharps Container	\$22.00
8 Gallon Sharps Container	\$28.00
17 Gallon Sharps Container	\$48.00
Transport Carts	\$850.00
Cart Cover	\$58.00

15. Entire Agreement, Modification. Except for the GPO Agreement, this writing contains the entire Agreement between the parties hereto with respect to the subject matter herein and supersedes any prior statement, agreement or representation either oral or written. No modification of this Agreement shall be binding unless modification shall be in writing and signed by the parties hereto. If any provision of this Agreement conflicts with Customer's purchase orders or acknowledgements, the terms and conditions of this Agreement shall govern.

16. Force Majeure. The obligations of either party to perform under this Agreement will be excused during each period of delay caused by acts of God, war or terrorism, or by shortages of power or materials or government orders which are beyond the reasonable control of the party obligated to perform and prevents the party from being able to perform ("Force Majeure Event"). In the event that either party ceases to perform its obligations under this Agreement due to the occurrence of a Force Majeure Event, such party shall: (1) immediately notify the other party in writing of such Force Majeure Event and its expected duration; (2) take all reasonable steps to recommence performance of its obligations under this Agreement as soon as possible. In the event that any Force Majeure Event delays a party's performance for more than thirty (30) days following notice by such party pursuant to this Agreement, the other party may terminate this Agreement immediately upon written notice to such party.

17. Miscellaneous.

- (a) This Agreement shall be binding upon the parties and their successors and assigns.
- (b) Each person executing this Agreement represents and warrants that they have the right, power and authority to sign this Agreement on behalf of such party without the joinder of any other person and that this Agreement is fully binding on such party.
- (c) Stericycle is solely responsible to carry out the designated disposal and collection of sharps according to Federal, State and local regulations.
- (d) This Agreement may be executed in one or more counterparts, and any such counterpart shall, for all purposes, be deemed an original, but all such counterparts together shall constitute but one and the same instrument.
- (e) If any provision of this Agreement is held unenforceable, then such provision will be modified to reflect the parties' intention. All remaining provisions of this Agreement shall remain in full force and effect.
- (f) Neither party will assign any rights or obligations under this Agreement without the express written consent of the other party. Such consent shall not be unreasonably withheld.

- (g) Stericycle reserves the right to deal solely with the Customer and not with any third party agents of the customer for all purposes relating to this Agreement (other than as contemplated by the GPO Agreement). Customer represents and warrants to Stericycle that it is the medical waste generator and is acting for its own account and not through a broker or agent. The Parties shall be entitled to terminate this agreement and seek all available legal remedies, including but not limited to liquidated damages, in the amount set forth herein for a Party's breach of this representation and warranty.
- (h) This Agreement shall be governed in accordance with the laws of the state of California, without regard to the choice of laws provisions.
- (i) Stericycle is, and shall perform the Services as, an independent contractor and shall have and maintain complete control over all of its employees and operations. Neither Stericycle nor anyone employed by Stericycle shall be, represent, act, purport to act, or be deemed the agent, representative, employee or servant of Customer.
- (j) Any provision of this Agreement that is meant to survive the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement. This Agreement shall survive the expiration or termination of the GPO Agreement.

Exhibit A - Pricing

Hospital Price Structure	See Attachments for Applicable Locations	
Service Rate Type	Effective Rate	Unit of Measure
Hospital SMS Flat Monthly Fee	\$6506.49	Per Month
Energy Surcharge	X	Included
Record Retention	\$8.29	Per Shipping Document

Offsite Price Structure	See Attachments for Applicable Locations	
Recurring Rate Type	Effective Rate	Unit of Measure
Sagebrush Clinic Monthly SMS Fee	\$672.75	Per Month
Stockdale Clinic Monthly SMS Fee	\$400.00	Per Month
KMCPG Truxtun Clinic Monthly SMS Fee	\$250.00	Per Month
RXBI Pharm Rate	\$84.52	Per Box
Record Retention	\$8.29	Per Shipping Document

Exhibit B - Service Locations

Customer locations, serviced by Stericycle under this agreement

Additional Locations: In the event that Customer acquires, leases, takes control or otherwise adds a location in a Stericycle service area, Customer shall notify Stericycle of the new location, and upon receiving notification, Stericycle shall add those serviced locations under the provisions of this service agreement, via an addendum.

In the event any new Customer Location is party to an existing agreement for services similar to the Services by a vendor other than Stericycle: (i) Customer will use commercially reasonable efforts to terminate such agreement as soon as possible; and (ii) such locations shall immediately become a Customer Location upon the expiration of such agreement.

Cust-Site	Location Name	Type	Address	Service Frequency
6071928-001	BIO/Kern Medical Center	Hospital	1830 Flower St, Bakersfield, CA, 93305	Weekly
6071928-002	BIO/KMC Sagebrush Clinic	Offsite	1111 Columbus St, Bakersfield, CA, 93305	Weekly
6071928-003	BIO/Stockdale Clinic	Offsite	9300 Stockdale Hwy, Bakersfield CA, 93311	Bi-Weekly
6134054-001	BIO/Pediatrics Truxtun	Offsite	6001 Truxtun Ave, Bakersfield, CA, 93309	Monthly



REGULATED MEDICAL WASTE ACCEPTANCE POLICY

Stericycle policy requires compliance with all applicable regulations regarding the collection, transportation and treatment of regulated medical waste. Federal Department of Transportation (DOT) Regulations require the generator of regulated medical waste to certify that the packaging and documentation of transported regulated medical waste complies with DOT regulations regarding waste classification, packaging, labeling and shipping documentation. To ensure that neither Stericycle nor the generator of regulated medical waste violates applicable regulations, it is imperative that all parties understand the rules regarding proper identification, classification, segregation and packaging of regulated medical waste. The purpose of this policy is to summarize the minimum requirements for preparing your medical waste for collection, transportation and treatment. Additional facility or state-specific waste acceptance policies may apply based on permit specifications. Please contact your local representative for further information. You may also call (866) 338-5120.

REGULATED MEDICAL WASTE

Stericycle accepts medical waste generated in a broad range of medical, diagnostic, therapeutic and research activities. The term "medical waste" includes biohazardous, biomedical, infectious or regulated medical waste as defined under federal, state or local laws, rules, regulations and guidelines. Except as defined by specific state regulations, this **excludes** RCRA hazardous waste pharmaceuticals, all DEA scheduled drugs including controlled substances, bulk chemotherapy, waste containing mercury or other heavy metals, batteries of any type, cauterizers, non-infectious dental waste, chemicals such as solvents, reagents, corrosives or ignitable materials classified as hazardous waste under Federal and State EPA Regulations. In addition, Stericycle **cannot accept** bulk liquids, radioactive materials, or complete human remains (including heads, full torsos and fetuses). Stericycle **cannot accept** these excluded materials packaged as regulated medical waste. All lab wastes or materials which contain or have the potential to contain infectious substances arising from those agents listed under 42 CFR 72.3 are strictly prohibited from medical waste by federal law and must be pretreated prior to disposal. Separate protocol and packaging requirements apply for the disposal of non-hazardous pharmaceuticals. Hazardous waste transportation services may be offered in certain geographical locations, under separate contract. Please contact your local representative for details and packaging specifications.

* *Un-dispensed from DEA Registrant*

WASTE SEGREGATION AND PACKAGING

The generator is solely responsible for properly segregating, packaging and labeling of regulated medical waste. Proper segregation and packaging reduces the potential for accidental release of the contents and exposure to employees and the general public. DOT regulations require (49 CFR 173.197) that all packages of regulated medical waste be prepared for transport in containers meeting the following requirements: 1) rigid; 2) leak resistant; 3) impervious to moisture; 4) of sufficient strength to prevent tearing or bursting under normal conditions of use and handling; 5) sealed to prevent leakage during transport; and 6) puncture resistant for sharps. All regulated medical waste must be accompanied by a properly completed shipping document (See 49 CFR 172.202).

MANAGEMENT OF NON-CONFORMING WASTE

As required by regulation and company policy, Stericycle employees may refuse containers that are non-conforming because of their contents or are improperly packaged, leaking, damaged or likely to create a risk of exposure to employees or the general public. Any waste found to be non-conforming to this Waste Acceptance Policy identified in route to, or at a Stericycle location, may be returned to the generator for proper packaging and disposal, or may be recouted for appropriate destruction; this may include improperly marked regulated medical waste which should have been identified for incineration (i.e. pathological, chemotherapy or non-hazardous pharmaceuticals). Proper segregation and packaging is essential to ensure compliant and safe handling, collection, transportation and treatment of regulated medical waste.

STERICYCLE REGULATED MEDICAL WASTE ACCEPTANCE POLICY CHECKLIST

ACCEPTED REGULATED MEDICAL WASTE

- Sharps - Means any object contaminated with a pathogen or that may become contaminated with a pathogen through handling or during transportation and also capable of cutting or penetrating skin or a packaging material. Sharps includes needles, syringes, scalpels, broken glass, culture slides, culture dishes, broken capillary tubes, broken rigid plastic, and exposed ends of dental wires.
- Regulated Medical Waste or Clinical Waste or (Bio) Medical Waste - Means a waste or reusable material derived from the medical treatment of an animal or human, which includes diagnosis and immunization, or from biomedical research, which includes the production and testing of biological products.

ACCEPTED REGULATED MEDICAL WASTE WHICH MUST BE IDENTIFIED AND SEGREGATED FOR INCINERATION

- Trace Chemotherapy Contaminated Waste - RCRA Empty drug vials, syringes and needles, spill kits, IV tubing and bags, contaminated gloves and gowns, and related materials as defined in applicable laws, rules, regulations or guidelines
- Pathological Waste - Human or animal body parts, organs, tissues and surgical specimen (decanted of formaldehyde, formalin or other preservatives as required per hazardous waste rules)
- Non-RCRA Pharmaceuticals - Must be characterized and certified as non-RCRA hazardous material by the generator. Excludes all DEA scheduled drugs, including controlled substances*
- California Only - Solidified Suction Canisters - Suction canisters that have been injected with solidifier materials to control liquids or suction canisters made of high heat resistant plastics such as polysulfone

REGULATED MEDICAL WASTE NOT ACCEPTED BY STERICYCLE

- Untreated Category A Infectious Substances
- Complete Human Remains (including heads, full torsos, and fetuses)
- Bulk Chemotherapy Waste
- Mercury-Containing Dental Waste - Non-contact and contact amalgam and products, chairside traps, amalgam sludge or vacuum pump filters, extracted teeth with mercury fillings and empty amalgam capsules
- Any Mercury Containing Material or Devices - Any mercury thermometers, Sphygmomanometers, lab or medical devices
- RCRA Hazardous Pharmaceutical Waste and all DEA Federal and State controlled substances* fluorescein
- Compressed Gas Cylinders, Canisters, Inhalers and Aerosol Cans
- Hazardous or Universal Waste - any other waste determined by Federal or State EPA regulations including but not limited to batteries, bulbs, heavy metals, etc.
- Radioactive Waste - Any container with a radioactivity level that exceeds regulatory or permitted limits; lead-containing materials

*Consult Stericycle Representative for specific requirements

Additional waste acceptance policies may apply based on state or permit specific requirements. Hazardous waste transportation services may be offered in certain geographical locations, under separate contract. Please refer to your local Stericycle Representative for additional information and options for possible hazardous waste handling. For additional information on container and labeling requirements contact our Stericycle Customer Service Department at (866) 338-5120.

Exhibit C - Stericycle Waste Acceptance Policy

Exhibit D - Energy Charge

Percent of Invoice Fuel Surcharge

Stericycle uses an index-based surcharge that is adjusted monthly. Changes to the surcharge will be effective the first business day of each month. The surcharge will be based on the National U.S. Average 'On Highway' Diesel Fuel Price reported by the U.S. Department of Energy for the prior month to the adjustment. The prices on these indexes are published by the U.S. Dept. of Energy and Stericycle is not responsible for the information provided.

Stericycle Energy Charge Table		
At Least (price per gallon)	But Less Than (price per gallon)	Surcharge (% of Invoice)
0	\$2.75	5.80%
\$2.76	\$3.00	6.30%
\$3.01	\$3.25	6.90%
\$3.26	\$3.50	7.40%
\$3.51	\$3.75	7.90%
\$3.76	\$4.00	8.50%
\$4.01	\$4.25	9.00%
\$4.26	\$4.50	9.60%
\$4.51	\$4.75	10.10%
\$4.76	\$5.00	10.70%
\$5.01	\$5.25	11.20%
\$5.26	\$5.50	11.70%
\$5.51	\$5.75	12.30%
\$5.76	\$6.00	12.80%

If the diesel rate rises above \$6.00, the 12.80% surcharge will be increased 0.6% for every \$0.25 increase in the diesel rate.

Stericycle reserves the right to update or modify the fuel table without prior notice



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

August 15, 2018

Subject: Proposed Agreement with Presidio Networked Solutions Group, LLC, for the lease of equipment, software, and services to improve information technology infrastructures and data storage in the support of the Cerner Millennium Project.

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical requests your Board approve the proposed Agreement with Presidio Networked Solutions Group, LLC, for the lease of data storage and backup solutions for Kern Medical. These solutions will provide sufficient redundant data storage for all Kern Medical systems and enterprise backup of all data, which is necessary to support current operations and the incoming Cerner Millennium Project.

The Kern Medical Information Technology department reviewed three vendors in the decision making process and determined Presidio Networked Solutions Group, LLC to be the best strategic decision for Kern Medical, as their solutions will vastly improve current operations and align with the CERNER Millennium requirements.

The three-year cost of the lease will be \$2,017,549, with a monthly lease cost of \$51,732.

The monthly lease includes the hardware cost for the solution, referenced by Quote 2003218804043-02

The proposed Agreement contains non-standard terms and cannot be approved as to form by Counsel due to a limitation of liability to fees paid, indemnification limited to infringement and does not include any indemnification for possible malfeasance, issues with confidentiality, applicable law, and venue.

PRESIDIO™

MASTER SERVICES AGREEMENT

THIS MASTER SERVICES AGREEMENT (the “Agreement”), is entered into this 15th day of August, 2018, by and between Presidio Networked Solutions Group, LLC, a Delaware limited liability company and a wholly owned subsidiary of Presidio Networked Solutions LLC, with offices located at 1955 Lakeway Drive, Suite 220, Lewisville, Texas 75057 (“PRESIDIO”) and Kern County Hospital Authority, a local unit of government which owns and operates Kern Medical Center, with offices located at 1700 Mount Verone Avenue, Bakersfield, California 93306 (“CLIENT”). CLIENT and PRESIDIO shall collectively be referred to as the “Parties” and individually, as a “Party.”

WHEREAS, CLIENT requires certain knowledge and/or services regarding to information technology infrastructure as specifically described in the attached Proposal, included as **Attachment A** hereto (“Professional Services”); and

WHEREAS, PRESIDIO is in the business of and is willing to provide such Professional Services;

NOW THEREFORE, for the consideration hereinafter described, the receipt and sufficiency of which is hereby acknowledged, CLIENT and PRESIDIO agree as follows:

ARTICLE 1: DUTIES AND RESPONSIBILITIES OF PRESIDIO

PRESIDIO shall use commercially reasonable efforts to provide those Professional Services specified on any proposal, statement of work or schedule (“SOW”) which is agreed to in writing by PRESIDIO and CLIENT.

The Parties acknowledge and agree that PRESIDIO, its parent company, its subsidiaries and its affiliated entities are permitted to sell and deliver Professional Services to CLIENT under this Agreement.

ARTICLE 2: DUTIES AND RESPONSIBILITIES OF CLIENT; PURCHASE ORDERS

A. CLIENT agrees that where participation by its own staff is necessary for PRESIDIO to provide Professional Services, assigned staff will possess the appropriate knowledge, skill, experience and authority for the tasks assigned to them and will be available at convenient times agreed upon by the parties for their participation in the project.

CLIENT agrees to designate a member of its staff to represent CLIENT on all facilities access, technical and staffing matters relating to Professional Services.

B. CLIENT will provide a safe and suitable environment in which to perform Professional Services, full and free use of data communication processing and telecom facilities necessary to perform the Professional Services, and the right, under CLIENT’s licenses with third party licensors of software used by CLIENT that will be involved in PRESIDIO’s performance of Professional Services, to use such software as CLIENT’s agent.

C. CLIENT understands that the obligations set forth above are material terms under this Agreement that will directly affect PRESIDIO's ability to perform and complete the Professional Services.

D. Prior to PRESIDIO commencing any Professional Services hereunder, CLIENT shall sign a SOW and submit a purchase order ("Purchase Order") referencing this Agreement and/or any associated SOW. Submission of a Purchase Order is specific authorization for PRESIDIO to begin the Professional Services and bill the CLIENT in accordance with the terms of the associated SOW. Purchase Orders should be sent via e-mail to _____. Purchase Orders issued hereunder shall also include the reference to the PRESIDIO Quote (by Quotation #) and the invoicing address.

Unless otherwise agreed in writing between CLIENT and PRESIDIO, any acceptance by PRESIDIO of a Purchase Order placed in accordance with this Agreement will be in writing. Changes to Purchase Orders/SOWs will only be made if agreed upon in writing by both Parties.

No preprinted, additional or different terms submitted by either Party (in a Purchase Order, confirmation or other document) shall operate to modify this Agreement or any SOW.

ARTICLE 3: CREDIT TERMS AND COMPENSATION/FEES

A. The compensation to be paid to PRESIDIO by CLIENT for its Professional Services will be as set forth in the applicable SOW. Should additional work beyond the Professional Services detailed in an SOW be requested by CLIENT, fees for such additional Professional Services will be negotiated with CLIENT prior to performing such work and will be memorialized in writing between the Parties by utilizing a "Project Change Request" ("PCR") or an additional SOW, as appropriate.

B. Invoicing for Professional Services will be per the terms of the SOW. CLIENT shall make payment to PRESIDIO within thirty (30) days from date of invoice from PRESIDIO, and shall refer to the invoice number with payment. CLIENT payments shall be without deduction, set-off or delay for any reason other than a disagreement by the CLIENT as to the accuracy of the calculation of PRESIDIO's invoice. Invoices shall be mailed to: 1700 Mt. Vernon Avenue, Bakersfield, CA 93306.

C. CLIENT must notify PRESIDIO of any such good-faith invoice dispute within ten (10) days of receipt of the applicable invoice from PRESIDIO. This notice must include the invoice number in dispute, the items and amounts disputed and a complete description of the basis for CLIENT's withholding payment. Any portion of such invoice that is not disputed by CLIENT shall be paid within the time period set forth in the applicable SOW. Upon the parties' resolution of any disputed charge, CLIENT will pay PRESIDIO, or PRESIDIO shall credit CLIENT, the amount agreed upon in accordance with such resolution.

D. CLIENT shall pay any use, sales, value-added or other similar taxes imposed by applicable law that PRESIDIO must pay based on the Professional Services that CLIENT ordered (excluding those on PRESIDIO's net income) and other similar charges relating to the sale, transfer of ownership, installation, license, use or provision of the Professional Services, except to the extent a valid tax exemption certificate is provided by CLIENT to PRESIDIO prior to the delivery of the Professional Services. CLIENT holds PRESIDIO harmless from paying such taxes and charges on CLIENT's behalf. CLIENT will reimburse PRESIDIO for reasonable expenses approved by CLIENT related to providing the Professional Services including but not limited to, lodging, travel, and meals which will be reimbursed per the U.S. General Services Administration per diem rates. Fees for Professional Services listed in a Statement of Work are exclusive of taxes and expenses. Only expenses with prior written approval from CLIENT will be reimbursed to PRESIDIO.

E. The CLIENT shall reimburse PRESIDIO for all costs (including but not limited to reasonable attorneys fees and expenses and court costs) associated with collecting delinquent accounts or dishonored payments. If CLIENT is in arrears on any invoice(s), PRESIDIO may, upon notice, apply any deposit thereto and withhold or cancel further performance of Services until all payments for such overdue invoice(s) are made in full. If suit is brought for breach of this Agreement, the prevailing Party may be entitled to recover from the non-prevailing Party reasonable attorney's fees and its costs and expenses in connection with the enforcement of the payment terms of this Agreement.

ARTICLE 4. DELIVERY AND ACCEPTANCE

A. Submission of an invoice by PRESIDIO is confirmation by PRESIDIO that PRESIDIO has performed the Professional Services ordered pursuant to the applicable SOW.

B. The Professional Services performed by PRESIDIO shall be deemed accepted as performed unless otherwise established in an applicable, mutually agreed upon SOW.

ARTICLE 5: TERM OF AGREEMENT; TERMINATION

A. This Agreement shall commence upon the execution of this contract and shall remain in effect until either Party provides the other Party with written notice of termination pursuant to paragraph B below.

B. This Agreement may be terminated upon written notice by PRESIDIO or CLIENT, as the case may be, without liability of the terminating Party under the following circumstances:

(a) by PRESIDIO if CLIENT fails to pay a past due balance within five (5) days after written notice from PRESIDIO of the past due balance;

(b) by CLIENT or PRESIDIO on five (5) days' written notice to the other Party if the other violates any law, rule, regulation or policy of any governmental authority related to the Professional Services;

(c) by CLIENT if PRESIDIO fails to cure any breach of this Agreement within thirty (30) days after written notice to PRESIDIO; and

(d) by CLIENT or PRESIDIO immediately upon written notice to the other Party if such other Party: (i) has violated the terminating Party's Marks; (ii) becomes insolvent; (iii) is involved in a liquidation or termination of its business; (iv) files a bankruptcy petition or has an involuntary bankruptcy petition filed against (if not dismissed within 30 days of filing); or (v) makes an assignment for the benefit of its creditors.

C. PRESIDIO and CLIENT each agree to extend the 30-day cure period described in subparagraph (c) hereof, provided PRESIDIO continues reasonable efforts to cure the breach. If CLIENT has entered into multiple SOWs with PRESIDIO and the breach affects one or more but not all of those SOWs, then the terms of this section will apply only to the affected SOW.

ARTICLE 6: INSURANCE REQUIREMENTS

A. PRESIDIO shall maintain at its expense Commercial General Liability and Automobile Liability policies with minimum limits of \$1,000,000.00 for Bodily Injury, \$1,000,000.00 for Property Damage per occurrence (to include contractual liability on a blanket basis for liability assumed hereunder), \$2,000,000.00 aggregate and excess liability insurance, and Workman's Compensation Insurance.

B. PRESIDIO shall use reasonable efforts to provide certificate of insurance evidencing the above to CLIENT upon thirty (30) days written notice.

ARTICLE 7: INDEPENDENT CONTRACTOR STATUS

It is expressly agreed that PRESIDIO, its employees, agents and/or subcontractors are independent contractors of CLIENT and nothing in this Agreement shall create any sort of partnership or joint venture relationship between PRESIDIO and CLIENT. Each Party shall be solely responsible for the payment of all applicable taxes, compensation and/or benefits owed to their respective employees, agents and/or subcontractors. Further, neither Party has the authority to bind or act on behalf of the other Party hereto or to otherwise obligate such Party to any third party that is not a signatory to this Agreement.

ARTICLE 8: NON-ASSIGNABILITY OF AGREEMENT; SUBCONTRACTING

The Parties understand and agree that their duties and responsibilities under this Agreement shall not be assigned, transferred, or shared by either Party with any other person, corporation, or entity without the prior notification and written approval of the other Party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, CLIENT agrees that PRESIDIO may assign this Agreement without such consent to an affiliate or in connection with a merger, acquisition, consolidation, corporate reorganization, sale of a substantial block of its stock, or the sale of all or substantially all of its assets.

The Parties acknowledge and agree that PRESIDIO may use subcontractors to perform all or a portion of its services/duties hereunder.

ARTICLE 9: COMPLIANCE WITH ALL LAWS

Each Party shall assure that will at all times comply with all applicable laws, regulations and compliance-related instructions whether, written, oral or electronic. Each Party reserves the right to terminate or suspend an affected Professional Service and/or to remove the CLIENT's content from the affected Professional Services, if such Party determines that such Professional Service or content do not conform to the requirements set forth in this Agreement, or if such Party receives notice from a third party that the use of the Professional Services or the CLIENT's content may violate any law, regulation and/or any intellectual property right of such third party. Each Party will use reasonable efforts to provide prompt notice to the other Party of any alleged violation or threatened violation by the other Party of its obligations under this Article. In any event, each Party agrees to give thirty (30) days' advance written notice (if legally permissible) of any such proposed termination or suspension. Such notice will provide an explanation for the proposed termination or suspension and allow the other Party time to rectify the alleged violation prior to termination of this Agreement or the suspension of the Professional Services.

ARTICLE 10: OWNERSHIP RIGHTS AND RESTRICTIONS

10.1 Subject to the terms of this Agreement and upon receipt by PRESIDIO of full payment of all fees and charges hereunder, CLIENT will own and have all right, title and interest to any items delivered by PRESIDIO pursuant to an SOW ("Deliverables"), excluding Background IP (as defined below). PRESIDIO, or its third party licensors, as applicable, shall retain sole and exclusive ownership of all Background IP and shall be entitled to, among other things, use, reproduce, disclose, disseminate, publish, perform, transfer, sublicense, modify, exploit and prepare derivatives of Background IP. Nothing in this Agreement in any way limits or impairs the ability of PRESIDIO or its third party licensors, as applicable, to use and exploit the Background IP to provide products or services to any of its or their other customers, whether now or in the future.

“Background IP” means all source code, object code, Third Party Software, technology, systems, strategies, processes, methods, techniques, ideas, experience, information, know-how, patents, trademarks, copyrights, designs, developments, or other proprietary rights that are used or delivered by PRESIDIO hereunder, whether pre-existing or conceived, created or developed by PRESIDIO, alone or with CLIENT or others, in the course of its performance under this Agreement, whether embodied or otherwise encompassed in the Deliverables, and including all improvements or derivatives thereof.

10.2 Subject to the terms of this Agreement and upon receipt by PRESIDIO of full payment of all fees and charges hereunder, PRESIDIO hereby grants CLIENT a limited, non-exclusive, non-transferrable, non-sublicensable license to use the Background IP (excluding Source Code) embodied in the Deliverables solely in connection with CLIENT’s internal use of such Deliverables and not for any resale or distribution by CLIENT. If CLIENT breaches this Agreement, PRESIDIO reserves the right to immediately revoke the license granted to CLIENT in this Article 10.2.

10.3 To the extent a Source Code (as defined below) license is expressly identified as a Deliverable under an applicable SOW, then subject to the terms of this Agreement and upon receipt by PRESIDIO of full payment of all fees and charges hereunder, PRESIDIO grants CLIENT a limited, revocable, non-exclusive, non-transferrable, non-sublicensable, royalty-free license to use, modify, or create derivative works from, such Source Code, all for CLIENT’s internal business purposes only and not for re-sale or distribution by CLIENT. Accordingly, CLIENT shall not copy, use, publish, perform, distribute, disseminate or exploit Source Code or any derivatives thereof for any commercial purpose or otherwise share, disclose or transmit Source Code or any derivatives thereof with or to any third party. If a Source Code (as defined below) license is not expressly identified as a Deliverable under an applicable SOW, this Article 10.3 shall be deemed self-deleting and of no force or effect.

“Source Code” means a text listing of commands to be compiled or assembled into an executable computer program, which is licensed to CLIENT by PRESIDIO pursuant to an SOW.

ARTICLE 11: THIRD PARTY SOFTWARE

11.1 Certain Deliverables may contain or require the use of Third Party Software (as defined below). PRESIDIO makes no representation or warranty of any kind, express or implied, with respect to any Third Party Software. Accordingly, PRESIDIO shall have no liability or responsibility whatsoever on account of the failure, malfunction, or use of any Third Party Software, and same are hereby waived by CLIENT. Any Third Party Software delivered to CLIENT by PRESIDIO is delivered “AS IS” and with “ALL FAULTS”.

“Third Party Software” means all software and documentation that is not owned by PRESIDIO which is incorporated into or used with a Deliverable.

11.2 All Third Party Software will be subject to such third party’s applicable license terms and conditions for such software, a copy of which is available to CLIENT upon request from such third party, contained in such third party’s software installation package, and/or available on such third party’s website. CLIENT hereby agrees to comply with and be bound by such license terms and conditions. Except with regard to Third Party Software which is identified as a Deliverable under an applicable SOW, CLIENT shall be solely responsible for obtaining and maintaining licenses for all other Third Party Software. Further, PRESIDIO shall not be responsible for any royalties or other consideration that may become due and payable with respect to CLIENT’s use, licensing or integration of Third Party Software.

ARTICLE 12: PROPRIETARY AND CONFIDENTIAL INFORMATION

12.1 All industrial secrets, trade secrets, know-how, inventions, techniques, technical information, documentation, processes, programs, schematics, software source documents, data, existing and potential customers or partners, existing and potential business ventures, reports, financial information, sales and marketing plans or information, business information, other information which the receiving Party knows or has reason to know is confidential, proprietary or trade secret information or other materials that are disclosed by either Party to the other during the term of this Agreement shall be considered proprietary information (“Confidential Information”) of the disclosing Party, provided such Confidential Information either is in written or other tangible form that is clearly marked “proprietary” or “confidential”, or is disclosed orally and is both identified as proprietary or confidential at the time of such oral disclosure and summarized in a writing marked as confidential or proprietary within fifteen (15) business days following the oral disclosure.

12.2 Each Party’s Confidential Information shall for a period of three (3) years following disclosure (except in the case of software or trade secrets, which shall be held in confidence for an indefinite period): (i) be held in confidence by the other Party hereto in the same way as it treats confidential information of like nature, but using no less than a reasonable degree of care; (ii) be used only for purposes of performing this Agreement and using the Professional Services; and (iii) not be disclosed except to the receiving Party’s employees, agents and contractors having a need-to-know (provided that the receiving Party shall be responsible for the breach hereof by any such persons, and such agents and contractors shall agree in writing to the restrictions in this paragraph).

12.3 A Party’s Confidential Information does not include information that: (a) is or becomes part of the public domain through no act or omission of the other Party; (b) can be demonstrated to have been rightfully in the other Party’s lawful possession prior to the disclosure and had not been obtained by the other Party either directly or indirectly from the disclosing Party; (c) can be demonstrated to have been lawfully disclosed to the other Party by a third party without restriction on the discloser; (d) can be demonstrated to have been independently developed by the other Party subsequent to disclosure without use of any Confidential Information received from the other Party or (e) is disclosed pursuant to administrative or judicial action, provided that the receiving Party shall use its best effort to maintain the confidentiality of the Confidential Information by asserting in such action any applicable privileges and shall, promptly after receiving notice of such action, notify the disclosing Party thereof and give the disclosing Party the opportunity to seek any other legal remedies so as to maintain such Confidential Information in confidence. If only a portion of the Confidential Information falls under any of the subsections contained in this Article 12.3, then only that portion of the Confidential Information shall be excluded from the use and disclosure restrictions of this Agreement.

12.4 Presidio is aware that Client 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.

ARTICLE 13: WARRANTY, DISCLAIMERS AND INDEMNITY

EACH OF THE SIGNATORIES HERETO WARRANTS AND REPRESENTS THAT IT HAS THE RIGHT AND AUTHORITY TO ENTER INTO THIS AGREEMENT AND TO PERFORM THE PROFESSIONAL SERVICES AND/OR OTHERWISE PERFORM HEREUNDER AND EACH FURTHER WARRANTS AND REPRESENTS THAT IT HAS THE KNOWLEDGE AND/OR ABILITY TO PERFORM HEREUNDER.

PRESIDIO WARRANTS ALL PROFESSIONAL SERVICES WILL BE PROVIDED IN A PROFESSIONAL AND WORKMANLIKE MANNER CONSISTENT WITH INDUSTRY STANDARDS. PRESIDIO PROFESSIONAL SERVICES ARE WARRANTED FOR THIRTY (30) DAYS FROM THE DATE OF FINAL DELIVERY OF THE PROFESSIONAL SERVICES, DURING WHICH PERIOD PRESIDIO SHALL PROMPTLY CORRECT ANY DEFECTIVE WORKMANSHIP AT NO ADDITIONAL COST TO CLIENT.

DISCLAIMER OF WARRANTIES. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, PRESIDIO MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OR ANY WARRANTY ARISING BY USAGE OF TRADE, COURSE OF DEALINGS OR COURSE OF PERFORMANCE. PRESIDIO DOES NOT WARRANT THAT THE PROFESSIONAL SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. EQUIPMENT PROVIDED BY PRESIDIO IN CONJUNCTION WITH ANY SERVICE IS PROVIDED ON AN 'AS IS' BASIS. PRESIDIO DOES NOT AUTHORIZE ANYONE TO MAKE A WARRANTY OF ANY KIND ON ITS BEHALF AND CLIENT SHOULD NOT RELY ON ANYONE MAKING SUCH STATEMENTS. CLIENT AGREES THAT ANY SOFTWARE PRODUCTS PROVIDED TO CLIENT UNDER THIS AGREEMENT THAT ARE NEITHER DEVELOPED NOR DESIGNED BY PRESIDIO WILL CARRY THE WARRANTY PROVIDED BY THE MANUFACTURER, OR DEVELOPER, IF ANY, AND PRESIDIO MAKES NO INDEPENDENT WARRANTY WITH RESPECT TO SUCH PRODUCTS

EACH PARTY SHALL INDEMNIFY, DEFEND, AND HOLD THE OTHER PARTY HARMLESS FROM ANY AND ALL CLAIMS BY THIRD PARTIES, AND EXPENSES RELATING THERETO, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES AND LITIGATION COSTS, WITH RESPECT TO ANY DAMAGES TO PERSONAL PROPERTY, PERSONAL INJURY OR DEATH CAUSED BY THE INDEMNIFYING PARTY'S ACTIONS OR INACTIONS. WITH RESPECT TO THE FOREGOING INDEMNIFICATION OBLIGATION: (A) THE INDEMNIFIED PARTY WILL NOTIFY THE INDEMNIFYING PARTY IN WRITING PROMPTLY UPON LEARNING OF ANY CLAIM OR SUIT FOR WHICH INDEMNIFICATION MAY BE SOUGHT HEREUNDER, PROVIDED THAT FAILURE TO DO SO SHALL NOT AFFECT THE INDEMNITY EXCEPT TO THE EXTENT THE INDEMNIFYING PARTY IS PREJUDICED THEREBY; (B) THE INDEMNIFYING PARTY SHALL HAVE CONTROL OF THE DEFENSE OR SETTLEMENT PROVIDED THAT THE INDEMNIFIED PARTY SHALL HAVE THE RIGHT TO PARTICIPATE IN SUCH DEFENSE OR SETTLEMENT WITH COUNSEL OF ITS OWN SELECTION AND AT ITS SOLE EXPENSE; (C) THE INDEMNIFIED PARTY SHALL REASONABLY COOPERATE WITH THE DEFENSE, AT THE INDEMNIFYING PARTY'S EXPENSE.

ARTICLE 14: LIMITATION OF LIABILITY

IN NO EVENT SHALL PRESIDIO BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, COSTS FOR PROCUREMENT OF SUBSTITUTE SERVICES OR DAMAGES FOR LOSS OF PROFITS, REVENUE, DATA, USE, OR BUSINESS INTERRUPTION INCURRED BY CLIENT OR ANY THIRD PARTY, WHETHER OR NOT ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

PRESIDIO'S ENTIRE LIABILITY HERUNDER AND CLIENT'S EXCLUSIVE REMEDY FOR DAMAGES FROM ANY CAUSE WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, NONPERFORMANCE OR MISREPRESENTATION, AND REGARDLESS OF THE FORM OF ACTIONS, SHALL BE LIMITED TO PROVEN DIRECT DAMAGES NOT TO EXCEED AN AMOUNT EQUAL TO THE TOTAL NET PAYMENTS PAID BY CLIENT TO PRESIDIO FOR THE

APPLICABLE PROFESSIONAL SERVICE UNDER THE APPLICABLE SOW DURING THE SIX (6) MONTHS PRECEDING THE MONTH IN WHICH THE DAMAGE OCCURRED.

PRESIDIO SHALL NOT BE LIABLE FOR ANY DAMAGES ARISING OUT OF OR RELATING TO: (I) INTEROPERABILITY, INTERACTION, ACCESS, OR INTERCONNECTION PROBLEMS WITH APPLICATIONS, EQUIPMENT, PROFESSIONAL SERVICES, CONTENT OR NETWORKS PROVIDED BY THE CLIENT OR THIRD PARTIES; (II) SERVICE INTERRUPTIONS OR LOST OR ALTERED MESSAGES OR TRANSMISSIONS, EXCEPT AS OTHERWISE PROVIDED IN THE APPLICABLE SOW; OR (III) UNAUTHORIZED ACCESS TO, OR THEFT, ALTERATION, LOSS OR DESTRUCTION OF, CLIENT'S, ITS USERS' OR THIRD PARTIES' APPLICATIONS, CONTENT, DATA, PROGRAMS, INFORMATION, NETWORK OR SYSTEMS.

THE LIMITATIONS OF LIABILITY SET FORTH IN THIS ARTICLE 14 AND IN ANY SOW SHALL APPLY: (I) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW; (II) REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE; AND (III) WHETHER OR NOT DAMAGES WERE FORESEEABLE. THESE LIMITATIONS SHALL APPLY EVEN IF ANY EXCLUSIVE REMEDY PROVIDED IN THIS AGREEMENT FAILS IN ITS ESSENTIAL PURPOSE. NOTWITHSTANDING ANYTHING TO THE CONTRARY, PRESIDIO'S LIMITATIONS OF LIABILITY SHALL NOT APPLY TO, AFFECT, OR LIMIT: (i) ANY OF PRESIDIO'S DUTIES TO INDEMNIFY CLIENT IN ACCORDANCE WITH THIS AGREEMENT AND/OR (ii) ANY THIRD PARTY CLAIMS.

ARTICLE 15: CONDUCT ON CLIENT PREMISES

PRESIDIO shall use commercially reasonable efforts to comply with CLIENT'S policies regarding conduct on its premises including, but not limited to: (1) no smoking; (2) drug-testing for cause; (3) specified dress code; and (4) all safety and security policies, including a prohibition against weapons. CLIENT may require PRESIDIO to immediately remove any of its employees that do not, in CLIENT's sole judgment, comply with these policies or who are otherwise objectionable to CLIENT.

ARTICLE 16: PUBLICITY AND MARKS; PUBLIC STATEMENTS

Upon signing this Agreement, PRESIDIO shall have authority to issue a press release describing, and otherwise publicly disclose, the general relationship of the Parties, without disclosing any other Confidential Information. PRESIDIO shall also have the right to use the name and logo of CLIENT as a customer of PRESIDIO in promotional materials. Neither Party will issue any press release or engage in any other promotional activities, other than the foregoing, without obtaining such other Party's prior written approval; provided, that either Party may at any time reiterate any information contained in any jointly issued or previously approved press release or promotional material.

ARTICLE 17: SEVERABILITY

The provisions of this Agreement are severable. If any one or more of the provisions of this Agreement or its application to any person or circumstance are held to be invalid, illegal, or unenforceable in any respect, by any court of competent jurisdiction, such invalidity, illegality, or unenforceability, shall not affect any other provision or obligation contained herein and the remainder of this Agreement and the application of such provision or part of this Agreement to other persons or circumstances shall not be affected.

ARTICLE 18: AGREEMENT NOT TO SOLICIT EMPLOYEES AND/OR OTHERS

During the term of the Agreement between the undersigned Parties, and for a period of 12 months thereafter, CLIENT agrees not to knowingly solicit for a permanent or other position any employee or subcontractor of PRESIDIO to whom CLIENT was introduced or who worked on a project involving the Parties pursuant to this Agreement. Should CLIENT solicit and/or hire such an employee or contractor from PRESIDIO, the CLIENT shall pay to PRESIDIO an administrative fee equal to the most recent year's aggregate employee's compensation with PRESIDIO or the subcontractor as applicable. This fee would be payable at the time of the individual's acceptance of employment from CLIENT.

ARTICLE 19: DATA RECONSTRUCTION

CLIENT is responsible for maintaining its own procedures for the reconstruction of lost or altered files, backup or saving of data or programs to the extent deemed necessary by CLIENT and for actually reconstructing any lost or altered files, data or programs. PRESIDIO assumes no responsibility for the protection of CLIENT's data. CLIENT agrees that it shall have the sole responsibility for safeguarding the software and data during service work performed by PRESIDIO. PRESIDIO is not liable for software damage, damage to data, damage to the CLIENT's network or IT environment due to any outside factor, i.e. software virus.

ARTICLE 20: FORCE MAJEURE

PRESIDIO shall not be liable for delays or failure to perform with respect to this Agreement due to (i) causes beyond its reasonable control, (ii) acts of God, terrorism, epidemics, war, riots, delays in transportation or car shortages, or (iii) inability to obtain necessary labor, materials, or manufacturing facilities, or delays caused by CLIENT due to similar causes. In the event of any such delay, the date of performance shall be extended for a period equal to the time lost by reason of the delay.

ARTICLE 21: EXPORT LAW COMPLIANCE

CLIENT has been advised that any software, technical information and products provided to CLIENT via this Agreement may be subject to the U.S. Export Administration Regulations. CLIENT agrees to comply with all applicable United States export control laws, and regulations, as from time to time amended, including without limitation, the laws and regulations administered by the United States Department of Commerce and the United States Department of State. Customer agrees to comply with all such export laws and regulations (including "deemed export" and "deemed re-export" regulations). Customer agrees that no Deliverables resulting from Professional Services (or the product thereof) will be exported, directly or indirectly, in violation of these laws, or will be used for any purpose prohibited by these laws including, without limitation, nuclear, chemical, or biological weapons proliferation.

ARTICLE 22: NONDISCRIMINATION

PRESIDIO covenants that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, or ancestry.

ARTICLE 23: NOTICES

Any notice given pursuant to this Agreement shall be in writing and shall be given by personal service or by United States certified mail, return receipt requested, postage prepaid to the addresses below, or as changed through written notice to the other Party. Notice given by certified mail or personal service shall be deemed effective on the date it is delivered to the addressee, and notices sent by standard mail shall be deemed effective on the seventh day following its placement in the mail addressed to the addressee. Notice sent electronically shall be deemed delivered on the first working day immediately following the transmission date.

To PRESIDIO
Presidio Networked Solutions Group, LLC
Attn: Contracts
1955 Lakeway Drive, Suite 220
Lewisville, TX 75057
PNSWestContracts@presidio.com

To CLIENT
Kern Medical Center
1700 Mount Vernon Avenue
Bakersfield, CA 93306
Attn: Chief Executive Officer

ARTICLE 24: MISCELLANEOUS PROVISIONS

A. This Agreement: (1) supersedes all prior agreements between the Parties with respect to the same subject matter, and fully sets forth the understanding of the Parties with respect to the subject hereof; (2) shall not be modified except by written agreement of the Parties; (3) shall be interpreted in accordance with the laws of the State of California, the United States of America, without regard to its conflict of laws provisions; and (4) shall control the resolution of a conflict between the terms and conditions of this Agreement and any SOW.

B. No purported waiver by any Party of any default by any other Party of any term or provision contained herein shall be deemed to be a waiver of such term or provision unless the waiver is in writing and signed by the waiving Party. No such waiver shall in any event be deemed a waiver of any subsequent default under the same or any other term or provision contained herein.

C. The respective obligations of the CLIENT and PRESIDIO which by their nature would continue beyond the termination or expiration of this Agreement, including, without limitation, the obligations regarding confidentiality, publicity and Marks and limitations of liability, shall survive termination or expiration.

This Agreement is executed the day and year first above written.

KERN COUNTY HOSPITAL AUTHORITY

PRESIDIO NETWORKED SOLUTIONS GROUP, LLC

Authorized Signature

Authorized Signature

Printed or Typed Name
Russell Bigler

Printed or Typed Name

Title
Chief Executive Officer

Title

Date

Date

PRESIDIO™

ATTACHMENT A STATEMENT OF WORK

TO: Kern County Hospital Authority
 Craig Witmer
 1700 Mt Vernon Ave
 Bakersfield, CA 93305

 witmerc@kernmedctr.com (p)
 661-645-9692

FROM: Presidio Networked Solutions Group, LLC
 Larry Porush
 114 Pacifica
 Suite 290
 Irvine, CA 92618

 lporush@presidio.com
 (p) 818.936.9824
 (f) 818.936.9874

BILL TO: Kern Medical Center

 1700 Mt Vernon Ave
 Bakersfield, CA 93305

SHIP TO: Kern Medical Center
 Miguel Sandoval
 1700 Mt Vernon Ave
 Bakersfield, CA 93305

 Miguel.Sandoval@kernmedical.com
 (p) (661) 326-2349

Customer#: KERNM001
Account Manager: Larry Porush
Inside Sales Rep: Peter Alpiger
Title: Data Center Project
Comments: Pricing is valid until July 27th, 2018.

#	Part #	Description	Unit Price	Qty	Ext Price
Cisco UCS					
DS-C9148S-12PK9					
1	DS-C9148S-12PK9	MDS 9148S 16G FC switch, w/ 12 active ports	\$2,736.00	2	\$5,472.00
2	M91S5K9-6.2.9A	MDS 9100 Supervisor/Fabric-5, NX-OS Software Release 6.2.9A	\$0.00	2	\$0.00
3	DS-9148S-KIT-CSCO	MDS 9148S Accessory Kit for Cisco	\$0.00	2	\$0.00
4	CAB-9K12A-NA	Power Cord, 125VAC 13A NEMA 5-15 Plug, North America	\$0.00	4	\$0.00
5	CON-OSP-C48S	SNTC-24X7X4OS MDS 9148S 16G FC switch	\$512.55	2 for 12 mo(s)	\$1,025.10
Total:					\$6,497.10
UCSB-B200-M4-U					
6	UCSB-B200-M4-U	UCS B200 M4 w/o CPU, mem, drive bays, HDD, mezz (UPG)	\$1,509.60	1	\$1,509.60
7	UCS-CPU-E52650E	2.20 GHz E5-2650 v4/105W 12C/30MB Cache/DDR4 2400MHz	\$1,721.76	2	\$3,443.52
8	UCS-MR-1X322RV-A	32GB DDR4-2400-MHz RDIMM/PC4-19200/dual rank/x4/1.2v	\$1,098.72	24	\$26,369.28
9	UCSB-MLOM-40G-03	Cisco UCS VIC 1340 modular LOM for blade servers	\$719.52	1	\$719.52
10	UCSB-LSTOR-BK	FlexStorage blanking panels w/o controller, w/o drive bays	\$0.00	2	\$0.00
11	UCS-M4-V4-LBL	Cisco M4 - v4 CPU asset tab ID label (Auto-Expand)	\$0.00	1	\$0.00
12	UCSB-HS-EP-M4-F	CPU Heat Sink for UCS B200 M4/B420 M4 (Front)	\$0.00	1	\$0.00
13	UCSB-HS-EP-M4-R	CPU Heat Sink for UCS B200 M4/B420 M4 (Rear)	\$0.00	1	\$0.00
14	C1UCS-OPT-OUT	Cisco ONE Data Center Compute Opt Out Option	\$0.00	1	\$0.00
15	CON-OSP-B200M4U	SNTC 24X7X4OS UCS B200 M4	\$361.25	1 for 12 mo(s)	\$361.25
Total:					\$32,403.17

UCS-SP-FI48-2X					
16	UCS-SP-FI48-2X	UCS SP Select 6248 FI w/ 12p LIC 2Pk	\$0.00	1	\$0.00
17	UCS-SP-FI48P	(Not sold Standalone)UCS SP Select 6248 FI w/ 12p LIC	\$8,916.00	2	\$17,832.00
18	CAB-C13-CBN	Cabinet Jumper Power Cord, 250 VAC 10A, C14-C13 Connectors	\$0.00	4	\$0.00
19	SFP-H10GB-CU3M	10GBASE-CU SFP+ Cable 3 Meter	\$0.00	8	\$0.00
20	DS-SFP-FC8G-SW	8 Gbps Fibre Channel SW SFP+, LC	\$0.00	8	\$0.00
21	SFP-10G-SR	10GBASE-SR SFP Module	\$0.00	8	\$0.00
22	UCS-BLKE-6200	UCS 6200 Series Expansion Module Blank	\$0.00	2	\$0.00
23	UCS-FAN-6248UP	UCS 6248UP Fan Module	\$0.00	4	\$0.00
24	N10-MGT015	UCS Manager v3.2	\$0.00	2	\$0.00
25	UCS-ACC-6248UP	UCS 6248UP Chassis Accessory Kit	\$0.00	2	\$0.00
26	UCS-PSU-6248UP-AC	UCS 6248UP Power Supply/100-240VAC	\$0.00	4	\$0.00
27	UCS-FI-DL2	UCS 6248 Layer 2 Daughter Card	\$0.00	2	\$0.00
28	CON-OSP-SMBFI48P	SNTC-24X7X4OS (Not sold Standalone)UCS SP Select 6248 FI w/	\$860.20	2 for 12 mo(s)	\$1,720.40
Total:					\$19,552.40
Total (Cisco UCS):					\$58,452.67
Pure Storage					
29	FA-X50R2-182TB 1MO,PRM,GOLD	FA-X50R2-182TB 1 Month Evergreen Gold Subscription, 4 Hour Delivery, 24/7 Support, DSE capable	\$5,045.33	72.0000 for 1 mo(s)	\$363,263.76
30	FA-X50R2-ETH-182TB- 91/91-EMEZZ	Pure Storage FlashArray X50R2-ETH-182TB-91/91-EMEZZ	\$523,513.33	2.0000	\$1,047,026.66
31	PS-FLASHARRAY-INSTALL	FlashArray (//m, //x) Install Service	\$4,986.67	2.00	\$9,973.34
32	TRADE-IN	Trade-In Credit	-\$72,994.94	1.0000	(\$72,994.94)
Comments: Increased Nimble trade-in credit.					
Total (Pure Storage):					\$1,347,268.82
Rubrik					
33	RBK-R6410S-01	r6410s Appliance, 4-node, 120TB, SFP+ NIC, RCDM	\$151,083.33	1.00	\$151,083.33
34	RBK-SVC-PREM- APPLIANCE	Premium Support, Prepaid for Rubrik Appliance	\$33,120.00	3.00 for 12 mo(s)	\$99,360.00
35	RBK-R6404S-01	r6404s Appliance, 4-node, 48TB, SFP+ NIC, RCDM	\$87,833.33	1.00	\$87,833.33
36	RBK-SVC-PREM- APPLIANCE	Premium Support, Prepaid for Rubrik Appliance	\$19,320.00	3.00 for 12 mo(s)	\$57,960.00
37	RBK-CLON-UNLIMITED	Subscription to Rubrik CloudOn, Unlimited, incl Support	\$20,125.00	3.00	\$60,375.00
Total (Rubrik):					\$456,611.66
			Sub Total:		\$1,862,333.15
			Grand Total:		\$1,862,333.15

Quote valid for 30 days unless otherwise noted.

Additional Terms

The following terms and conditions shall govern this agreement unless a valid Master Services & Product Agreement or other similar agreement ("Master Agreement") between the parties has been executed and is in force, in which case the terms of the Master Agreement shall prevail to the extent that they are inconsistent with the following terms and conditions.

1. Purchase Orders, Invoicing, Payment and Acceptance. Any purchase order submitted by CLIENT in connection with this agreement shall be deemed subject to these Additional Terms and this agreement. Unsigned, electronically submitted purchase orders shall be deemed to include CLIENT's electronic signature and shall be binding to the extent accepted by Presidio. Presidio's performance of such purchase order shall not constitute Presidio's acceptance of new or different terms, including pre-printed terms on such order. In absence of a purchase order, CLIENT agrees that its signature below grants Presidio the right to invoice CLIENT and authorizes payment to Presidio for the amounts owed. Further, CLIENT represents that Presidio can rely on such CLIENT signature for payment.

Presidio shall invoice CLIENT for the Products and/or Services in accordance with the terms stated in the agreement. The price included herein reflects a 3% discount for payment by cash, check or wire transfer. This discount will not apply in the event that CLIENT pays using a credit card or debit card.

CLIENT shall make payment to Presidio within thirty (30) days from the date of invoice. Except for taxes due on Presidio's net income, CLIENT shall pay all taxes. Presidio reserves the right to bill CLIENT for additional work requested by CLIENT and performed by Presidio, and for applicable expenses incurred by Presidio pursuant to providing such additional services, which are not described in this agreement.

Client understands and agrees to its obligation, that applicable sales tax will apply to the quoted services on a by site location basis.

Unless otherwise indicated in this agreement, CLIENT agrees that staff augmentation services and services performed on a time and materials basis shall be deemed accepted as performed. Unless otherwise indicated in this agreement, Projects shall be deemed accepted upon the earlier of Presidio's receipt a signed Project Completion and Acceptance document which has been signed and dated by an authorized representative of CLIENT, or thirty (30) calendar days from the date of the delivery of the final Project deliverable. If acceptance is refused, the Client shall provide, in writing to Presidio, its reasonable basis for refusal, prior to the expiration of the thirty (30) calendar day period. Presidio shall address the issue before subsequent work is undertaken.

2. Shipment of Product. All Products delivered to CLIENT hereunder shall be shipped FOB origin, freight collect. Title and risk of loss shall pass to CLIENT at point of origin.

Products shall be deemed accepted upon delivery.

3. Limitations of Warranties. Presidio warrants that Services shall be provided by competent personnel in accordance with applicable professional standards. ALL PRODUCTS PROVIDED BY PRESIDIO ARE PROVIDED "AS IS", WITH ALL FAULTS. PRESIDIO MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ANY AND ALL ORIGINAL EQUIPMENT MANUFACTURER (OEM) WARRANTIES, CERTIFICATIONS AND GUARANTEES, IF ANY, ARE PASSED THROUGH TO CLIENT.

4. Intellectual Property. CLIENT acknowledges that Presidio, its vendors, and/or its licensors retain all patents and/or copyrights in and to all proprietary data, processes and programs, if any, provided in connection with Services performed hereunder; any Presidio software provided to CLIENT as part of the Services provided shall be subject to the vendor's, licensor's or OEM's copyright and licensing policy. To the extent such software is prepared by Presidio, it is provided by nontransferable, nonexclusive license for CLIENT'S internal use only, subject strictly to the terms and conditions of this Agreement, and shall terminate upon termination or expiration of this Agreement. CLIENT shall not duplicate, use or disclose for the benefit of third parties, reverse engineer or decompile any such software. Presidio agrees to defend, protect, indemnify and hold harmless Client and each of its officers, directors, employees and agents from and against all Product liability and regulatory liability, including, without limitation, infringement liabilities, and attorney fees resulting from any claims by third parties for loss, damage or injury (including death) allegedly caused by any Product purchased under this Agreement (except to the extent of any liability caused by the sole negligence of Client). Client agrees to promptly notify Presidio of all such claims, and to permit Client to control, at its expense, any negotiation, arbitration or litigation concerning such claims; provided Client shall not settle any claim without the prior written agreement of Client.

5. Confidential Information. The parties agree that Confidential Information means any information disclosed by the disclosing party to the receiving party, either directly or indirectly, in writing, orally or by inspection of tangible objects (including without limitation documents, prototypes, samples, plant and equipment, "CLIENT" lists or other "CLIENT" information not known to the public), which is designated as "Confidential," "Proprietary" or some similar designation, or is the type of information which should reasonably be recognized as Confidential or Proprietary. The receiving party shall not use any Confidential Information of the disclosing party for any purpose except to evaluate and engage in discussions concerning this Proposal. Each party agrees to protect the other party's Proprietary and Confidential Information to the same extent that it protects its own Proprietary and Confidential Information but with no less than a reasonable degree of care. Presidio is aware that Client 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.

6. Limitation of Liability. IN NO EVENT SHALL PRESIDIO BE LIABLE TO CLIENT FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES OF ANY KIND WHATSOEVER, ARISING IN CONTRACT, TORT OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. PRESIDIO'S ENTIRE LIABILITY AND CLIENT'S EXCLUSIVE REMEDY FOR DAMAGES FROM ANY CAUSE WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, NONPERFORMANCE OR MISREPRESENTATION, AND REGARDLESS OF THE FORM OF ACTIONS, SHALL BE LIMITED TO THE AMOUNT WHICH HAS BEEN ACTUALLY PAID TO PRESIDIO BY CLIENT FOR SERVICES AND/OR PERFORMANCE HEREUNDER. Without limiting the foregoing, Presidio will have no responsibility for the adequacy or performance of (in) any third party software provided to Presidio under this agreement; (ii) any hardware, and (iii) any services provided by any third party. Notwithstanding anything to the contrary, Presidio's limitations of liability shall not apply to, affect, or limit: (i) any of Presidio's duties to indemnify Client in accordance with this agreement and/or (ii) any third party claims.

7. Non-Solicitation Provision. During the term of this agreement and for twelve (12) months thereafter, CLIENT will not knowingly solicit for a permanent or other position any employee or subcontractor of the other party to whom that party was introduced as a result of this agreement. Should CLIENT knowingly solicit and/or hire an employee or contractor from PRESIDIO, CLIENT shall pay to PRESIDIO an administrative fee equal to 1 year's salary of the employee's new salary at CLIENT.

8. Export Law Compliance. CLIENT has been advised that all Products purchased hereunder and Presidio Confidential Information is subject to the U.S. Export Administration Regulations. CLIENT agrees to comply with all applicable United States export control laws, and regulations, as from time to time amended, including without limitation, the laws and regulations administered by the United States Department of Commerce and the United States Department of State.

9. Force Majeure. Neither party shall be liable for any failure or delay in performance of its obligations hereunder where such performance is prevented or delayed by causes beyond its reasonable control, including without limitation, flood, war, embargo, strike or other labor dispute, riot, acts of God or the intervention of any government authority.

10. Choice of Law and Venue. The parties will attempt to settle any claim or controversy arising under this agreement through consultation and negotiation in good faith and a spirit of mutual cooperation. This agreement and all matters relating thereto shall be governed exclusively by the substantive law of the State of California.

11. Miscellaneous. This agreement constitutes the entire agreement of the parties and supersedes all prior written or oral agreements, representations and understandings relating to the subject matter hereof, with the exception of a valid Master Services and Product Agreement between the parties under the terms of which this agreement shall be incorporated. This agreement shall not be amended or modified except by written instrument signed by the parties. Should additional work beyond the scope of the Services detailed herein by Presidio be requested by CLIENT, fees for such additional Services will be negotiated with CLIENT prior to performing such work and will be memorialized in writing between the Parties by utilizing a Project Change Request form ("PCR") or an additional agreement as appropriate. Presidio will invoice CLIENT for any additional work performed and expenses incurred which

are not described in this agreement. The Parties agree that neither may assign its rights or duties under this contract without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

12. Severability. The provisions of this Agreement are severable. If any provision of this Agreement or its application to any person or circumstance is ever held by any court of competent jurisdiction to be invalid for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other persons or circumstances shall not be affected.

Customer hereby authorizes and agrees to make timely payment for products delivered and services rendered, including payments for partial shipments

Customer Signature

Date



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

August 15, 2018

Subject: Proposed Agreement with Presidio Technology Capital, LLC, for the financing of equipment, software, and services for the lease of an information technology data storage for the improvement of current operations and for alignment with the Cerner Millineum Project.

Recommended Action: Approve; Adopt Resolution; Authorize Chairman to sign

Summary:

Kern Medical requests your Board approve the proposed agreement with Presidio Technology Capital, LLC, for the financing of equipment, software, and services for information technology data storage and to support the Cerner Millennial project for a term of 36 months effective on the first day of the month following receipt of equipment and/or software in an amount not to exceed \$2,017,548.

The Agreement contains non-standard terms and cannot be approved as to form by Counsel due to waiver of jury trial.

LESSOR:	Presidio Technology Capital, LLC	LESSEE:	Kern County Hospital Authority
ADDRESS:	2 Sun Court, Norcross, Georgia 30092-9204	ADDRESS:	1700 Mt. Vernon Avenue
		FED TAX ID:	Bakersfield, CA 93305
			364642420

MASTER LEASE AGREEMENT (“Lease Agreement”) entered into as of the date first written above by and between Presidio Technology Capital, LLC, a Georgia limited liability company (together with its successors and assigns, “Lessor”), and the Lessee named above, an entity organized in State of California (“Lessee”). In consideration of the mutual covenants and agreements set forth below, the parties hereto agree as follows:

SECTION 1. LEASE AGREEMENT: Pursuant to the terms of this Lease Agreement, Lessor hereby leases to Lessee and Lessee hereby leases from Lessor all of the equipment, related replacements, parts, additions, software, accessories, alterations and repairs incorporated therein or affixed thereto, together with all other items related thereto, including, but not limited to, training, maintenance, services, license agreements and all other tangible and intangible personal property (collectively, “Equipment”), listed or described on the Lease Schedules (each, a “Schedule”) to this Lease Agreement which are or may from time to time be executed by Lessor and Lessee. This Lease Agreement is a master lease and each Schedule is subject to, and incorporates, the terms of this Lease Agreement. Each Schedule shall be treated as a separate lease (each, a “Lease”) with respect to the Equipment covered by such Schedule. In the event of any conflict between the language of this Lease Agreement and any Schedule entered into pursuant hereto, the language of the Schedule shall prevail with respect to that Schedule and the Equipment covered thereby. Lessor also may finance the fees (“Fees”) for any of the following, if specified on a Schedule: (i) software licenses (“Software”) granted by the “Supplier” (as defined by UCC Article 2A) pursuant to a separate licensing agreement between such Supplier and Lessee; and (ii) services relating to the transportation, delivery, installation, maintenance or operation of the Equipment (collectively, “Services”) provided by the Supplier of the Equipment pursuant to a separate agreement between such Supplier and Lessee. The parties agree that this Lease Agreement and each Lease is and shall be a “Finance Lease” as defined by Article 2A of the Uniform Commercial Code (“UCC”). Lessee acknowledges that either (a) Lessee has reviewed and approved any written “Supply Contract” (as defined in UCC Article 2A) covering the Equipment purchased from the Supplier and thereafter leased to Lessee, or (b) Lessor has informed or advised Lessee, in writing, either previously or by this Lease Agreement of the following: (i) the identity of the Supplier; (ii) that the Lessee may have rights under the Supply Contract; and (iii) that the Lessee may contact the Supplier for a description of any such rights Lessee may have under the Supply Contract.

SECTION 2. TERM: The lease term of each Schedule (the “Term”) shall commence upon the Acceptance Date (as defined in Section 5 hereof) of the Equipment and/or Software listed or described in the applicable Schedule, and shall continue through the Rental Period (defined below) indicated on the applicable Schedule and thereafter until terminated by either party upon prior written notice to the other party in accordance with Section 14 hereof. Lessee’s execution of a Schedule shall evidence its binding commitment to lease the Equipment described therein upon the terms and conditions of this Lease Agreement and such Schedule. As used herein, the term “Rental Period” means the period of time beginning on the first day of the first full Rent Interval (defined below) following the Acceptance Date and continuing for the number of Rent Intervals indicated on the applicable Schedule. As used herein, the term “Rent Interval” means a full calendar month or full calendar quarter, in either case as indicated on the applicable Schedule.

SECTION 3. PAYMENTS: Lessee shall pay Lessor the rent and other amounts specified in the applicable Schedule (the “Payments”) for each Rent Interval during the Term. Unless otherwise expressly provided in a Schedule, Payments shall be payable in advance on the first day of each Rent Interval during the Term, beginning with the first full Rent Interval commencing after the Acceptance Date. In addition to Payments, any Advance Payments (as defined and specified on the Schedule) and interim rent shall be due and payable when invoiced or, if not invoiced prior to the first Payment date, on the first Payment date. Advance Payments shall be applied to the final rental Payment(s) under such Schedule in inverse order of occurrence. Except as may otherwise be indicated in a Schedule or other rider or addendum hereto or thereto, interim rent shall be equal to the amount of the first rental Payment multiplied by a fraction, the numerator of which is equal to the number of days from and including the Acceptance Date through but not including the first day of the first full Rent Interval included in the Rental Period, and the denominator of which is equal to the number of days constituting a Rent Interval assuming, for these purposes, a 360-day year comprised of twelve 30-day months. If a Schedule includes any Software or Services, the Payments specified include amounts to cover payment of the related Fees, as so expressly provided in a Schedule. Payments shall be payable at the mailing address of Lessor, as designated by Lessor from time to time. In no event shall any Advance Payments, interim rent or any other Payments be refunded to Lessee. Lessor will send Lessee monthly invoices. However, Lessee’s receipt of an invoice shall not be a condition to making timely Payments.

SECTION 4. DISCLAIMER OF WARRANTIES: (a) LESSOR, NOT BEING THE SUPPLIER OR THE AGENT OF ANY SUPPLIER, MAKES NO WARRANTY, REPRESENTATION OR COVENANT, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, THE MERCHANTABILITY OF THE EQUIPMENT, SOFTWARE OR SERVICES OR THEIR FITNESS FOR ANY PARTICULAR PURPOSE, THE DESIGN, QUALITY, CAPACITY OR CONDITION OF THE EQUIPMENT, SOFTWARE OR SERVICES, COMPLIANCE OF THE EQUIPMENT, SOFTWARE OR SERVICES WITH THE REQUIREMENTS OF ANY LAW, RULE, SPECIFICATION OR CONTRACT, PATENT OR COPYRIGHT INFRINGEMENT, TITLE, OR THE PRESENCE OF LATENT DEFECTS. LESSOR SHALL HAVE NO LIABILITY WHATSOEVER FOR THE BREACH OR INACCURACY OF ANY REPRESENTATION OR WARRANTY MADE BY THE SUPPLIER(S). LESSOR MAKES NO REPRESENTATION AS TO THE TREATMENT BY LESSEE OF THIS LEASE AGREEMENT FOR FINANCIAL STATEMENT OR TAX PURPOSES. LESSEE LEASES THE EQUIPMENT “AS IS,” “WHERE IS” AND “WITH ALL FAULTS.” Lessee agrees, regardless of cause, not to assert any claim whatsoever against Lessor for any direct, indirect, special, consequential, incidental, exemplary or punitive damages or loss, of any kind whatsoever, including without limitation, any loss of business, lost profits or interruption of service. (b) Lessee shall look solely to the Supplier(s) for any and all claims related to the Equipment, Software or Services. LESSEE UNDERSTANDS AND AGREES THAT NEITHER SUPPLIER(S) NOR ANY SALESPERSON OR OTHER AGENT OF SUPPLIER(S) IS AN AGENT OF LESSOR, NOR ARE ANY OF THEM AUTHORIZED TO WAIVE OR ALTER THIS LEASE AGREEMENT. No representation by Supplier(s) shall in any way affect Lessee’s duty to pay the Payments and perform its obligations under this Lease Agreement. Lessor agrees, so long as there shall not have occurred or be continuing any Event of Default (as defined in Section 22 hereof), that Lessor will permit Lessee, as Lessee’s sole and exclusive remedy hereunder, to enforce in Lessee’s own name and at Lessee’s sole expense, any Supplier’s or manufacturer’s warranty or agreement in respect of the Equipment to the extent that such warranty or agreement is assignable.

SECTION 5. ORDER AND ACCEPTANCE: Lessee has selected or will select all of the Equipment, Software and Services and the Supplier(s) and therefore acknowledges that Lessor has not selected, manufactured, supplied or provided any Equipment, Software or Services. In reliance upon Lessee’s execution of and compliance with this Lease Agreement and assignment of Lessee’s purchase rights for the Equipment to Lessor, Lessor shall take assignment of Lessee’s right to purchase and receive title under its purchase documents and/or Supply Contract(s) from its Supplier(s) for the Equipment, Software and/or Services described in the applicable Schedule (but Lessor shall not acquire any obligation under such Supply Contracts, except payment on the terms contained below). As soon as practicable after the date on which the Equipment and/or Software have been delivered and determined by Supplier(s) to be ready for use at Lessee’s location (“Set-Up”), but in any event within seven (7) calendar days after Set-Up, Lessee shall execute and deliver to Lessor a Certificate of Acceptance in the form provided by Lessor (the date of each such Certificate of Acceptance being an “Acceptance Date”); provided, that if Lessee shall fail to execute and deliver a Certificate of Acceptance within seven (7) calendar days after Set-Up, Lessee shall be deemed to have accepted the Equipment and/or Software as of, and the “Acceptance Date” with respect to such Equipment and/or Software shall be deemed to be, the date that is seven (7) calendar days after Set-Up. If, as of the Acceptance Date, (i) no Event of Default has occurred, (ii) Lessor receives an executed Certificate of Acceptance, all other documents and information required under this Lease Agreement, and any additional credit enhancement Lessor requires in connection with the related Schedule, and (iii) Lessor receives appropriate invoices and related documents from Supplier(s), Lessor shall pay the Supplier(s) for the Equipment and/or Software and any Fees.

SECTION 6. DELIVERY AND INSTALLATION: Lessee shall arrange with the Supplier(s) for delivery and installation of Equipment and Software under each Schedule. All Equipment and Software shall be shipped directly from Supplier(s) to Lessee. Lessor shall have no liability for any delay or failure by the Supplier(s) to deliver any Equipment, to license any Software or to perform any Services, or with respect to the selection, manufacturing, installation, testing, performance, quality, maintenance or support of the Equipment, Software or Services. Lessee, at its sole expense, shall pay all transportation, packing, taxes, duties, insurance, installation, testing, maintenance and other charges in connection with the delivery, installation and use of the Equipment and Software, unless such related cost or other amount is specifically included in the applicable Schedule.

SECTION 7. USE OF EQUIPMENT; INSPECTION; LABELING: During the Term, Lessee may possess and use the Equipment in accordance with this Lease Agreement and Lessor shall not disturb Lessee’s quiet enjoyment of such Equipment unless an Event of Default has occurred and is continuing. During the Term, Lessee shall comply with the terms of this Lease Agreement, applicable law, insurance policies, installation requirements (including environmental specifications) and warranties of Supplier(s) concerning the Equipment and/or Software. Lessee shall, at its sole expense, obtain and maintain all permits and licenses, if any, necessary for the possession, operation or use of the Equipment and/or Software. Lessor shall have the right, upon reasonable prior notice to Lessee and during regular business hours, to inspect the

Equipment from time to time. Upon request, Lessee shall mark the Equipment indicating Lessor's ownership of the Equipment with labels provided by Lessor. At all times during the Term, Lessee shall keep all Equipment free of any other marking or labeling which might be interpreted as a claim of ownership.

SECTION 8. TITLE; LOCATION OF EQUIPMENT: (a) Unless otherwise expressly provided in a Schedule, the Equipment is and at all times shall remain the sole and exclusive personal property of Lessor or its assigns, and Lessee shall have no right, title or interest in any Equipment other than the right to maintain possession and use of the Equipment during the Term, conditioned upon Lessee's compliance with the terms and conditions of this Lease Agreement. Lessee, at its sole expense, shall at all times keep the Equipment free and clear of all claims, liens and encumbrances other than those which result from acts of Lessor or its assigns. (b) The Equipment shall be delivered to the location specified in the related Schedule and shall not be relocated, displaced or moved without Lessor's prior written consent. Lessee shall in no event permit any Equipment to be removed outside the United States.

SECTION 9. NET LEASE; NO OFFSET: THIS LEASE AGREEMENT AND EACH SCHEDULE IS A NET LEASE. LESSEE'S OBLIGATIONS TO PAY ALL AMOUNTS UNDER THIS LEASE AGREEMENT AND EACH SCHEDULE SHALL BE ABSOLUTE AND UNCONDITIONAL, AND SHALL NOT BE SUBJECT TO ANY SET-OFF, COUNTERCLAIM, ABATEMENT, REDUCTION, RECOUPMENT, INTERRUPTION OR DEFENSE FOR ANY REASON WHATSOEVER, INCLUDING, BUT NOT LIMITED TO (i) DEFECTS OR FAILURE IN, LOSS OF USE OR POSSESSION OF, OR DISCONTINUANCE OF THE EQUIPMENT, SOFTWARE OR SERVICES, AND (ii) ANY RIGHTS AND REMEDIES TO WHICH LESSEE MAY BE ENTITLED UNDER ARTICLE 2A OF THE UCC (INCLUDING WITHOUT LIMITATION PURSUANT TO SECTIONS 2A-401 AND 2A-402, AND SECTIONS 2A-508 THROUGH 2A-522 OF THE UCC), ALL OF WHICH RIGHTS AND REMEDIES ARE EXPRESSLY WAIVED BY LESSEE. NEITHER THIS LEASE AGREEMENT NOR ANY SCHEDULE CAN BE PREPAID OR TERMINATED BY LESSEE UNLESS AGREED IN WRITING BY LESSOR.

SECTION 10. SOFTWARE: Lessor and Lessee acknowledge that the Software leased or financed hereunder may be owned by a Supplier and that neither Lessor nor Lessee may have any ownership rights therein. Lessee shall, where required by the Supplier, enter into a license or other such agreement for the use of the Software. Any license or other such agreement shall be separate and distinct from this Lease Agreement and any Schedule, and Lessor and any Assignee shall have no obligations thereunder except that Lessor shall have the right under this Lease Agreement to require Lessee to terminate its use of the Software in an Event of Default. All Software leased or financed hereunder shall be subject to all provisions of this Lease Agreement. Upon termination of this Lease Agreement, and, as applicable, each Schedule, Lessee hereby assigns to Lessor, to the extent assignable, any and all licenses and rights to the Software. Lessee's obligations under a Schedule will not be affected by any termination of your license agreement or any defect in or loss of any Software.

SECTION 11. DAMAGE, DESTRUCTION OR LOSS: (a) From the date the Lessee receives the Equipment and until the Equipment is redelivered to Lessor, Lessee shall bear the entire risk of loss, damage or destruction with respect to the Equipment resulting from any cause whatsoever. (b) If any Equipment becomes damaged beyond repair, lost, stolen, destroyed or permanently rendered unfit, or in the event of any condemnation or taking by any governmental authority (any such occurrence being hereinafter referred to as an "Event of Loss"), then Lessee shall promptly notify Lessor, and Lessor shall, at its reasonable option and in its reasonable discretion, do either of the following: (i) at Lessee's expense, permit Lessee, provided there exists no other Event of Default at such time, to promptly replace the affected Equipment with like or better replacement equipment of identical make, model, configuration, capacity and condition, in good repair, free and clear of all claims, liens and encumbrances, in which case any such replacement equipment shall become the property of Lessor and for all purposes of this Lease Agreement shall be deemed to be the Equipment which it replaced (in which event, Lessee shall certify to Lessor that such replaced Equipment shall no longer be in use and shall never again be placed in use); or (ii) terminate the Schedule with respect to the affected Equipment and direct Lessee to pay to Lessor on the next Payment date, all past due rents and all obligations due under the Lease with respect to the affected Equipment, including taxes, indemnities and attorney's fees, plus an amount equal to the sum of (A) the remaining rental payments discounted to present value by using a discount factor of two and one-half percent (2.5%), plus (B) the fair market value in continued use of the Equipment as of the date of the expiration of the Rental Period discounted to present value by using a discount factor of two and one-half percent (2.5%) (the sum of clauses (A) and (B), the "Stipulated Loss Value").

SECTION 12. INSURANCE: Lessee, at its own expense, shall self-insure the Equipment against all risks in an amount at least equal to the full replacement cost thereof, with carriers acceptable to Lessor, under a policy containing a loss payable endorsement and breach of warranty endorsement naming Lessor and its successors and assigns as loss payees, irrespective of any breach of warranty or other act or omission of Lessee. Lessee shall further, at its expense, maintain in effect self-insurance of comprehensive public liability and property damage insurance in form and amount and with carriers satisfactory to Lessor but in no event less than \$1,000,000.00 per occurrence, which names Lessor and its successors and assigns as additional insureds. The self-insurance shall provide that they may not be canceled or altered without at least 30 days prior written notice to Lessor. Lessee shall deliver to Lessor copies or other evidence satisfactory to Lessor of self-insurance upon Lessee's execution of each Schedule and each renewal thereof. Lessor shall have the right, on behalf of itself and Lessee, and Lessee hereby appoints Lessor as Lessee's attorney-in-fact, to make proofs of loss or claims for, make adjustments with insurers, receive payment of, and execute and endorse all documents, checks or drafts received in payment for loss or damage under said self-insurance.

SECTION 13. MAINTENANCE AND REPAIRS: Lessee shall, at its expense, maintain the Equipment and all additions, attachments and accessories thereto, in good repair, condition and working order (including replacement of all parts which become damaged, worn out or unfit for use with appropriate new replacement parts), excluding, however, normal wear and tear resulting from Lessee's authorized use. In addition, Lessee shall maintain the Equipment at the most current engineering levels issued by the Supplier of the Equipment and shall comply with all directives issued by such Supplier. Lessee shall, at its expense, enter into and keep in force during the Term a maintenance agreement with the Supplier of the Equipment, and shall send Lessor a copy on request. Lessee shall take all actions necessary during the Term to ensure that the Equipment will be eligible, at the expiration or termination of the Term, for a standard, full service maintenance contract with the Supplier thereof. Lessee, without the prior written consent of Lessor, shall make no modifications or alterations to any item of Equipment except engineering changes suggested by the Supplier, nor shall Lessee place any Equipment in storage or retire any Equipment from use during the Term. Lessee may make repairs, additions or attachments to the Equipment so long as they do not interfere with the normal and satisfactory operation or maintenance thereof, create a safety hazard or impair the originally intended function of the Equipment. All modifications, repairs, alterations, replacement parts, additions and attachments to the Equipment shall become the property of Lessor and subject to this Lease Agreement, subject, however, to the right of Lessor to require Lessee to return the Equipment to its original condition.

SECTION 14. SCHEDULE TERMINATION: Each Schedule may be terminated by either party hereto at the end of the Rental Period stated therein provided that written notice of termination of the Schedule is given between 180 days and 90 days prior to the end of the Rental Period stated therein. If proper notice of termination is not given, or if the Equipment is not returned to Lessor as required under Section 15 hereof, the Rental Period of the applicable Schedule shall be extended on the same terms and conditions for an additional 90 days, unless earlier terminated in writing by Lessor. Thereafter, the Rental Period as so extended may be terminated by either party hereto at the end of any Rent Interval by giving the other party at least 90 days prior written notice of termination.

SECTION 15. RETURN OF EQUIPMENT: At least 90 days but no more than 180 days prior to expiration of the Term, Lessee shall give Lessor written notice of its intent to return the Equipment. Upon the expiration of the Term, Lessee at its own risk and expense (i) shall immediately have the Equipment uninstalled, packaged and returned, in accordance with any applicable manufacturer or Supplier specifications, to Lessor in the same condition as when delivered, ordinary wear and tear excepted, to such location as Lessor shall designate; and (ii) shall, on request from Lessor, obtain from the Supplier (or other maintenance service provider previously approved by Lessor) a certificate stating that the Equipment qualifies for full maintenance service at the standard rates and terms then in effect. Lessee shall ensure that it securely removes all data from all disk drive or magnetic media prior to returning the Equipment under this Lease Agreement. Lessee is solely responsible for selecting an appropriate removal standard that meets the Lessee's business needs.

SECTION 16. TAXES AND FEES: (a) Lessee shall timely pay, and indemnify and hold harmless Lessor against, all assessments, license fees, taxes (including sales, use, excise, personal property, ad valorem, stamp, documentary and other taxes) and all other governmental or third-party charges, expenses, fees, fines, or penalties whatsoever, whether payable by Lessor or Lessee, on or relating to this Lease Agreement, any Schedule, the Payments, Equipment, Software or Services, or the use, registration, shipment, transportation, delivery, ownership or operation thereof, and on or relating to this Lease Agreement; excluding, however, Lessor's net income taxes. Applicable sales and use taxes shall be paid with the Payments unless Lessee provides evidence of direct payment authority or an exemption certificate valid in the state where the Equipment and/or Software is located. (b) Lessee agrees that it will not list or report any Equipment for property tax purposes unless otherwise directed in writing by Lessor. If required by law, Lessee shall report and pay promptly all such taxes. Lessee shall promptly reimburse Lessor for, and indemnify and hold harmless Lessor against, any such taxes charged to or assessed against Lessor. Unless otherwise expressly provided in a Schedule, Lessee shall show Lessor as the owner of the Equipment on all tax reports or returns, and send Lessor a copy of each report or return and evidence of Lessee's payment of such taxes upon request. Lessee shall be responsible for claiming or obtaining any exemption from property taxes to which Lessee may be entitled under applicable law, and for informing Lessor of any such exemption.

SECTION 17. TAX BENEFITS: Lessee acknowledges and agrees that Lessor is entitled and intends to claim all available tax benefits of ownership with respect to the Equipment (the "Tax Benefits") unless otherwise expressly provided in a Schedule. Lessee represents, warrants and covenants to Lessor that at no time during the Term will Lessee take or omit to take, nor will it permit any sublessee or assignee to take or omit to take, any action (whether or not such sublessee or assignee, or act or omission is otherwise permitted by the terms of this Lease Agreement), which will result in the loss by Lessor of all or any portion of the Tax Benefits.

SECTION 18. FURTHER ASSURANCES; DELIVERABLES: Lessee shall provide to Lessor, at Lessor's request, such documents and assurances as Lessor deems necessary for the confirmation or perfection of this Lease Agreement, including corporate or other resolutions, opinions of counsel and financing statements. Lessee authorizes Lessor to prepare and file any and all documentation, including Uniform Commercial Code financing statements that Lessor deems necessary, appropriate or advisable with respect to the Equipment and this Lease Agreement. Lessee shall, within 90 days of the close of each fiscal year of Lessee, deliver to Lessor a copy of Lessee's complete audited financial statements including accounting opinion and accounting notes. Lessee shall also deliver to Lessor quarterly, within 45 days of the close of each

fiscal quarter of Lessee, a copy of Lessee's quarterly financial statements certified by Lessee's chief financial officer. Upon request, Lessee shall provide Lessor with any further financial information, reports or other documentation requested by Lessor. Lessee agrees to promptly notify Lessor in writing of any change in Lessee's name, the location of its principal place of business or its state of organization as written on page 1 of this Lease Agreement. Upon request, Lessee shall provide Lessor with Host/Landlord/Mortgage Waivers with respect to any of the Equipment, in form and substance satisfactory to Lessor. Upon execution by Lessee of this Lease Agreement, and otherwise from time to time upon request by Lessor, Lessee shall provide Lessor with a secretary's certificate of incumbency and authority in form and substance satisfactory to Lessor.

SECTION 19. REPRESENTATIONS, WARRANTIES AND COVENANTS OF LESSEE: (a) Lessee represents and warrants to Lessor that, as of the date hereof, the date of each Schedule and the corresponding Acceptance Date: (i) Lessee has adequate power and capacity to enter into this Lease Agreement, each Schedule, each Certificate of Acceptance and any other documents required to be executed or delivered in connection with this Lease Agreement (collectively, the "Documents"); Lessee's execution, delivery and performance of the Documents and the transactions contemplated thereby have been duly authorized by all necessary corporate, limited liability or partnership action, as applicable, and constitute valid, legal and binding agreements, enforceable against Lessee in accordance with their terms; there are no proceedings presently pending or threatened against Lessee that will impair its ability to perform under the Documents; Lessee's exact legal name, the location of its principal place of business, and state of organization are true and complete as written on page 1 of this Lease Agreement; and all information supplied to Lessor by Lessee is complete, accurate and not materially misleading; (ii) Lessee's execution, delivery and performance of the Documents and the transactions contemplated thereby does not and will not: (A) violate any judgment, order or law applicable to Lessee, or any other agreement entered into by Lessee with its creditors or any other party, or Lessee's organizational documents; or (B) result in the creation of any lien, security interest or other encumbrance upon the Equipment or this Lease Agreement; (iii) all financial data of Lessee, any guarantor and of any consolidated group of companies of which Lessee is a member ("Lessee Group"), delivered to Lessor now or in the future have been and will be prepared in accordance with generally accepted accounting principles applied on a consistent basis with prior periods and fairly present the financial position and results from operations of Lessee, or of the Lessee Group, as of the stated date and period(s). Since the date of the most recently delivered financial data, there has been no material adverse change in the financial or operating condition of Lessee or of the Lessee Group; (iv) Lessee is duly qualified to do business as a foreign entity in each jurisdiction in which the character of its properties or the nature of its business or the performance of its obligations under this Lease Agreement requires such qualification; the persons signing the Documents are acting with the full authority of Lessee's board of directors, members or managers (if the Lessee is a limited liability company), or partners (if Lessee is a partnership), and hold the offices indicated below their signatures, which are genuine; and, (v) Lessee is and will remain in full compliance at all times during the Term of any Schedule under this Lease Agreement with all applicable laws and regulations in connection with the leasing of Equipment. (b) Lessee hereby covenants to Lessor that at all times during the Term of any Schedule under this Lease Agreement: (i) Lessee is and will be validly existing and in good standing under the laws of the state of its organization; (ii) the Equipment and Software shall only be used in Lessee's trade or business, in accordance with applicable law, and shall not be used for any consumer, household or personal use. Lessee has not taken and will not take any action or maintain any position inconsistent with treating this Lease Agreement as creating a valid leasehold interest in the Equipment; (iii) Lessee shall not, without Lessor's prior written approval in each case, change its controlling ownership, or consolidate or merge with any other corporation or entity, or sell, convey, transfer or lease all or substantially all of Lessee's assets; (iv) all items of Equipment shall at all times remain personal property notwithstanding that any such Equipment may be affixed to realty; and, (v) with regard to Payments, (A) Lessee shall make Payments to Lessor consistent with Lessor's payment policy, generally by check or wire transfer drawn on a U.S. bank account in the name of Lessee or, with the prior written approval of Lessor, from an account in the name of a related entity, such as Lessee's parent company or other affiliated entity, and (B) Lessee shall not permit Payments to be made by third parties not approved by Lessor (which third party Payments are prohibited under this Lease Agreement) and shall not permit Payments by currency, money orders or travelers checks (which Payments are prohibited under this Lease Agreement).

SECTION 20. INDEMNIFICATION: As between Lessee and Lessor, Lessee assumes liability for, and shall indemnify, defend and hold harmless Lessor, its successors and assigns, and their respective agents, advisors, affiliates, employees, officers, directors and controlling persons from and against, any and all claims, liability, loss, cost, damage or expense (whether direct, indirect, special, consequential, incidental, exemplary or punitive), including all court costs and reasonable attorney's fees (collectively, the "Claims"), of whatever kind or nature, based upon, arising out of or related to the Equipment, this Lease Agreement or any other Document or the purchase, use, condition, operation, possession, control, selection, manufacture, maintenance, leasing, delivery or return of any item of Equipment, regardless of where, how, and by whom operated, and any failure by Lessee to comply with this Lease Agreement or any other Document. The foregoing indemnities: (i) include, without limitation, Claims suffered or incurred as a result of (A) any defect in the Equipment, Software or Services (whether discoverable or not) or based upon any theory of liability (including strict liability doctrines or statutes), (B) any claim for, or any actual or threatened, patent, trademark or copyright infringement or environmental damage and (C) acts of Lessee in failing to maintain the Equipment in good repair; and (ii) shall apply with respect to the condition of Equipment sold or disposed of after use by Lessee, any sublessee or employees of Lessee.

SECTION 21. TIME IS OF THE ESSENCE; LATE CHARGES: Time is of the essence in this Lease Agreement. If any Payment or other obligation of Lessee hereunder is not paid within five (5) days of its due date, Lessee agrees to pay a late charge of five cents (\$0.05) per dollar on, and in addition to, the amount of such obligation but not exceeding the lawful maximum, if any. Late charges, if any, shall be payable by Lessee to Lessor on demand.

SECTION 22. DEFAULT: (a) Lessee shall be in default under this Lease Agreement upon the occurrence of any of the following events or conditions (each, an "Event of Default"): (i) Lessee fails to make any Payment or any other amount payable under this Lease Agreement or any other Document, and such failure continues for five (5) days after it becomes due; or (ii) Lessee fails to maintain in effect any insurance required under this Lease Agreement; or (iii) Lessee fails to perform or breaches any other term, provision, or other obligation contained in this Lease Agreement or any other Document, and such failure continues for ten (10) days after Lessor's written notice of such failure to Lessee; or (iv) Lessee's attempted sale, lease, rejection, revocation of acceptance or encumbrance of this Lease Agreement, any Equipment, or any attachments thereto; or (v) any representation, warranty or covenant made by Lessee in any Document, or in connection with any Document, shall be or become false or misleading; or (vi) the dissolution, termination of existence or discontinuance of Lessee's business, or (if Lessee is an individual or sole proprietorship) Lessee dies or is judicially declared incompetent, or Lessee's insolvency, business failure, or failure to pay debts as they mature; or (vii) the appointment of a receiver or assignment for the benefit of creditors of any substantial part of Lessee's property, or the commencement of any proceedings under any bankruptcy, insolvency, reorganization or arrangement laws by or against Lessee, and if commenced against Lessee, such proceedings are not vacated within 60 days; or (viii) the sale, transfer or lease of all or substantially all of Lessee's assets; or (ix) any of the foregoing events or conditions occur with respect to any Guarantor (defined below); or (x) any of the foregoing events or conditions occur with respect to any other lease, conditional sale or installment purchase agreement between Lessee and Lessor or between a Guarantor and Lessor; (xi) there is any merger, consolidation or change in controlling ownership, of Lessee or any Guarantor; or (xii) any Guarantor revokes or attempts to revoke its guaranty or fails to observe or perform any covenant, condition or agreement to be performed under any guaranty or other related document to which it is a party; or (xiii) Lessee is in material default under any loan, lease, guaranty, or other material obligation between Lessee and any third party. As used herein, the term "Guarantor" means any guarantor or other obligor for the Lessee's obligations hereunder. (b) Upon the occurrence of any Event of Default and at any time thereafter, Lessor may, without any further notice, do any one or more of the following in its sole discretion: (i) cancel or terminate this Lease Agreement; (ii) personally, or by its agents, take immediate possession from Lessee of any or all items of Equipment wherever found and for this purpose enter upon Lessee's premises where any item of Equipment is located and remove such items of Equipment with due process of law, and free from all claims by Lessee, including but not limited to claims for storage fees or for any data or information remaining in or accompanying any such repossessed Equipment; (iii) require Lessee to, and Lessee agrees that it shall promptly, assemble and make any or all items of Equipment available to Lessor at a location of Lessor's choosing so that Lessor may personally, or by its agents, take immediate possession from Lessee of such Equipment wherever found, and remove such items of Equipment with due process of law, and free from all claims by Lessee, including but not limited to claims for storage fees or for any data or information remaining in or accompanying any such repossessed Equipment; (iv) declare the Stipulated Loss Value, together with all other sums then due and payable hereunder (including, but not limited to, accrued and unpaid Payments, late charges, indemnity amounts, legal fees and costs), to be immediately due and payable without any presentment, demand or protest (all of which are hereby expressly waived by Lessee) as liquidated damages for loss of a bargain and not as a penalty and in lieu of further Payments; (v) cause Lessee to promptly return any or all items of Equipment to Lessor in accordance with Section 15 hereof; (vi) sell any or all of the Equipment at public or private sale, with or without notice to Lessee or advertisement, or otherwise dispose of, hold, use, operate, lease to others or keep idle such Equipment, all free and clear of any rights of Lessee and without any duty to account to Lessee for such action or inaction or for any proceeds with respect thereto; and (vii) exercise any other right or remedy which may be available to it under Article 2A of the UCC or other applicable law, including the right to recover damages for the breach hereof. To the extent permitted by applicable law, Lessee also hereby waives any rights now or hereafter conferred by statute or otherwise which may require Lessor to sell, lease or otherwise use any Equipment in mitigation of Lessor's damages or which may otherwise limit or modify any of Lessor's rights or remedies. (c) Lessee shall be liable for, and reimburse Lessor for, all reasonable and necessary legal fees and all commercially reasonable costs and expenses incurred by Lessor as a result of an Event of Default hereunder, or the exercise of Lessor's remedies, including placing any Equipment in the condition required by Section 15 hereof. After an Event of Default has occurred, any Payments or other amount not paid to Lessor when due shall bear interest, from the due date until paid, at the lesser of eighteen percent (18%) per annum or the maximum rate allowed by law. Such amount shall be payable on demand. (d) The proceeds of sale, lease or other disposition of the Equipment shall be applied, upon receipt, as follows: (i) to the extent not previously paid by Lessee, to pay Lessor the Stipulated Loss Value and all other sums, including any accrued Payments and late charges, indemnity amounts, legal fees and costs due hereunder; then (ii) to reimburse Lessee any sums previously paid by Lessee to Lessor as liquidated damages; and (iii) surplus shall be retained by Lessor, except that any surplus from Equipment under a Schedule in which Lessee is expressly provided to be the owner of the Equipment shall be paid to Lessee. In the event such proceeds are less than the sum of all amounts due under clause (i) of this Section 22(d), Lessee shall promptly pay such deficiency to Lessor. (e) No remedy referred to in this Section 22 is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to above or otherwise available to Lessor at law or in equity, provided that no double recovery shall be effected.

SECTION 23. ASSIGNMENT BY LESSEE: WITHOUT LESSOR'S PRIOR WRITTEN CONSENT, LESSEE SHALL NOT, BY OPERATION OF LAW OR OTHERWISE, (A) ASSIGN, TRANSFER, PLEDGE, ENCUMBER OR OTHERWISE DISPOSE OF THIS LEASE AGREEMENT, ANY SCHEDULE, THE EQUIPMENT OR ANY INTEREST THEREIN, OR (B) SUBLEASE OR LEND THE EQUIPMENT OR PERMIT THE EQUIPMENT TO BE USED BY ANYONE OTHER THAN LESSEE OR LESSEE'S EMPLOYEES.

SECTION 24. ASSIGNMENT BY LESSOR: LESSOR MAY, WITHOUT THE CONSENT OF OR NOTICE TO LESSEE, ASSIGN, SELL OR ENCUMBER ALL OR ANY PART OF THIS LEASE AGREEMENT, ANY SCHEDULE, THE EQUIPMENT AND THE PAYMENTS AND OTHER AMOUNTS DUE HEREUNDER OR THEREUNDER, OR THE RIGHT TO ENTER INTO ANY SCHEDULE. In the event of any such assignment and written direction by Lessor to Lessee, Lessee shall pay directly to any such assignee without abatement, deduction or set-off all Payments and other sums due under this Lease Agreement. Lessee also agrees to confirm in writing receipt of the notice of assignment as may be reasonably requested by Lessor or the assignee. ANY SUCH ASSIGNEE SHALL HAVE ALL OF THE RIGHTS, BUT NONE OF THE OBLIGATIONS (UNLESS EXPRESSLY ASSUMED BY SUCH ASSIGNEE), OF LESSOR UNDER THIS LEASE AGREEMENT, AND LESSEE SHALL NOT ASSERT AGAINST ANY SUCH ASSIGNEE ANY DEFENSE, COUNTERCLAIM OR SET-OFF WHICH LESSEE MAY HAVE AGAINST LESSOR FOR ANY REASON WHATSOEVER. Any such assignment shall be subject to Lessee's right to possess and use the Equipment pursuant to Section 7 hereof.

SECTION 25. LESSOR'S PERFORMANCE OF LESSEE'S OBLIGATION: If Lessee shall fail to comply with any provision of this Lease Agreement, Lessor may, but shall not be obligated to, effect such compliance, in whole or in part. All expenses incurred by Lessor in effecting such compliance, including reasonable legal fees, shall be payable by Lessee to Lessor on demand. Lessor's performance of any of Lessee's obligations shall not be deemed a waiver or release thereof.

SECTION 26. SECURITY INTEREST; FINANCING: (a) In the event that this Lease Agreement may be deemed to constitute a secured transaction, Lessee grants to Lessor a first priority security interest in the Equipment and any additions, attachments, upgrades, accessions, repairs, modifications, replacements thereto and proceeds thereof, including insurance proceeds, to secure Lessee's payment of the Payments and all other payment obligations when due, and Lessee's performance of all of the terms and conditions of this Lease Agreement. (b) If under applicable law any part of the Payments are deemed or determined to be imputed interest, finance charges or time-price differential ("Interest"), the parties hereto agree that the Payments shall be deemed to be level payments of principal and Interest, with such Interest accruing on principal amounts outstanding from time to time. The rate of such Interest is not intended to exceed the maximum amount of interest permitted by applicable law. If the Interest exceeds such maximum, then at Lessor's option, if permitted by law, the Interest payable will be reduced to the legally permitted maximum amount of interest, and any excessive Interest will be used to reduce the principal amount of Lessee's obligation or refunded.

SECTION 27. NO ACCORD AND SATISFACTION: No payment by Lessee or receipt by Lessor of a lesser amount than the Payments specified in a Schedule shall be deemed to be other than on account of the Payments, nor shall any endorsement or statement on any check or letter accompanying any check or payment be deemed an accord and satisfaction. Lessor may accept any such check or payment without prejudice to Lessor's right to recover the balance of Payments or any other amount then due and owing hereunder or to pursue any other remedy provided in this Lease Agreement.

SECTION 28. SURVIVAL; SEVERABILITY: All of Lessee's indemnities and assumptions of liability in Sections 16 and 20 hereof shall continue in full force and effect notwithstanding the expiration or termination of this Lease Agreement or any Schedule. Any provision of this Lease Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability, without invalidating the remaining provisions hereof. Such remaining provisions shall be construed to effectuate the intent of the parties as set forth herein. To the extent permitted by applicable law, Lessee hereby waives any provision of law which prohibits or renders unenforceable any provision hereof in any respect.

SECTION 29. NOTICES; PARTIES: All notices or demands required or permitted hereunder shall be given to the parties in writing and by personal delivery, certified mail, facsimile or overnight courier service at the address herein set forth or to such other address as the parties may hereafter substitute by written notice given in the manner prescribed in this Section 29. Such notices or demands shall be deemed given upon receipt in the case of personal delivery and upon mailing or transmission or pickup in the case of mail, facsimile or overnight courier service, respectively. The provisions of this Lease Agreement shall be binding upon, and (subject to the limitations of Section 24 hereof) shall inure to the benefit of the assigns, representatives and successors of Lessor and Lessee. If more than one party executes a Schedule as Lessee, the liability of each shall be joint and several.

SECTION 30. CONSTRUCTION; VENUE; JURY TRIAL: This Lease Agreement, each Schedule and all other Documents shall in all respects be governed by and construed in accordance with the internal laws of the State of California without regard to its conflicts of law principles. The titles of the Sections of this Lease Agreement are for convenience only and shall not define or limit any of the terms or provisions hereof. Any action or proceeding arising out of or relating to this Lease Agreement, any Schedule or any other Document shall be commenced exclusively in any state or federal court of competent jurisdiction located in California and the parties hereto consent to personal jurisdiction therein and service by certified mail; provided that **nothing in this Lease Agreement, any Schedule or any other Document shall be deemed or operate to preclude Lessor from bringing suit or taking other legal action in any other jurisdiction. LESSEE AND LESSOR WAIVE ALL RIGHTS TO TRIAL BY JURY IN ANY LITIGATION ARISING FROM THIS LEASE AGREEMENT, ANY OF THE OTHER DOCUMENTS AND THE TRANSACTIONS CONTEMPLATED HEREIN AND THEREBY.**

SECTION 31. ENTIRE AGREEMENT; AMENDMENTS AND WAIVERS; MISCELLANEOUS: This Lease Agreement, any Schedules hereunder and the Documents constitute the entire agreement between Lessor and Lessee with respect to the Equipment, the Payments and other amounts due hereunder, and the Software, Services, and Fees, and supersede all prior proposals, communications and agreements, both written and oral, between the parties. **NO TERM OR PROVISION OF THIS LEASE AGREEMENT, ANY SCHEDULE OR ANY DOCUMENT MAY BE CHANGED, WAIVED, AMENDED OR TERMINATED EXCEPT BY A WRITTEN AGREEMENT SIGNED BY BOTH LESSOR AND LESSEE,** except that Lessor may insert the serial numbers of any Equipment into the applicable Schedule. This Lease Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and either of the parties hereto may execute this Lease Agreement by signing any such counterpart.

Lessee
Initials

Lessor's failure at any time to require strict performance by Lessee of any provisions of this Lease Agreement, any Schedule or any other Document shall not waive or diminish Lessor's right thereafter to demand strict performance. Waiver by Lessor of any Event of Default shall not be a waiver of any other or further Event of Default. **LESSEE HEREBY ACKNOWLEDGES THAT IT HAS READ, RECEIVED, RETAINED A COPY OF, AND UNDERSTANDS THIS LEASE AGREEMENT, AND AGREES TO BE BOUND BY ALL OF ITS TERMS AND CONDITIONS.** To the extent that any Schedule would constitute chattel paper, as such term is defined in the UCC, no security interest herein may be created through the transfer or possession of this Lease Agreement in and of itself without the transfer or possession of the original of a Schedule executed pursuant to this Lease Agreement and incorporating this Lease Agreement by reference; and no security interest in this Lease Agreement and a Schedule may be created by the transfer or possession of any counterpart of a Schedule other than the original thereof, which shall be identified as the document marked "Original" and all other counterparts shall be marked "Duplicate." This Lease Agreement, identified as the document marked "Original," is the only original hereof assignable for purposes of financing or pledging the assets described hereunder.

IN WITNESS WHEREOF, Lessor and Lessee have each caused this Lease Agreement to be duly executed on or as of the date first written above.

Presidio Technology Capital, LLC

Kern County Hospital Authority

By: _____
Authorized Signature

Name (Type or Print) Title

Date

By: _____
Authorized Signature

Name (Type or Print) Title

Date

PRESIDIOTM

TECHNOLOGY CAPITAL

PRESIDIO TECHNOLOGY CAPITAL, LLC ■ TWO SUN COURT ■ NORCROSS, GEORGIA 30092

Stand Alone Quarterly Addendum

1. LESSEE NAME: **Kern County Hospital Authority** Federal Tax ID No: **364642420**
ADDRESS: **1700 Mt. Vernon Ave.** State Incorporated: **CA**
Bakersfield, CA 93305 State ID No: **C3157027**
2. QUARTERLY ADDENDUM START DATE: **07/24/2018** (Date Lessee can start ordering Equipment or services)
3. MASTER LEASE AGREEMENT WITH: **Kern County Hospital Authority**
4. MASTER LEASE AGREEMENT DATE: **07/24/2018**
5. To confirm the agreement between **Kern County Hospital Authority** ("Lessee") and Presidio Technology Capital, LLC ("Lessor"), provided Lessee does not suffer a material adverse change (as hereinafter defined) Lessor will rent to Lessee and Lessee will rent from Lessor, up to **\$1,875,000.00** of Tier 1 Computer Equipment or such other computer equipment as agreed to by the parties (the "Equipment"), between the Quarterly Addendum Start Date ("Agreement") and **09/30/18** (the "Agreement Term"). Notwithstanding the foregoing, the Agreement Term is the maximum duration of this Agreement, and is subject to credit approval. The Agreement term may be modified at any time in Lessor's sole discretion.
6. During the Agreement Term, Lessee may, from time to time, obtain the Equipment from one or more mutually agreed upon suppliers. Upon delivery to and acceptance by Lessee (as described below), such Equipment will become subject to the Master Lease Agreement dated **07/24/2018** between Lessee and Lessor. Notwithstanding any provision in the Master Lease Agreement to the contrary, Lessee will be deemed to have conclusively accepted the Equipment upon the Approval Date which shall be defined as the earlier of (1) ten (10) days after delivery (unless Lessee earlier notified Lessor of Lessee's non-acceptance of such Equipment); or (2) the date Lessee submits or otherwise approves for payment by Lessor the invoice for the Equipment.
7. Within five (5) days prior to the last day of the Agreement Term, Lessor will submit to Lessee, and Lessee will execute and return to Lessor, a Master Lease Schedule and Certificate of Acceptance (plus such other documents reasonably requested by Lessor) for the Equipment delivered to and accepted by Lessee during the prior quarter. The Master Lease Schedule will set forth the following terms (unless Lessee and Lessor agree to other terms than those outlined below in a mutually executed letter setting forth such terms, and any such alternative terms will be confirmed and acknowledged in a separate Master Lease Schedule)
 - 7.1 The Master Lease Schedule will have a Rental Period of **36** months plus **3** transition period(s) and will provide for monthly rental Payments, which Payments shall commence on the first day of such month.
 - 7.2 The **monthly** Payment will be equal to the total Equipment cost times the Adjusted Lease Factor. The Adjusted Lease Factor will be determined as of the Acceptance Date and will be equal to **(0.027527)** (the "Base Lease Factor") plus/minus **0.000043** for every ten basis point difference between the **3** year SWAP Rate as of **July 18, 2018 (2.857%)** and the same rate as of the Acceptance Date.
8. Lessee acknowledges and agrees that Lessor's agreement to rent to Lessee the Equipment is expressly conditioned upon Lessee's commitment as set forth above. Lessee also acknowledges and agrees that Lessor intends to assign to an already identified assignee certain Lessor rights under the Lease Schedules to be executed under this agreement. Such assignee has given contingent credit approval to Lessor for such assignment, with final approval being based upon Lessee's creditworthiness and other business considerations deemed relevant by the assignee at the time of any such assignment. In the event (i) Lessee does not enter into the specified Lease Schedules on or before the specified date, (ii) Lessee suffers a material adverse change (as hereinafter defined) (iii) Lessor's identified assignee mentioned above should withdraw or revoke its approval for the assignment, for any reason, and Lessor shall be unable to obtain, following commercially reasonable efforts, an alternative assignment under substantially similar terms, or (iv) circumstances arise that would otherwise render Lessee in default under the Master Lease Agreement, or (v) Lessee is otherwise in breach of this Agreement, Lessor will not be obligated to supply or otherwise pay for any further Equipment under this Agreement and, upon demand, Lessee will immediately pay to Lessor any Payment or other amounts which have accrued through such date

and purchase all of the Equipment from Lessor for a total purchase price equal to the total purchase price paid by Lessor for the Equipment. In such event Lessor will be entitled to retain all Payments previously paid and receive all Payments billed or otherwise accrued but not paid under this Agreement as its fee, and Lessor will not be liable to Lessee for any damages resulting from exercising any of Lessor's remedies under this Agreement or the Master Lease Agreement.

- 9. As used herein, a "material adverse change" shall be deemed to have occurred if circumstances arise that, in Lessor's sole opinion, have or could have a material adverse affect on Lessee's operations or financial condition, could impair Lessee's ability to pay rent under this Agreement or Payments under any Lease Schedule, or could impair Lessee's ability to perform any of Lessee's other obligations under the terms of this Agreement, the Master Lease Agreement or any Lease Schedule.
- 10. Lessee hereby grants to Lessor a power of attorney to execute, on Lessee's behalf any and all UCC financing statements deemed necessary by Lessor to protect its interest in the equipment leased hereunder.
- 11. With respect to each item of Equipment that becomes subject to this Agreement, this Agreement shall remain in effect until such item of Equipment becomes subject to a Lease Schedule. Upon such item of Equipment becoming subject to a Lease Schedule, this Agreement shall terminate with respect to such item of Equipment, and such Lease Schedule shall govern.

THIS AGREEMENT IS ISSUED PURSUANT TO THE MASTER LEASE AGREEMENT, WHICH LESSEE HAS REVIEWED AND HEREBY REAFFIRMS, AND WILL BECOME EFFECTIVE ONLY WHEN ACCEPTED IN WRITING BY LESSOR AT ITS OFFICES IN NORCROSS, GEORGIA. LESSEE AGREES THAT THE EQUIPMENT AND LESSEE'S OBLIGATIONS WILL BE SUBJECT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT AS IT INCORPORATES THOSE OF THE MASTER LEASE AGREEMENT.

Presidio Technology Capital, LLC

Kern County Hospital Authority

By: _____ Sign here
Authorized Signature

By: _____ Sign here
Authorized Signature

Name (Type or Print) Date

Name (Type or Print) Date

NONE OF THE PROVISIONS OF THIS AGREEMENT MAY BE WAIVED OR AMENDED EXCEPT IN A WRITING SIGNED BY LESSEE AND LESSOR.

DATE OF ACCEPTANCE BY LESSOR:

Kern County Hospital Authority

Norcross, Georgia

By: _____ Sign here
Authorized Signature



PRESIDIO TECHNOLOGY CAPITAL, LLC ■ TWO SUN COURT ■ NORCROSS, GEORGIA 30092

EXHIBIT A TO SCHEDULE Number 677980 to MASTER LEASE AGREEMENT

ATTACHED TO AND MADE A PART OF the Master Lease Schedule Number 677980 ("Schedule") to the Master Lease Agreement dated July 24, 2018 between **Presidio Technology Capital, LLC** ("Lessor") and **Kern County Hospital Authority** ("Lessee").

I. MODIFICATIONS

A.1 For purposes of the Equipment on the Schedule, the Master Lease Agreement is amended by adding the following to the end thereof as new paragraphs:

32. NONAPPROPRIATION OF FUNDS.

If Lessee's governing body, or, if applicable, the governmental entity from which Lessee obtains its operating and/or capital funds to appropriate money for any fiscal year sufficient for the continued performance by Lessee of all of Lessee's obligations under this Lease. Lessee may, upon giving prior written notice to Lessor effective 60 days after the giving of such notice and upon the exhaustion of the funding authorized for the then current appropriation period, return the Equipment at Lessee's expense and thereupon be released of its obligation to make all rental payments to Lessor due thereafter. The Equipment shall be returned to Lessor freight prepaid and insured to any location in the continental United States designated by Lessor in the same condition as when first delivered to Lessee, reasonable wear and tear resulting solely from authorized use thereof excepted. The foregoing notice [shall state the failure of the legislative body or funding authority to appropriate the necessary funds as reason for cancellation and] shall be accompanied by payment of all amounts then due to Lessor during the current fiscal year under the Agreement. Upon termination under this Section 32, Lessee shall not be responsible for the payment of any additional payments coming due in succeeding fiscal years.

In the event Lessee cancels the Equipment pursuant to the terms of this Section 32, Lessor shall retain all sums paid hereunder by Lessee including any security deposits paid hereunder, and in addition, Lessee shall pay to Lessor the termination charge, if any, specified in the applicable Schedule hereto.

33. REPRESENTATIONS OF LESSEE.

Lessee represents and agrees as of the date of this Lease, and, so long as this Lease is in effect or any part of Lessee's obligations to Lessor remain unfulfilled, shall continue to agree at all times, that:

- (a) All requirements have been met, and procedures have occurred in order to insure the enforceability of this Lease and Lessee has complied with such public bidding requirements, if any, as may be applicable to the transactions contemplated by this Lease.
- (b) The Equipment will be used by Lessee only for the purpose of performing one or more governmental or proprietary functions of Lessee consistent with the permissible scope of Lessee's authority and will not be used in a trade or business of any person or entity other than Lessee.
- (c) Lessee has funds available to pay all Payments until the end of its current appropriation period, and it will request funds to make payments in each appropriation period, from now until the end of the term of the Lease.
- (d) This Lease has been duly executed and constitutes a valid, legal and binding obligation of Lessee enforceable against Lessee in accordance with the respective terms hereof.
- (e) Lessee has an immediate need for, and expects to make immediate use of, the Equipment, which need is essential and not temporary or expected to diminish during the applicable Lease term. Lessee presently intends to continue each schedule hereunder for its entire lease term and to pay all rental payments relating thereto.

II. The complete and exclusive statement of the agreement relating to this subject consists of the Master Lease Agreement, the Schedule and this Exhibit A. This statement of the agreement supersedes all proposals, letters and other agreements, oral or written, and all other communications between the parties relating to this subject. There are no promises, representations or warranties other than as expressly set forth in the Master Lease Agreement and the Schedule, as modified by this Exhibit A.

IN WITNESS WHEREOF, each party has caused this Exhibit A to be executed by its duly authorized representative.

Presidio Technology Capital, LLC

Kern County Hospital Authority

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

PRESIDIO[®]

TECHNOLOGY CAPITAL

PRESIDIO TECHNOLOGY CAPITAL, LLC ■ TWO SUN COURT ■ NORCROSS, GEORGIA 30092

Incumbency Certificate

Name of Governmental Entity:
Kern County Hospital Authority

Governmental Entity Address:
1700 Mt. Vernon Ave.
Bakersfield, CA 93305

<u>NAME</u>	<u>TITLE</u>	<u>SPECIMEN SIGNATURE</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

I certify that I am an Officer of the Governmental Entity, that I have access to the original records of the Governmental Entity, and that the persons designated to serve in the capacities identified above hold the offices specified above, and in their capacities the persons designated above are authorized to execute, on behalf of the Governmental Entity, rentals, leases, installment sales contracts, guarantees, promissory notes, installment payment agreements, annual payment agreements, service agreements and security agreements, together with any and all related documents, in connection with the financing of equipment from Presidio Technology Capital, LLC. These documents will be in such form and contain such terms as any of the persons designated to serve in the above-entitled capacities shall approve, such approval to be conclusively evidenced by the designated person's signature.

THIS CERTIFICATE NEEDS TO BE SIGNED BY AN OFFICER OTHER THAN THE PERSONS DESIGNATED ABOVE.

Kern County Hospital Authority

By: _____ <Sign here
Authorized Signature

Name (Type or Print) *Title*

Date

PRESIDIO[®]

TECHNOLOGY CAPITAL

PRESIDIO TECHNOLOGY CAPITAL, LLC ■ TWO SUN COURT ■ NORCROSS, GA. 30092-9204

NOTICE OF INSURANCE REQUIREMENTS

****PLEASE PROMPTLY FORWARD TO YOUR INSURANCE CARRIER****

Lessee: **Kern County Hospital Authority**
1700 Mt. Vernon Ave.
Bakersfield, CA 93305

Insurance Company :

Agent's Name:

Address:

Phone Number:

Fax Number:

Please be advised that this notice is given pursuant to the Master Lease Agreement, whereby you agree to provide the following insurance protection:

- A. All Risk Property Damage Insurance at least equal to full replacement cost of the leased equipment that names Presidio Technology Capital, LLC, its successors and assigns, as Lender Loss Payee; and**
- B. Comprehensive Public Liability Insurance equal to a minimum of \$1,000,000 per occurrence that names Presidio Technology Capital, LLC, its successors and assigns, as Additional Insured**

Such insurance must be reasonably satisfactory to Presidio Technology Capital, LLC ("Lessor"), its successors and assigns, as to form, amount and insurer. Either you shall provide or you agree to instruct your insurer to provide Lessor with appropriate proof of insurance certificates confirming the appropriate insurance protection as described herein. **The proof of insurance certificates must also provide for at least thirty (30) days prior written notice to Lessor of any cancellation or reduction of coverage.**

In the event Lessor does not receive the appropriate proof of insurance certificates within five (5) days of the Commencement Date of the lease, Lessor will have the right, but not the obligation, to obtain insurance in such forms and amounts as we deem reasonable to protect Lessor's interests, from an insurer of our choice. Lessee understands that such insurance will not name Lessee as an insured and may not fully protect Lessee's interests. Furthermore, Lessee will be required to reimburse Lessor for insurance premiums, billing and processing fees, account management charges, plus a finance charge of up to 1.5% per month on premium advances, plus profits for both Lessor and its agents. Lessor will discontinue such insurance charges when Lessee provides Lessor with satisfactory evidence of insurance, as described above.

Promptly submit a copy of the proof of insurance certificates along with your fully executed lease documents, or instruct your insurance carrier to fax a copy of the proof of insurance certificates, with the proper endorsements as described above, to the attention of:

Norman Branch: Fax# 770-326-7601

If you have any questions relating to this matter, please contact your Presidio representative or contact Norman Branch directly at 678-894-2341.

Thank you for your attention to this matter.

Jay T. Staples
General Counsel



August 15, 2018

Presidio Technology Capital, LLC
2 Sun Court
Norcross, GA 30092

Re: Master Lease Agreement dated as of August 18, 2018 (the "Master Lease") by and between Presidio Technology Capital, LLC as lessor and Kern County Hospital Authority ("Lessee"), and Lease Schedules thereto

Ladies and Gentlemen:

As counsel for Kern County Hospital Authority ("Lessee"), I have examined the Master Lease which has been incorporated by reference into Lease Schedule No. 677980 dated as of _____ ("Lease Schedule No.677980") and Lease Schedule No. 677980, each between Lessee and Presidio Technology Capital, LLC, as lessor ("Lessor"), the form of the Certificate of Acceptance and Acknowledgment of Assignment (the "Certificate of Acceptance") attached to Lease Schedule No. 677980 and the proceedings taken by the governing body of Lessee to authorize on behalf of Lessee the execution and delivery of the Master Lease, Lease Schedule No. 677980, the Certificate of Acceptance and other documents related to Lease Schedule No. 677980. The Master Lease, Lease Schedule No. 677980, and the related Certificate of Acceptance and related documents are herein collectively referred to as the "Lease." Based upon the foregoing examination and upon an examination of such other documents and matters of law as I have deemed necessary or appropriate, I am of the opinion that:

1. Lessee is a local unit of government in the State of California and the Lessee has full power and authority to enter into the Lease.
2. The Master Lease and Lease Schedule No. 677980 have each been duly authorized and have been duly executed and delivered by Lessee. Assuming due authorization, execution and delivery thereof by Lessor, the Master Lease and Lease Schedule No. 677980 constitute the legal, valid and binding obligation of Lessee, enforceable against Lessee in accordance with their respective terms, subject to any applicable bankruptcy, insolvency, moratorium or other laws or equitable principles affecting the enforcement of creditors' rights generally.
3. The Certificate of Acceptance has been duly authorized by Lessee and constitutes the legal, valid and binding obligation of Lessee, enforceable against Lessee in accordance with its terms, subject to any applicable bankruptcy, insolvency, moratorium or other laws or equitable principles affecting the enforcement of creditors' rights generally.
4. The Equipment to be leased pursuant to the Lease constitutes personal property and when subjected to use by Lessee will not be or become a fixture under applicable law. Lessor's remedies affecting the Equipment in the event of a default by Lessee are enforceable under applicable law.

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

5. Lessee has complied with any applicable public bidding requirements in connection with the Lease and the transactions contemplated thereby.
6. No litigation or proceeding is pending or, to the best of my knowledge, threatened to restrain or enjoin the execution, delivery or performance by Lessee of the Master Lease or Lease Schedule No. 677980 or in any way to contest the validity of the Lease, to contest or question the creation or existence of Lessee or its governing body or the authority or ability of Lessee to execute or deliver the Lease or to comply with or perform its obligations thereunder. There is no litigation pending or, to the best of my knowledge, threatened seeking to restrain or enjoin Lessee from annually appropriating sufficient funds to pay the rental payments and other amounts contemplated by the Lease.
7. The resolution adopted by Lessee's governing body authorizing the execution and delivery of the Master Lease, Lease Schedule No. 677980, and the Certificate of Acceptance and certain other matters was adopted at a meeting that was held in compliance with all applicable laws relating to the holding of open and public meetings.
8. Lessee's name indicated above is its true, correct, and complete legal name.
9. The entering into and performance of the Master Lease , Lease Schedule No. 677980 do not, and the execution of a Certificate of Acceptance by Lessee pursuant to Lease Schedule No. 677980 will not, violate any judgment, order, law or regulation applicable to Lessee or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of Lessee or on the Equipment (as such term is defined in the Master Lease) pursuant to any indenture, mortgage, deed of trust, bank loan or credit agreement or other instrument to which Lessee is a party or by which it or its assets may be bound.

This opinion is for the sole benefit of, and may be relied upon by, Lessor and any permitted assignee or subassignee of Lessor under the Lease.

Respectfully submitted,



Shannon Hochstein
Hospital Counsel
Kern County Hospital Authority

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

In the matter of:

Resolution No. _____

**FINANCING THE PURCHASE OF PRESIDIO
SOFTWARE AND EQUIPMENT FOR THE
IMPLEMENTATION OF THE CERNER
MILLENIUM PROJECT FOR
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 the Kern County Hospital Authority at an official meeting thereof on the 15th day of August, 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 (“Hospital Authority”) has the power to incur indebtedness and to borrow money and issue bonds, subject to the approval of the Board of Supervisors; and

(b) The Hospital Authority also has the power to purchase supplies, equipment, materials, property, and services, and the power to enter into contracts, pursuant to Chapter

5.5 (commencing with Section 101852) of Part 4 of Division 101 of the Health and Safety Code; and

(c) The Hospital Authority has entered into an agreement with Cerner Corporation to orchestrate the implementation of the Cerner Electronic Health Record which requires the purchase of software and equipment; and

(d) The Hospital Authority has advised the County Administrative Office (“CAO”) of its intent to borrow money for the lease/purchase of software and equipment and the CAO, after review, has opined that no Board of Supervisors approval is required;

(e) Presidio Technology Capital, LLC desires to lend Hospital Authority monies in the lease/purchase of this software and equipment and requires a resolution by the Hospital Authority’s governing body to do so.

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 finds the best interests of the Hospital Authority shall be served by entering into an agreement to borrow monies for the lease/purchase of equipment.

3. The provisions of this Resolution shall be effective, in force and operative as of the 15th day of August 2018.

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

County Administrative Office
Kern Medical Center
Presidio Technology Capital, LLC



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

August 15, 2018

Subject: Proposed Agreement with Amin Ahmed Ramzan, M.D.

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical requests your Board approve an agreement with Amin Ahmed Ramzan, M.D., for professional medical services in the Department of Obstetrics and Gynecology from August 17, 2019 through August 16, 2022, in an amount not to exceed \$1,815,000.

Dr. Raman is currently a Fellow in Gynecologic Oncology at the University of Colorado Anschutz Medical Center in Denver, Colorado. He received his Doctorate of Medicine at USC Keck School of Medicine and his undergraduate training at Bennington College in Vermont. He is currently holds a California state medical license.

He is currently a member of the American College of Obstetrics and Gynecologists. Dr. Ramzan has received numerous awards including the Resident Research Award for Outstanding Research Endeavor and the Nurses' Choices Award for Excellence in Patient Care at USC.

Dr. Ramzan has several publications, numerous oral and poster presentations covering a wide range of topics in the field of Obstetric and Gynecologic Oncology.

Dr. Ramzan is a Kern County native and is very excited to be returning to the community.

**AGREEMENT FOR PROFESSIONAL SERVICES
CONTRACT EMPLOYEE
(Kern County Hospital Authority – Amin Ahmed Ramzan, M.D.)**

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 Amin Ahmed Ramzan, M.D. (“Physician”).

**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 requires the assistance of Physician to provide professional medical services in the Department of Obstetrics and Gynecology at KMC (the “Department”), as such services are unavailable from Authority resources, and Physician desires to accept employment on the terms and conditions set forth in this Agreement; and

(c) Physician has special training, knowledge and experience to provide such services; and

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 August 17, 2019 (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 two (2) 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. As used herein, an “Employment Year” shall mean the annual period beginning on the Commencement Date and each annual period thereafter.

2. **Employment.** Authority hereby employs Physician for the practice of medicine in the care and treatment of patients at KMC, or at such other clinic sites as KMC may designate (collectively referred to as the “Practice Sites”). It is expressly understood and agreed that KMC shall have reasonable discretion to consolidate and relocate clinics operated by Authority and to re-designate Practice Sites served by Physician from time to time. Physician shall be subject to Authority’s employment policies, directives, rules and regulations as promulgated by Authority from time to time, including, but not limited to, those pertaining to employees.

3. **Representations and Warranties.** Physician represents and warrants to Authority and KMC, upon execution and throughout the Term of this Agreement, as follows: (i) Physician is not bound by any agreement or arrangement which would preclude Physician from entering into, or from fully performing the services required under this Agreement; (ii) Physician's license to practice medicine in the state of California or in any other jurisdiction has never been denied, suspended, revoked, terminated, voluntarily relinquished under threat of disciplinary action, or made subject to the terms of probation or other restriction; (iii) Physician's medical staff privileges at any health care facility have never been denied, suspended, revoked, terminated, voluntarily relinquished under threat of disciplinary action, or made subject to terms of probation or any other restriction; (iv) Physician holds a valid Controlled Substance Registration Certificate issued by the Drug Enforcement Administration that has never been revoked, suspended, terminated, relinquished, placed on terms of probation, or restricted in any way; (v) Physician is not currently and has never been an Ineligible Person¹; (vi) Physician is not currently the subject of a disciplinary or other proceeding or action before any governmental, professional, medical staff or peer review body; and (vii) Physician has, and shall maintain throughout the term of this Agreement, an unrestricted license to practice medicine in the state of California and staff membership and privileges at KMC.

4. **Obligations of Physician.**

4.1 **Services.** Physician shall engage in the practice of medicine on a full-time basis exclusively as an exempt employee of Authority. Physician shall render those services set forth in Exhibit "A," attached hereto and incorporated herein by this reference.

4.2 **Use of Premises.** Physician shall use the Practice Sites as designated by Authority or KMC exclusively for the practice of medicine in the care and treatment of patients and shall comply with all applicable federal, state, and local laws, rules and regulations related thereto.

4.3 **Qualifications.**

4.3.1 **Licensure.** Physician shall maintain a current valid license to practice medicine in the state of California at all times during the Term of this Agreement.

4.3.2 **Board Certification.** Physician shall be board certified by the American Board of Obstetrics and Gynecology in obstetrics and gynecology-general and gynecologic oncology-subspecialty within 36 months of the Commencement Date, and maintain such certifications at all times during the Term of this Agreement.

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

¹ An "Ineligible Person" is an individual or entity who: (i) is currently excluded, debarred, suspended, or otherwise ineligible to participate in the federal health care programs or in federal procurement or non-procurement programs; or (ii) has been convicted of a criminal offense that falls within the range of activities described in 42 U.S.C. § 1320a-7(a), but has not yet been excluded, debarred, suspended, or otherwise declared ineligible.

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

4.4 Loss or Limitation. Physician shall notify KMC in writing as soon as possible (but in any event within three (3) business days) after any of the following events occur: (i) Physician's license to practice medicine in the state of California lapses or is denied, suspended, revoked, terminated, relinquished or made subject to terms of probation or other restriction; (ii) Physician's medical staff privileges at KMC or any other health care facility are denied, suspended, revoked, terminated, relinquished under threat of disciplinary action or made subject to terms of probation or other restriction; (iii) Physician's Controlled Substance Registration Certificate issued by the Drug Enforcement Administration is revoked, suspended, terminated, relinquished, placed on terms of probation, or restricted in any way; (iv) Physician becomes debarred, excluded, or suspended, or if any other event occurs that makes Physician an Ineligible Person; (v) Physician becomes the subject of a disciplinary or other proceeding or action before any governmental, professional, medical staff or peer review body; or (vi) an event occurs that substantially interrupts all or a portion of Physician's professional practice or that materially adversely affects Physician's ability to perform Physician's obligations hereunder.

4.5 Standards of Medical Practice. The standards of medical practice and professional duties of Physician at designated Practice Sites shall be in accordance with the KMC medical staff bylaws, rules, regulations, and policies, the standards for physicians 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.

4.6 Managed Care Organizations. For and on behalf of Physician, 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"). Physician 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, Physician shall execute Managed Care Organization documents as "provider" if deemed necessary or advisable by Authority. Physician shall not contract with any Managed Care Organization without Authority's prior written consent in each instance.

4.7 Authorization to Release Information. Physician hereby authorizes Managed Care Organizations, government programs, hospitals and other third parties to release to KMC and its agents any information requested by KMC or its agents from time to time relating to Physician's professional qualifications or competency. Physician agrees to execute the Authorization to Release Information in the form set forth in Exhibit "B," attached hereto and incorporated herein by this reference, and to execute all other documents required by KMC from time to time and to otherwise fully cooperate with KMC to enable KMC and its agents to obtain such information from third parties.

4.8 Medical Records. Physician shall cause a complete medical record to be timely prepared and maintained for each patient seen by Physician. 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 Physician shall 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. All patient medical records of Practice Sites, including without limitation, patient medical records generated during the Term of this Agreement, shall be the property of KMC subject to the rights of the respective patients. Upon the expiration or termination of this Agreement by either party for any reason, KMC shall retain custody and control of such patient medical records.

4.9 Physician Private Practice. Physician understands and agrees that he shall not enter into any other physician employment contract or otherwise engage in the private practice of medicine or provide similar services to other organizations, directly or indirectly, during the Term of this Agreement or any extensions thereof.

4.10 Proprietary Information. Physician acknowledges that during the Term of this Agreement Physician will have contacts with and develop and service KMC patients and referring sources of business of KMC. In all of Physician's activities, Physician, through the nature of his work, will have access to and will acquire confidential information related to the business and operations of KMC, including, without limiting the generality of the foregoing, patient lists and confidential information relating to processes, plans, methods of doing business and special needs of referring doctors and patients. Physician acknowledges that all such information is solely the property of KMC and constitutes proprietary and confidential information of KMC; and the disclosure thereof would cause substantial loss to the goodwill of KMC; and that disclosure to Physician is being made only because of the position of trust and confidence that Physician will occupy. Physician covenants that, except as required by law, Physician will not, at any time during the Term or any time thereafter, disclose to any person, hospital, firm, partnership, entity or organization (except when authorized in writing by KMC) any information whatsoever pertaining to the business or operations of KMC, any affiliate thereof or of any other physician employed by KMC, including without limitation, any of the kinds of information described in this paragraph.

4.11 Physician Covenants. Physician covenants that from the Commencement Date and continuing throughout the Term of this Agreement, Physician, unless otherwise permitted by the written consent of Authority shall not, on Physician's own account or as an employee, landlord, lender, trustee, associate, consultant, partner, agent, principal, contractor, owner, officer, director, investor, member or stockholder of any other person, or in any other capacity, directly or indirectly, in whole or in part: (i) engage in any activities that are in competition with KMC, including the operation of any medical practice or offering of any medical services that are similar to services offered at the Practice Sites; (ii) solicit or encourage the resignation of any employee of Authority or KMC with whom Physician had a working relationship during Physician's employment with Authority; (iii) solicit or divert patients with whom Physician had personal contact during such employment; or (iv) influence or attempt to influence any payer,

provider or other person or entity to cease, reduce or alter any business relationship with Authority or KMC relating to the Practice Sites.

5. **Compensation Package.**

5.1 **Annual Compensation.** Physician shall work full time, which is a minimum of 80 hours per biweekly pay period, and will be compensated with cash and other value as described below in this paragraph 5.1 (“Annual Salary”).

5.1.1 **Annual Salary.** Authority shall pay Physician an Annual Salary of \$23,076.92 biweekly not to exceed \$600,000 annually. The Annual Salary shall be comprised of (i) a base salary for teaching and administrative services in the amount of \$75,000 per year and (ii) payment for care of KMC patients in the amount of \$525,000 per year. Physician understands and agrees that (i) the Annual Salary set forth in this paragraph 5.1 is calculated based on the current Medical Group Management Association Physician Compensation and Production Survey (“MGMA Survey”) for specialty and (ii) Physician will maintain a median level of worked relative value units (“Worked RVU”) based on the current MGMA Survey and fulfill all the duties set forth in Exhibit “A” during the Term of this Agreement.

5.1.2 **Biweekly Payment.** Physician shall be paid biweekly on the same schedule as regular Authority employees. The exact date of said biweekly payments shall be at the sole discretion of Authority. All payments made by Authority to Physician shall be subject to all applicable federal and state taxes and withholding requirements.

5.2 **Starting Bonus.**

5.2.1 **Bonus.** Physician shall receive a starting bonus in the amount of \$15,000, less all applicable federal and state taxes and withholdings, payable within 10 business days of the Commencement Date. Physician shall forfeit the starting bonus if he fails to report to work on the Commencement Date.

5.2.2 **Repayment.** In the event that Physician voluntarily terminates his employment with Authority for any reason whatsoever before the first anniversary of this Agreement, Physician will repay to Authority an amount equal to \$15,000 multiplied by the fraction, the numerator of which is 365 less the number of days during which Physician was employed by Authority, and the denominator of which is 365. Such repayment shall be made by Physician in full within 30 days of the effective date of his termination of employment with Authority.

5.2.3 **Offset.** Physician hereby authorizes Authority to offset against and reduce any amounts otherwise due to him for any amounts in respect of the obligation to repay the starting bonus.

5.3 **Professional Fee Billing.**

5.3.1 Assignment. KMC shall have the exclusive right and authority to set, bill, collect and retain all fees, including professional fees, for all direct patient care services provided by Physician during the Term of this Agreement. All professional fees generated by Physician during the Term of this Agreement, including without limitation, both cash collections and accounts receivable, capitated risk pool fees, professional retainer fees, honoraria, professional consulting and teaching fees, and fees for expert testimony (but excluding Physician's private investment and nonprofessional income), will be the sole and exclusive property of KMC, whether received by KMC or by Physician and whether received during the Term of this Agreement or anytime thereafter. Physician 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.

5.3.2 Remittance of Professional Fee Charges. Physician shall remit all professional fee charges to KMC within 45 days of the date direct patient care services are provided by Physician. Any professional fee charges not remitted by Physician to KMC within 45 days of the date of such service, or any charges for which relevant documentation has not been provided, will not be credited to Physician as Worked RVU.

5.4 Maximum Payable. The maximum compensation payable under this Agreement shall not exceed \$1,815,000 over the three-year Initial Term of this Agreement.

6. Benefits Package.

6.1 Retirement. Physician shall participate in the Kern County Hospital Authority Defined Contribution Plan for Physician Employees (the "Plan"), a qualified defined contribution pension plan, pursuant to the terms of the instrument under which the Plan has been established, as from time to time amended. Physician is not eligible to participate in any other retirement plan established by Authority for its employees, including but not limited to the Kern County Employees' Retirement Association, and this Agreement does not confer upon Physician any right to claim entitlement to benefits under any such retirement plan(s).

6.2 Health Care Coverage. Physician shall receive the same health benefits (medical, dental, prescription and vision coverage) as all eligible Authority employees. The employee share of cost is 20% of the current biweekly premium. Physician is eligible for coverage the first day of the biweekly payroll period coincident with or next following the day he completes one (1) month of continuous service. Physician's initial hire date is the initial opportunity to enroll in the health plan. Physician must work at least 40 hours per biweekly pay period to be eligible for coverage.

6.3 Holidays. Physician shall be entitled to all paid holidays authorized as official holidays for Authority employees. A holiday occurring on a Sunday shall be observed on the following Monday and a holiday occurring on a Saturday shall be observed on the preceding Friday. In the event Physician is scheduled for and works on a holiday, he shall be entitled to an equivalent period of time off at a later date. Physician will not be paid for banked holidays upon termination of employment.

6.4 Vacation. Physician shall be credited with vacation leave of 6.15 hours for each pay period of service, for a maximum accrual of 160 hours per year. Vacation leave will accrue from the Commencement Date and may be taken at any time thereafter. Total unused vacation leave accumulated will not exceed a maximum of 320 hours. No further vacation leave will accrue as long as Physician has the maximum number of hours credited. The Department chair must approve all vacation leave in advance. Physician shall be paid for accrued and unused vacation leave, if any, upon termination or expiration of this Agreement calculated at Physician's current hourly rate (i.e., current Annual Salary divided by 2080 hours = hourly rate). All payments made by Authority to Physician under this paragraph will be subject to all applicable federal and state taxes and withholding requirements.

6.5 Sick Leave. Physician shall accrue sick leave in accordance with Authority policy, as amended from time to time. Physician will not be paid for accrued and unused sick leave upon termination of employment.

6.6 Education Leave. Physician shall receive 80 hours paid education leave annually. The first 80 hours will accrue on the Commencement Date. On each successive Employment Year, if any, an additional 80 hours paid education leave will accrue. Education leave must be used within the year that it is accrued. Physician will not be paid for unused education leave upon termination of employment. The Department chair must approve education leave in advance of use. Physician's participation in educational programs, services or other approved activities set forth herein shall be subordinate to Physician's obligations and duties under this Agreement.

6.7 CME Expense Reimbursement. Authority shall reimburse Physician for all approved reasonable and necessary expenditures related to continuing medical education in an amount not to exceed \$2,500 per Employment Year, payable in arrears, in accordance with Authority policy, as amended from time to time. This amount may not be accumulated or accrued and does not continue to the following Employment Year.

6.8 Kern\$Flex. Physician shall be eligible to participate in flexible spending plans to pay for dependent care, non-reimbursed medical expenses, and certain insurance premiums on a pre-tax basis through payroll deduction. This is a voluntary benefit that is paid by Physician if he elects to participate in the plan.

6.9 Attendance at Meetings. Physician shall be permitted to be absent from KMC during normal working days to attend professional meetings and to attend to such outside professional duties in the healthcare field as may be mutually agreed upon between Physician and the Department chair. Attendance at such approved meetings and accomplishment of approved professional duties shall be fully compensated service time and will not be considered vacation or education leave.

6.10 Unpaid Leave of Absence. Physician may take an unpaid leave of absence in accordance with Authority policies in effect at the time the leave is taken.

6.11 Social Security. Physician is exempt from payment of Social Security taxes as the Kern County Hospital Authority Defined Contribution Plan for Physician Employees is a qualified alternative to the insurance system established by the federal Social Security Act.

6.12 Deferred Compensation. Physician shall be eligible to participate in the Kern County Deferred Compensation Plan ("457 Plan") on a pre-tax basis. Physician shall make all contributions if he elects to participate in the 457 Plan.

6.13 Disability Insurance. Physician shall be eligible to purchase Long Term Disability or Short Term Disability insurance coverage through payroll deduction on a post-tax basis. This is a voluntary benefit that is paid by Physician if he elects to participate in the plan.

6.14 Employee Assistance/Wellness Programs. Physician shall be eligible to participate in any Authority-sponsored employee assistance and employee wellness programs.

6.15 Relocation Reimbursement. Authority shall reimburse Physician for actual relocation expenses (defined as the packing, moving and unpacking of household goods and vehicles) and travel expenses (defined as lodging, meals, mileage and incidental expenses) associated in moving to Bakersfield, California, in an amount not to exceed \$7,500, payable in arrears, in accordance with Authority policy. Reimbursement of travel expenses will include per mile reimbursement for one (1) personal vehicle at the current privately owned vehicle (POV) mileage reimbursement rate established by the U.S. General Services Administration, meals and incidental expenses for Physician only at the current domestic per diem rates established by the U.S. General Services Administration for Kern County, and reasonable hotel accommodations not to exceed the maximum allowable reimbursement rate including taxes established by Authority. Physician shall be deemed vested in reimbursement of relocation expenses in the amount of \$208.34 per month beginning on the last day of the month in which the relocation expenses are reimbursed to Physician. In the event Physician's employment is terminated by either party, with or without cause, then, on the effective date of such termination, Physician shall repay to Authority all amounts received in which Physician has not yet become vested.¹

6.16 Limitation on Benefits. Except as expressly stated herein, Physician shall receive no other benefits from Authority.

7. Assignment. Physician shall not assign or transfer this Agreement or his obligations hereunder or any part thereof. Physician shall not assign any money due or which becomes due to Physician under this Agreement without the prior written approval of Authority.

8. Assistance in Litigation. Upon request, Physician shall support and assist Authority as a consultant or expert witness in litigation to which Authority is a party.

¹ By way of example only, in the event Physician terminates his employment after 12-months then Physician will be vested to the extent of \$2,500 in the relocation expenses described herein and will be obligated to repay Authority the amount of \$5,000. **In the event Physician fails to pay such amount to Authority, Physician expressly grants to Authority the right to offset any amounts owed to Authority against any payments made to Physician by Authority.**

9. **Authority to Incur Financial Obligation.** It is understood that Physician, in his performance of any and all duties under this Agreement, has no right, power or authority to bind Authority to any agreements or undertakings.

10. **Captions and Interpretation.** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the parties.

11. **Choice of Law/Venue.** This Agreement shall be construed and enforced under and in accordance with the laws of the state of California, with venue of any action relating to this Agreement in the County of Kern, state of California.

12. **Compliance with Law.** Physician 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.

13. **Confidentiality.** Physician shall maintain confidentiality with respect to information that he receives in the course of his employment and not use or permit the use of or disclose any such information in connection with any activity or business to any person, firm or corporation whatsoever, unless such disclosure is required in response to a validly issued subpoena or other process of law or as required by Government Code section 6250 et seq. Upon completion of the Agreement, the provisions of this paragraph shall continue to survive.

14. **Conflict of Interest.** Physician covenants that he has no interest and that he will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law (Gov. Code, § 81000 et seq.) or that would otherwise conflict in any manner or degree with the performance of his services hereunder. 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.

15. **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.

16. **Dispute Resolution.** In the event of any dispute involving the enforcement or interpretation of this Agreement or any of the rights or obligations arising hereunder, the parties shall first attempt to resolve their differences by mediation before a mediator of their mutual selection. If the parties are, after mutual good faith efforts, unable to resolve their differences by mediation, the dispute shall be submitted for trial before a privately compensated temporary judge appointed by the Kern County Superior Court pursuant to Article VI, section 21 of the California Constitution and Rules 3.810 through 3.830 of the California Rules of Court. All costs of any dispute resolution procedure shall be borne equally by the parties.

17. **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.

18. **Indemnification.** Authority shall assume liability for and indemnify and hold Physician harmless from any and all claims, losses, expenses, costs, actions, settlements, attorneys' fees and judgments incurred by Physician or for which Physician becomes liable, arising out of or related to services rendered or which a third party alleges should have been rendered by Physician pursuant to this Agreement. Authority's obligation under this paragraph shall extend from Physician's first date of service to Authority and shall survive termination or expiration of this Agreement to include all claims that allegedly arise out of services Physician 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 designated KMC Practice Sites without approval by the Kern County Hospital Authority Board of Governors, including, without limitation, outside activities beyond the scope of this Agreement and any services provided by Physician outside the Geographic Area, and, provided further, that Authority shall have no duty or obligation to defend, indemnify, or hold Physician harmless for any conduct or misconduct found to be intentional, willful, grossly negligent, or criminal.

19. **Invalidity of a Portion.** Should a portion, section, paragraph, or term of this Agreement be construed as invalid by a court of competent jurisdiction, or a competent state or federal agency, the balance of the Agreement shall remain in full force and effect. Further, to the extent any term or portion of this Agreement is found invalid, void or inoperative, the parties agree that a court may construe the Agreement in such a manner as will carry into force and effect the intent appearing herein.

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

21. **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 Physician, 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. Physician shall be given 30 days' prior written notice in the event that Authority requires such an action.

22. **Nondiscrimination.** No party to this Agreement shall discriminate on the basis of race, color, religion, sex, national origin, age, marital status or sexual orientation, ancestry, physical or mental disability, medical conditions, political affiliation, veteran's status, citizenship or marital or domestic partnership status or on the basis of a perception that an individual is associated with a person who has, or is perceived to have, any of these characteristics.

23. **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 Physician. 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.

24. **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 Physician:

Amin Ahmed Ramzan, M.D.
9649 East 5th Street, Apt. 206
Denver, Colorado 80230

Notice to Authority:

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

25. **Relationship.** Authority and Physician recognize that Physician is rendering specialized, professional services. The parties recognize that each is possessed of legal knowledge and skill, and that this Agreement is fully understood by the parties, and is the result of bargaining between the parties. Each party acknowledges their opportunity to fully and independently review and consider this Agreement and affirm complete understanding of the effect and operation of its terms prior to entering into the same.

26. **Severability.** Should any part, term, portion or provision of this Agreement be decided finally to be in conflict with any law of the United States or the state of California, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions, or provisions shall be deemed severable and shall not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the agreement which the parties intended to enter into in the first instance.

27. **Sole Agreement.** This Agreement 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.

28. **Termination.**

28.1 **Termination without Cause.** Either party shall have the right to terminate this Agreement, without penalty or cause, by giving not less than 120 days' prior written notice to the other party.

28.2 **Immediate Termination.** Notwithstanding the foregoing, Authority may terminate this Agreement immediately by written notice to Physician upon the occurrence of any of the

following events: (i) Authority determines that Physician does not have the proper credentials, experience, or skill to perform the required services under this Agreement; (ii) Authority determines the conduct of Physician in the providing of services may result in civil, criminal, or monetary penalties against Authority or KMC; (iii) Physician violates any federal or state law or regulatory rule or regulation or condition of accreditation or certification to which Authority or Practice Sites is subject; (iv) Physician engages in the commission of a material act involving moral turpitude, fraud, dishonesty, embezzlement, misappropriation or financial dishonesty against Authority or KMC; (v) the actions of Physician result in the loss or threatened loss of KMC's ability to participate in any federal or state health care program, including Medicare or Medi-Cal; (vi) Physician's license to practice medicine in the state of California lapses or is denied, suspended, revoked, terminated, relinquished or made subject to terms of probation or other restriction; (vii) Physician's medical staff privileges are denied, suspended, revoked, terminated, relinquished under threat of disciplinary action or made subject to terms of probation or other restriction; (viii) Physician's Controlled Substance Registration Certificate issued by the Drug Enforcement Administration is revoked, suspended, terminated, relinquished, placed on terms of probation, or restricted in any way; (ix) Physician becomes debarred, excluded, or suspended, or if any other event occurs that makes Physician an Ineligible Person; (x) Physician fails to make a timely disclosure pursuant to paragraph 4.4; (xi) Physician engages in conduct that, in the sole discretion of Authority, is detrimental to patient care or to the reputation or operations of Authority and/or KMC; (xii) Physician breaches the confidentiality provisions of this Agreement; (xiii) Physician dies; (xiv) Physician fails to follow Authority's policies and procedures and other rules of conduct applicable to all employees of Authority, including without limitation, policies prohibiting sexual harassment; (xv) insubordination, flagrant tardiness, or interpersonal problems in the workplace with colleagues, patients or associates; or (xvi) Physician breaches any covenant set forth in paragraph 4.11.

29. **Effect of Termination.**

29.1 **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 Physician after the effective date of the termination, and Physician shall be entitled to receive compensation for services satisfactorily rendered, calculated on a prorated basis up to the effective date of termination.

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

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

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

30. 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.

PHYSICIAN

By 
Amin Ahmed Ramzan, M.D.

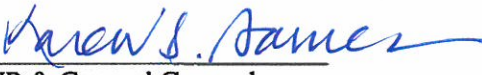
KERN COUNTY HOSPITAL AUTHORITY

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 
VP & General Counsel
Kern County Hospital Authority

Agreement.Ramzan.072318

EXHIBIT “A”
Job Description
Amin Ahmed Ramzan, M.D.

Position Summary. Reports to Chair, Department of Obstetrics and Gynecology; serves as a faculty member in the Department; provides no fewer than 80 hours of service per biweekly pay period.

Clinical Responsibilities.

1. Supervise residents while on service.
2. Provide services in the clinics as assigned by the Department Chair.
3. Provide gynecologic oncology and gynecologic services.
4. Supervise procedures performed by residents and mid-levels while on service.
5. Perform therapeutic and diagnostic procedures within the scope of practice for a gynecologic oncologist while on service.
6. Develop a coordinated schedule with other gynecologic oncologists on staff to provide on-site consultations as requested on weekdays.
7. Develop a coordinated schedule with other gynecologic oncologists on staff to respond to emergency consultations on weekends.

Teaching Responsibilities.

1. Participate in morning report, morbidity and mortality conference, board review, and Journal Club.
2. Participate in bedside and clinic teaching of residents and medical students.
3. Participate in didactic lectures and teaching conferences.
4. Support the residency program director by interviewing residency applicants.
5. Assist in preparing residents for written and oral boards and reviews case logs.
6. Assist the residency program director through individual monitoring, counseling, and evaluation of resident as appropriate.
7. Assist with scholarly activity for the residency program.
8. Pursue scholarly pursuits for improvements in patient care and academic productivity for scientific presentations and publications.

Administrative Responsibilities.

1. Participate in Department quality improvement activities.
2. Participate in development of Department curriculum.
3. Support the Department Chair in developing monitoring tools to measure quality, access, financial, and satisfaction outcomes for the Department and academic training programs.
4. Follow Department rules as specified in the Department policies and procedures.
5. Gather data through best practices and collaborate with other members of the Department to recommend services that will increase productivity, minimize duplication of services, increase workflow efficiency, and provide the highest quality of care to patients of KMC.
6. Support accreditation of the cancer program by the American College of Surgeons.
7. Provide other administrative activities, as assigned by the Department Chair.

Medical Education; Academic Responsibilities.

1. Provide clinical mentoring to and evaluation of residents and medical students.
2. Establish and maintain academic appointment at David Geffen School of Medicine at University of California, Los Angeles, or as otherwise required by the Department.

Committee Assignments.

1. Attend department staff meetings and the annual medical staff meeting.
2. Participate in medical staff committees as assigned by the president of the medical staff.
3. Attend and participate in the Cancer Committee and its related subcommittees.

Employment Standards:

Completion of an accredited fellowship program in gynecologic oncology; one (1) year of post-fellowship experience in gynecologic oncology desirable

AND

Possession of a current valid Physician's and Surgeon's Certificate issued by the state of California

AND

Certification by the American Board of Obstetrics and Gynecology in obstetrics and gynecology-general AND gynecologic oncology-subspecialty

Knowledge of: The principles and practices of modern medicine; current techniques, procedures, and equipment applicable to gynecologic oncology; principles of effective supervision and program development.

[Intentionally left blank]

EXHIBIT "B"
AUTHORIZATION TO RELEASE INFORMATION

[Attached]

AUTHORIZATION TO RELEASE INFORMATION

I, the undersigned physician, hereby authorize Kern Medical Center ("KMC") and its duly authorized representatives to obtain information from time to time about my professional education, training, licensure, credentials competence, ethics and character from any source having such information. This information may include, without limitation, peer review information, DRG and RVU analyses, ancillary usage information and other utilization and quality related data.

I hereby release the Kern County Hospital Authority and KMC, its authorized representatives and any third parties from any liability for actions, recommendations, statements, reports, records or disclosures, including privileged and confidential information, involving me that are made, requested, taken or received by KMC or its authorized representatives to, from or by any third parties in good faith and relating to or arising from my professional conduct, character and capabilities.

I agree that this authorization to release information shall remain effective until termination of my employment by the Kern County Hospital Authority and KMC. A duplicate of this authorization may be relied upon to the same degree as the original by any third party providing information pursuant to this request.



Physician

7/27/18

Date



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

August 15, 2018

Subject: Propose Change Order No. 7 to the Construction Agreement with Anderson Group International for the Pharmacy USP 797 Clean Room Modification Project

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical requests your Board approve the proposed Change Order No. 7, with Anderson Group International to allow for further modifications in the Pharmacy USP 797 Clean Room Project.

After a field visit by OSHPD, the OSHPD Fire Life Safety Officer determined that two speaker/strobe fire alarm devices needed to be installed in the new Pharmacy space. And after further review of the room, the decision was made to relocate an electrical light switch from behind the wet sink for safety purposes.

This Change Order No. 7 requires an increase in the contract amount of \$6,430.61 for a new maximum payable of \$705,941. This Change Order No. 7 is the final Change Order for the Pharmacy project.

CHANGE ORDER

PROJECT:

Pharmacy USP 797 Clean Room Modifications
1700 Mt. Vernon Avenue
Bakersfield, CA 93306

PROJECT NO.: 1250.10946**PURCHASE ORDER NO.:** 2016.074**CONTRACTOR:**

Anderson Group International
P.O. Box 80306
Bakersfield, CA 93380

CHANGE ORDER NO.: Seven (7)**DATE:**

DESCRIPTION OF CHANGE	ADD	DEDUCT
1. Provide all labor, material, and equipment to relocate an electrical switch that is located over the sink. (CP 18)	\$840.00	
2. Provide all labor, material, and equipment to install two (2) speaker strobes in the new pharmacy space. (CP 19 & 20)	\$5,590.61	
CHANGE ORDER NO. 7 TOTAL (ADD)	\$6,430.61	
CHANGE ORDER NO. 6 TOTAL (ADD)	\$10,523.71	
CHANGE ORDER NO. 5 TOTAL (ADD)	\$8,066.03	
CHANGE ORDER NO. 4 TOTAL (ADD)	\$45,886.24	
CHANGE ORDER NO. 3 TOTAL (ADD)	\$6,538.40	
CHANGE ORDER NO. 2 TOTAL (ADD)	\$23,706.58	
CHANGE ORDER NO. 1 TOTAL (ADD)	\$16,770.54	
ORIGINAL CONTRACT PRICE	\$588,018.07	
NEW CONTRACT AMOUNT	\$705,940.18	

REASON FOR CHANGE

1. The electrical switch over the sink needs to be relocated for safety purposes.
2. The OSHPD Fire Life Safety Officer, after a field visit, determined that two speaker strobe fire alarm devices needed to be installed in the new Pharmacy space.

Funds are available in the contract budget to cover this increase in cost.

CONFORMANCE WITH SPECIFICATIONS:

All work shall be done in conformance with the specifications as applied to work of a similar nature.

If the contractor refuses to sign this document, the work listed herein shall be performed on a force account basis.

SUBMITTED BY:

Anderson Group International

BY:


Leigh Ann Anderson, Chief Executive Officer

KERN COUNTY HOSPITAL AUTHORITY

BY:

Board of Governors - Chairman
"KCHA"

**APPROVED AS TO FORM:
Legal Services Department**

BY:

Shannon Hochstein
Hospital Counsel

**APPROVED AS TO CONTENT:
Kern Medical Center**

BY:

Russell Judd, Chief Executive Officer
"KCHA"

BY:

Jared Leavitt, Chief Executive Officer

BY:

Thad Bulkeley, Facility Director



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

August 15, 2018

Subject: Request of the Medical Staff of Kern Medical Center to create a Division of Trauma and Critical Care within the Department of Surgery

Recommended Action: Approve

Summary:

The Medical Executive Committee (MEC) on behalf of the Medical Staff has submitted a request to create a Division of Trauma and Critical Care within the Department of Surgery at Kern Medical. Authority to create a new division is found in Article X, Clinical Departments of the Medical Staff Bylaws and Section III, Departments and Divisions of the Medical Staff Organization and Functions Manual.

On August 7, 2018, a petition was submitted to the MEC to create such a division. The petitioner provided the MEC with the rationale for why and how the recommended creation will benefit the implementation of the medical staff organization functions, specifically those functions related to performance improvement and peer review. The MEC approved the recommendation by a unanimous vote of all members present at the meeting. The MEC forward the recommendation to the Chief Executive Officer, as required by the Organization and Functions Manual. Further, the Organization and Functions Manual requires that your Board approve the recommendation before implementation.

Our Department of Surgery provides both general and trauma related services to the community. As a Level II trauma facility, a preponderance of surgical trauma historically dominated the prior residency obligation at the expense of our general surgery training program. To date, approximately 80% of our surgical census is attributable to trauma, and our access to general surgery faculty for consultation on elective surgery has declined.

Our strategy is to contract with Acute Care Surgery Medical Group, Inc., a group that is experienced and qualified to provide trauma and general surgery hospitalist services for all acute and inpatient trauma care, thus providing an opportunity to restructure the surgery department and create a Division of Trauma and Critical Care. Once established, Kern Medical can then focus on rebuilding the general surgery service through new hires, curriculum development, leadership selection, and ultimately re-application to the ACGME for establishing a new general surgery residency program. Overall, the creation of a Division of Trauma and Critical Care will fulfill the clinical, administrative, quality improvement, risk management, utilization review, and collegial functions required of the Medical Staff.

Therefore, it is recommended that your Board approve the recommendation to create a Division of Trauma and Critical Care within the Department of Surgery.

TRAUMA AND GENERAL SURGERY HOSPITALIST COVERAGE SERVICES AND MEDICAL DIRECTOR AGREEMENT

This Trauma and General Surgery Hospitalist Coverage Services and Medical Director Agreement (“Agreement”) is effective as of November 5, 2018, (the “Effective Date”), by and between **Kern County Hospital Authority** (“Authority”), and **Acute Care Surgery Medical Group, Inc.** (“Medical Group”).

RECITALS

A. Authority is a local unit of government, which owns and operates Kern Medical Center (“Hospital”), an acute care general hospital located in Bakersfield, California. Hospital desires to create a Trauma and General Surgery Hospitalist Program (the “Surgicalist Program”) to ensure the availability of experienced physicians specializing in trauma and general surgery hospitalist services to meet the needs of Hospital, its medical staff (“Medical Staff”), and its surgical patients, including insured, uninsured, under-insured, and unassigned patients. References to Hospital in this Agreement shall, where appropriate, also refer to Authority.

B. Hospital is also in need of an experienced, qualified physician to serve as medical director for the Surgicalist Program, to provide customary medical direction and certain administrative services to the Surgicalist Program, and to act as a liaison between the Surgicalist Program, the Medical Staff and other clinical and nonclinical departments within the Hospital.

C. Medical Group is a professional corporation that contracts with physicians (“Physician” or “Physicians”) who are duly licensed to practice medicine in the state of California, experienced in trauma and general surgery (the “Specialty”), and qualified to provide trauma and general surgery hospitalist services. Medical Group is managed by Surgical Affiliates Management Group, Inc., (“Manager”) which as Manager, shall have access to Medical Group information as necessary for operational purposes on Medical Group’s behalf.

D. Hospital and Medical Group recognize the need for quality treatment, care, and services for Hospital patients in the Specialty through an organized and well-structured Surgicalist Program to be directed by Medical Director.

E. Authority wishes to contract with Medical Group, and Medical Group wishes to contract with Authority, for the provision of administrative and coverage services upon the terms and conditions set forth herein.

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:

AGREEMENT

SECTION 1. SUMMARY OF TERMS

- | | |
|---|---|
| <p>1.1 <u>Effective Date:</u> This Agreement shall become effective on November 5, 2018, and services shall commence on November 16, 2018 (“the Commencement Date”).</p> | <p>1.2 <u>Expiration Date:</u> This Agreement shall expire on October 31, 2022.</p> |
| <p>1.3 <u>Compensation for Coverage and Administrative Services:</u>
\$4,869,060 per year, payable monthly in the amount of \$405,755. See Section 5.1(a)(1).</p> | <p>1.4 <u>Medical Group’s Tax I.D. Number:</u>
26-1491885</p> |
| <p>1.5 <u>Medical Group’s Address:</u>
555 Capitol Mall, Suite 570
Sacramento, CA 95814</p> | <p>1.6 <u>Hospital’s Address:</u>
1700 Mount Vernon Avenue
Bakersfield, CA 93306</p> |

SECTION 2. MEDICAL GROUP’S SERVICES

2.1 Pre-Commencement Services. During the period of time beginning on the Effective Date but prior to the Commencement Date, Medical Group shall cause Physicians to become oriented with Hospital, complete on-site computer training, observe other surgeons at Hospital, and complete any other tasks reasonably necessary for Physicians to start providing Coverage Services (as defined below) on the Commencement Date.

2.2 Coverage Services. Beginning on the Commencement Date, Medical Group shall provide coverage services in the Specialty by Physicians twenty-four (24) hours per day, seven (7) days per week, as specifically described in **Exhibit 2.2** attached hereto (“Coverage Services”). Medical Group shall provide the equivalent of seven (7) full-time Physicians to provide the Coverage Services. At least two (2) weeks prior to the first day of each month, Medical Group shall provide Hospital with a schedule of which Physicians will provide Coverage Services each day during that month.

2.3 Advanced Practice Provider Services. Beginning on the Commencement Date, Medical Group shall provide advanced practice provider support services (“APP Services”) in the Specialty by physician assistants and/or nurse practitioners (“APPs”). Medical Group shall provide six hundred (600) hours of APP Services per month, (the equivalent of four and one-quarter [4.25] full time APPs), and in the manner that most efficiently supports the provision of Coverage Services as Medical Group shall determine. References to “Coverage Services” shall

include APP Services, unless the context of the reference indicates otherwise. APPs shall provide services within the scope of their respective practices and under the appropriate supervision of a Physician.

2.4 Medical Director Services.

(a) **Services.** Beginning on the Commencement Date, Medical Group shall provide a Physician to serve as Medical Director of the Surgicalist Program (“Medical Director”) subject to Hospital’s approval, which shall not be unreasonably withheld. Medical Group shall also provide Physicians to serve as (1) the division of trauma and critical care chief and (2) the trauma medical director, who shall assist Medical Director to perform the duties described herein. The Medical Director may concurrently serve as both the division of trauma and critical care chief and the trauma medical director provided that Medical Director is able to perform all required duties. Medical Director shall be responsible for carrying out Medical Group’s administrative responsibilities described in **Exhibit 2.4**, for the overall supervision of the Surgicalist Program, to act as a liaison among the Surgicalist Program, the Medical Staff and other clinical and nonclinical departments within Hospital, and to oversee Medical Group’s performance of this Agreement (collectively, “Administrative Services”). To the extent allowed by law, Medical Director shall be responsible to Hospital’s Chief Executive Officer and/or Chief Medical Officer (the “Administrator”) for the performance of Administrative Services under the Agreement. The Administrative Services provided under this Agreement shall not include any professional services to patients or any other services. Administrative Services may be performed simultaneously with Coverage Services, so long as Medical Director’s performance of Administrative Services does not interfere with the performance of Coverage Services.

(b) **Coordination of Services.** Hospital and Medical Director shall coordinate their activities in connection with Medical Group’s provision of services in the Surgicalist Program. Medical Group shall cause Medical Director to inform Hospital of any extended periods (i.e., one week or more) during which Medical Director will be unavailable due to vacation, professional meetings, or other personal or professional commitments. During all periods of Medical Director’s unavailability for extended periods, Medical Group shall designate a substitute Physician member of Medical Group reasonably acceptable to Hospital to serve as medical director (“Substitute Medical Director”) to perform the Administrative Services required of Medical Director under this Agreement.

2.5 ACS Trauma Verification Services. Medical Group shall assist Hospital in its efforts to attain Level II verification by the American College of Surgeons (“ACS”) by performing, in collaboration with Hospital administration, the following activities:

(a) Reviewing all aspects of trauma care delivery at Hospital, and meet the standards set forth in the ACS’s publication **Resources for the Optimal Care of the Injured Patient**;

(b) Performing a gap analysis to compare Hospital’s trauma care delivery with the standards required by the ACS;

- (c) Implementing action plans informed by the gap analysis;
- (d) Ensuring Medical Director, trauma medical director, division chief, and Physicians fulfill all ACS meeting and reporting obligations;
- (e) Supporting the trauma program manager's efforts to refine all Hospital processes related to the ACS verification process; and
- (f) Providing assistance with ACS site visit preparations, including on-site support both before and during the verification visit.

Additionally, Medical Group shall support all process improvement meetings required by ACS, and will report quality review findings to Hospital's Department of Surgery and Chief Medical Officer via Hospital's currently established reporting mechanism.

2.6 Professional Qualifications. Each Physician Providing Medical Director or Coverage Services shall at all times:

- (a) Hold an unrestricted license to practice medicine in the state of California and be competent to provide the services required by this Agreement;
- (b) Be permitted to prescribe medications and hold a valid Drug Enforcement Agency permit;
- (c) Hold a certificate or evidence of eligibility for certification by the American Board of Surgery and/or the American Osteopathic Board of Surgery, or be so certified within three (3) years of eligibility;
- (d) Be a member in good standing of Hospital's Medical Staff in accordance with Hospital's medical staff bylaws with applicable unrestricted clinical privileges in the Specialty and be subject to all of the attendant responsibilities and conditions of such membership;
- (e) Meet all position requirements as established by Medical Group and Hospital;
- (f) Be eligible at all times to provide services to beneficiaries under the Medicare and Medicaid programs or any other federal healthcare reimbursement programs, qualify for and maintain status as a participating physician under Medicare and Medicaid, qualify for Medicare risk-based and cost-based managed care plans, and execute and maintain on file with the appropriate Medicare and Medicaid carriers a valid agreement to accept assignment for professional medical services to individual patients; and
- (g) Not be in residency training, except as otherwise agreed upon in writing by the parties.

2.7 Representations and Warranties. Medical Group represents and warrants to Hospital that:

(a) Neither Medical Group nor any Physician is bound by any agreement or arrangement which would preclude Medical Group from entering into this Agreement, or Medical Group or any Physician from fully performing the Coverage Services, Administrative Services or any other services under this Agreement;

(b) No Physician's license to practice medicine in the state of California or in any other jurisdiction has ever been denied, suspended, revoked, terminated, voluntarily relinquished under threat of disciplinary action, or restricted in any way for medical disciplinary cause or reason;

(c) No Physician's medical staff privileges at any health care facility have ever been denied, suspended, revoked, terminated, voluntarily relinquished under threat of disciplinary action, or made subject to terms of probation or any other restriction for medical disciplinary cause or reason;

(d) No Physician or any other employee of Medical Group has ever been convicted of an offense related to health care, or listed by the Medicare or Medicaid programs or any other federal or state agency as debarred, excluded or otherwise ineligible for any federal or state program participation;

(e) Medical Group has no information that would reasonably indicate that any Physician is not able to perform any of the services required under this Agreement; and

(f) Notwithstanding the foregoing representations and warranties made to Hospital in this Section 2.7, Medical Group may engage the services of a Physician who fails to meet all of the criteria contained herein, so long as (i) the Physician's record substantially complies with this Section 2.7, and (ii) so long as Hospital approves, in writing, of Medical Group's decision to engage the Physician.

2.8 Notice of Failure to Meet Professional Qualifications. Medical Group shall promptly notify Hospital if Medical Group becomes aware of any event causing or likely to cause a failure by any Physician to meet the requirements set forth in Section 2.6 (Professional Qualifications) and Section 2.7 (Representations and Warranties) hereof, and any of the following:

(a) Any investigation of any Physician or disciplinary proceeding against any Physician by a state licensing board or any governmental agency with jurisdiction over federal health care programs (e.g., Medicare or Medicaid);

(b) Any malpractice action against any Physician or other action against any Physician in connection with such Physician's administrative or professional services;

(c) Any investigation of any Physician or disciplinary action against any Physician by a hospital medical staff, other facility staff, managed care organization,

Independent Practice Association, or any other professional organization relating to the practice of medicine by such Physician; or

- (d) Any other material breach of the terms of this Agreement.

2.9 Working Cooperatively with Others. Physicians shall at all times work cooperatively with others toward enhancing the quality of patient care. Physicians shall refrain from engaging in behavior that is professionally inappropriate toward staff or patients, or is otherwise disruptive to the Hospital or workplace setting.

2.10 Compliance with Rules and Laws. Medical Group and Physicians will provide services in accordance with Hospital's standards of quality and efficiency and will comply with all applicable laws, statutes, ordinances, rules, regulations and standards of any governmental authority having either mandatory or voluntary jurisdiction over Hospital, including but not limited to The Joint Commission, and with the bylaws, rules, regulations and policies of Hospital, Hospital's Medical Staff, and any duly authorized committee thereof. Medical Group and Physicians shall also adhere to and comply with Hospital's utilization management, quality assurance, risk management, peer review and credentialing activities, programs, policies and procedures. Notwithstanding anything contained herein to the contrary, the parties understand and agree that all decisions regarding a Physician's medical practice will be based solely upon such Physician's professional medical judgment and will be made in the best interests of such Physician's patients.

2.11 Corporate Compliance Program. Medical Group and each Physician shall comply with Hospital's corporate compliance program. Medical Group and Physicians shall cooperate with any corporate compliance audits, reviews and investigations that relate to Medical Group or any Physician and/or any of the services provided by Medical Group or any Physician under this Agreement. Subject to request by Hospital, such cooperation shall include, without limitation, the provision of any and all documents and/or information related to Coverage Services or Administrative Services provided by Medical Group or Physicians under this Agreement.

2.12 Quality Improvement and Risk Management. Medical Group and the Physicians shall participate in the quality improvement, utilization review and risk management programs of Hospital, and shall cooperate with any related audits, reviews or investigations.

2.13 Use of Hospital Facilities. No part of Hospital's premises shall be used at any time by Medical Group or any Physician for purposes other than the provision of Coverage Services and Administrative Services pursuant to the terms of this Agreement, except as agreed to under a separate lease arrangement with Hospital or as appropriate by virtue of a Physician's membership on the Hospital Medical Staff and exercise of the Physician's clinical privileges.

2.14 Expenses. Neither Medical Group nor any Physician shall incur any financial obligation on behalf of Hospital without Hospital's prior written consent, which consent shall be in Hospital's sole and absolute discretion. Except as otherwise specifically provided in this Agreement, Hospital shall have no responsibility for the following: (a) Physician compensation and benefits; (b) professional license fees and professional association membership fees and

dues; (c) professional conventions and meetings; (d) professional liability insurance; or (e) any compensation attributable to any employees, subcontractors, or back-up physicians engaged by Medical Group or a Physician.

2.15 Expert Witness Conflict of Interest. Neither Medical Group nor any Physician shall accept any consulting assignment or otherwise contract, agree or enter into any engagement to provide expert testimony, evaluation or other services on behalf of a plaintiff in connection with any claim asserting negligence, malpractice or professional liability on the part of Hospital or any other hospital or health care facility owned or operated by, or affiliated with Hospital, or any employee of Hospital or such other hospital or health care facility if the claim relates to the acts or omissions of Hospital or such employee within the scope of such employee's employment. Notwithstanding the foregoing, nothing herein shall prevent Medical Group and/or any Physician from testifying as a factual witness in an action pursuant to a subpoena or other court order.

2.16 Anti-Referral Laws. Nothing in this Agreement, nor any other written or oral agreement, or any consideration in connection with this Agreement, contemplates or requires or is intended to induce or influence the admission or referral of any patient to or the generation of any business between Medical Group or any Physician and Hospital. This Agreement is not intended to influence Medical Group's or any Physician's judgment in choosing the medical facility appropriate for the proper care and treatment of their patients, or restrict any Physician from establishing medical staff membership or clinical privileges at any other healthcare facility.

2.17 Non-Discrimination. Neither Medical Group nor any Physician will discriminate against any Hospital patient by refusing to provide any service or privilege offered to or enjoyed by the general public because of race, religion, color, age, creed, ancestry, national or ethnic origin, political opinion, sex, disability, marital status, sexual orientation, citizenship, medical condition, insurance status, economic status, ability to pay for medical services or any other basis protected by law. Medical Group and Physicians will treat all patients, including those patients who have no insurance and are deemed by Hospital to be unable to pay for medical services provided.

2.18 Immigration Compliance. Medical Group 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 Hospital with a copy of such verification required in 8 USCA section 1324a. Medical Group agrees to indemnify, defend, and hold harmless Hospital, its agents, officers, and employees, from any liability, damages, or causes of action arising out of Medical Group's failure to comply with this Section 2.18.

2.19 Cost Control. Medical Group shall monitor and facilitate controlling the expenses of the Surgicalist Program in order to provide clinically appropriate, high quality, cost-effective service in the Surgicalist Program.

2.20 EMTALA. Medical Group and Physicians shall at all times comply with the Emergency Medical Treatment and Active Labor Act ("EMTALA") and other state and federal

laws and regulations governing the responsibility of Medical Group with respect to patients to whom emergency services are provided at Hospital.

SECTION 3. HOSPITAL FACILITIES AND SERVICES

3.1 Space. Hospital shall furnish for the use of Medical Group such space and facilities as may be deemed necessary by Hospital for the proper operation and conduct of the Surgicalist Program (the “Premises”). Hospital shall, in its sole discretion, determine the amount and type of space and facilities to be provided herein. Medical Group shall use the space and equipment solely for the performance of the services required under this Agreement. Neither Medical Group nor Physicians shall use such space or equipment for other business or personal use.

3.2 Use Limitations on Space. The use of any part of the space occupied by the Surgicalist Program for the general or private practice of medicine is prohibited. Medical Group 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 Medical Group or any Physician of any portion of the Premises, and insofar as Medical Group or Physicians may use a portion of said Premises, Medical Group and Physicians do so as licensees only, and Authority and Hospital shall, at all times, have full and free access to the same.

3.3 Equipment. Hospital shall furnish for the use of the Surgicalist Program such equipment as is deemed necessary by Hospital for the proper operation and conduct of the Surgicalist Program consistent with community standards. Hospital 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 Hospital budget constraints.

3.4 Services and Supplies. Hospital 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 Hospital deems necessary for the proper operation and conduct of the Surgicalist Program.

3.5 Rest Area. Hospital shall provide access to rest areas in Hospital for Physicians’ reasonable use in the proper delivery of Coverage Services, which shall include access to Hospital’s sleep room, shower/bath facilities, and computer access. Medical Group shall not use such rest area, or equipment therein, for any purpose other than performance of the services required by this Agreement.

3.6 Patient Information Utilization and Quality Data. Hospital shall provide to Medical Group, via an HL7 feed, information regarding patients treated by Physicians pursuant to this Agreement including medical records, patient demographic information, and patient billing information (the “Data”) which is necessary for Medical Group to monitor the quality of its performance, monitor Surgicalist Program patient outcomes, monitor hospital outcomes, and perform its obligations under this Agreement. The Data shall be provided in such a manner that Medical Group can distinguish between patients on the trauma service and patients on the

general surgery service, and Hospital shall designate personnel who shall be responsible for assisting Medical Group in the event the HL7 feed experiences technical difficulties.

3.7 Insurance. With respect to Administrative Services provided under this Agreement, Medical Director shall be included in Hospital's standard policy of insurance or self-insurance in amounts not less than \$1,000,000 per claim/\$3,000,000 annual aggregate. This insurance shall be applicable only to Medical Director's Administrative Services and not to any professional services provided by Medical Director or any Physician.

3.8 Performance Assessment. Hospital shall assess Medical Group's and Medical Director's performance annually, and from time to time as otherwise as deemed appropriate or necessary.

3.9 Interpreters. Hospital shall provide the services of interpreters as required by law and as necessary for the effective operation of the Surgicalist Program.

3.10 Transcription. Hospital shall provide dictation and transcription services and medical record access.

3.11 Responsibility for Surgicalist Program. To the extent required by applicable laws and regulations, Hospital shall retain administrative responsibility for the services rendered to patients in the Surgicalist Program.

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

SECTION 4. QUALITY GOALS AND PERFORMANCE REVIEW

4.1 Surgicalist Program Goals. Hospital and Medical Group agree and understand the need for an organized and well-managed Surgicalist Program. The goal of the parties is to demonstrably improve patient care, clinical quality and efficiency, patient satisfaction, patient safety, patient treatment identification, care coordination and care transition management through the Surgicalist Program.

4.2 Service Excellence Commitment. Medical Group, along with Hospital, shall lead the Surgicalist Program efforts to enhance patient satisfaction and achieve Hospital's service goals. Medical Group acknowledges that the dedication of all Physicians toward the achievement of this goal is a key indicator of success for Hospital and an essential element of this Agreement. Medical Group and Physicians shall participate fully and provide leadership in service excellence teams and other quality improvement and risk management efforts focused on surgical hospitalist services.

4.3 Active Participation in Quality, Efficiency, and Care System Improvement Initiatives. Medical Group shall ensure the active participation of Medical Director and

Physicians (as appropriate) in Hospital care improvement initiatives, including initiatives that relate to (a) the implementation of the electronic medical record and computerized physician order entry, (b) MD/RN rounding, (c) transitions of care process improvements, (d) Physician role in disease management, (e) common training priorities and programs for Physicians and The Joint Commission compliance programs such as core measures, (f) setting priorities for improvement, establishing common best practices to develop and implement and adopting approaches to achieve higher consistency (less variation) in care provided to inpatients, (g) planning for common Physician training and development, (h) assuring the coordination of discharge planning needs with patients, patients' families and the case manager/discharge planner, (i) actively participating with Hospital's emergency physicians in coordinating and maintaining efficient patient flow in the Emergency Department and (j) paired leadership and coordination with Hospital management, with ongoing communication and coordination with Hospital's administrative team liaison; including joint planning, shared communications and prompt response regarding patient management.

4.4 Quarterly Performance Review. Hospital and Medical Group shall meet on a quarterly basis during the term of this Agreement to review the performance of the Surgicalist Program. After the first six (6) months of the term, Hospital and Medical Group may meet more or less frequently if Hospital's Administrator deems such necessary. Such quarterly meetings shall include the appropriate representatives of Medical Group, the Medical Director and Hospital assigned staff who may include an administrative liaison, Hospital patient care executive, Hospital director(s) of quality and case management, and Hospital CEO as deemed appropriate by Hospital. Such quarterly meetings may be held via video or tele-conference. The performance items to be reviewed are those items more particularly described in **Exhibit 4.4** attached hereto.

SECTION 5. COMPENSATION AND BILLING

5.1 Compensation. As payment in full for Coverage Services and Administrative Services provided by Medical Group's Physicians and Medical Director pursuant to this Agreement, Hospital shall pay to Medical Group the following compensation:

(a) **Coverage Services and Administrative Services.**

(1) In exchange for the performance of the Coverage Services and Administrative Services described in this Agreement, and to assure the availability of professional services in the Specialty, Hospital shall pay to Medical Group the sum of **Four Million Eight Hundred Sixty-Nine Thousand Sixty Dollars (\$4,869,060.00)** per year, payable as **Four Hundred Five Thousand Seven Hundred Fifty-Five Dollars (\$405,755.00)** per month, subject to pro-ration for partial months (the "Monthly Stipend"). On each anniversary of the Effective Date, the Monthly Stipend shall be increased by Three Percent (3%) for the subsequent year. Monthly Stipends shall be due and payable upon Hospital's receipt of a completed and signed on-call invoice (the "On-Call Invoice").

(2) Neither Medical Group nor any Physician shall receive compensation for providing call coverage services to Hospital in a specialty other than the Specialty for the same Coverage Shift for which Medical Group receives compensation pursuant to this Agreement.

(3) During the term of this Agreement, Medical Group shall record the actual number of coverage shifts provided on the monthly On-Call Invoice. On a monthly basis, Medical Group shall deliver to Hospital completed and signed copies of the On-Call Invoice within fifteen (15) days after the end of each calendar month during the term of this Agreement. Each On-Call Invoice shall contain, at a minimum, the names of Physicians who provided Coverage Services and the dates each Physician took call during the prior month.

(b) **Meet and Confer.** In the ninety (90) day period prior to the first, and each subsequent, anniversary of the Effective Date of this Agreement, the parties shall meet and confer in good faith regarding the compensation paid, service provided, and other terms of this Agreement.

(c) **Implementation Fee.** Hospital shall pay to Medical Group a one-time implementation fee (the "Implementation Fee") of One Hundred Thousand Dollars (\$100,000.00) for costs incurred by Medical Group in initiating the Surgicalist Program. The Implementation Fee shall be due and payable within thirty (30) days after the Effective Date of this Agreement.

(d) **Timely Payment.** All compensation payable to Medical Group pursuant to this Section 5.1 shall be considered timely paid if received by Medical Group not later than forty-five (45) days after Hospital's receipt of the On-Call Invoice.

5.2 Travel and Expense Reimbursement. Medical Group shall be reimbursed for all pre-approved travel and related expenses, which approval will not be unreasonably withheld, incurred by Medical Director or Physicians on behalf of Hospital, to attend professional meetings or to attend to such outside professional duties in the healthcare field as may be mutually agreed upon between Medical Group and Hospital, in an amount not to exceed Ten Thousand Dollars (\$10,000.00) per year over the four-year term of this Agreement. Reimbursement of travel expenses will include the following: actual cost for lowest refundable coach round-trip airfare, local transportation (rental cars are reimbursable at actual cost for compact or midsize vehicles only; per mile reimbursement for personal vehicle use at the current privately owned vehicle [POV] mileage reimbursement rate established by the U.S. General Services Administration), meals and incidental expenses at the current domestic per diem rates established by the U.S. General Services Administration for Kern County, and reasonable hotel accommodations not to exceed the maximum allowable reimbursement rate including taxes established by Hospital. Travel-related expenses will be billed monthly, as incurred, and are payable in arrears within thirty (30) days of receipt and approval of each invoice by Hospital.

5.3 Fair Market Value Compensation. The compensation provided under Section 5.1 represents the parties' good faith determination of the reasonable fair market value

compensation for the services to be provided by Medical Group and the Physicians under this Agreement.

5.4 Billing for Professional Services.

(a) **Hospital Billing.** Hospital shall have the exclusive right to set, bill and collect for (i) the facility/technical component of hospital services delivered to all Surgicalist Program patients, and (ii) the medical professional services rendered to Surgicalist Program patients by Medical Group and Physicians. All professional fees generated by Medical Group and Physicians for services rendered to Hospital patients at Hospital or a Hospital location during the term of this Agreement, including both cash collections and accounts receivable, will be the sole and exclusive property of Hospital, whether received by Hospital or by Medical Group or Physicians and whether received during the term of this Agreement or anytime thereafter. Medical Group hereby reassigns to Hospital all payments for medical professional services performed by Physicians when providing Professional Services, including those provided to beneficiaries of the Medicare and the Medicaid Programs. Medical Group and Hospital agree to comply with all federal and state statutes and regulations regarding such reassignment (including, but not limited to, the completion and execution of form CMS-855R).

(b) **Billing Records.** Hospital shall allow Medical Group to examine, inspect or make copies of Surgicalist Program patient billing records, at Medical Group's expense, if such access is necessary to comply with any laws, rules or regulations.

5.5 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

5.6 Nondiscrimination Based on Payor Status. "Member" means a person who is enrolled with a third-party payor as a subscriber, beneficiary, employee or dependent, or a person who is enrolled with a payor under the Medicare Risk Program or Medicare+Choice Program Plan as a subscriber, beneficiary, employee or dependent, and who is eligible to receive professional services at Hospital. Medical Group shall not impose any limitations on the acceptance of Members for care or treatment unless such limitations are applied generally to all Members. Medical Group shall not improperly differentiate or discriminate against Members in the provision of professional services and shall render professional

services to Members in the same manner and in accordance with the same standards, and within the same time availability, as offered to non-Members consistent with existing medical, ethical, or legal requirements for providing continuity of care to any patient. Medical Group and all Physicians and subcontractors under this Agreement, (if any), shall not request, demand, require or otherwise seek, directly or indirectly, the transfer of, or termination from any health care service plan of any Member based upon the Member's need for or utilization of professional services or in order to gain financially or otherwise from such termination.

5.7 Managed Care Contracting. Medical Group shall cooperate, and shall ensure that Physicians cooperate, in all reasonable respects necessary to facilitate Hospital's entry into or maintenance of any third-party payer arrangements for the provision of services under any other public or private health and/or hospital care programs, including but not limited to insurance programs, self-funded employer health programs, health care service plans and preferred provider organizations. To enable Hospital to participate in any third-party payer arrangements, Medical Group and/or Physicians shall, upon request: (i) enroll as a provider (if required by the third-party payer), separate from Hospital, with any third-party payer or intermediate organization (including any independent practice association) (each, a "Managed Care Organization") designated by Hospital for the provision of professional services to patients covered by such Managed Care Organization; (ii) enter into a written agreement with such Managed Care Organization as may be necessary or appropriate for the provision of professional services to patients covered by such Managed Care Organization; and/or (iii) enter into a written agreement with Hospital regarding global billing, capitation or other payment arrangements as may be necessary or appropriate for the provision of professional services to patients covered by such Managed Care Organization.

5.8 Cooperation with Payor Medical Directors. Medical Director and Medical Group understand that payors may place certain obligations upon Hospital regarding the quality of care received by and utilization of professional services provided to Hospital patients and that payors, in certain instances, will have the right to oversee and review the quality of care and utilization of professional services provided to Members. Medical Director and Physicians agree to cooperate with the medical directors of the various payors in the review of the quality of care and utilization of professional services provided to Members.

5.9 Medical Group's Compensation of Individual Physicians. Medical Group shall be solely responsible for developing and implementing its own system for compensating Physicians, whether employees or subcontractors of Medical Group; provided, however, that Medical Group represents, warrants and covenants that its compensation system shall at all times be structured in a manner that complies with all federal and state physician self-referral laws (including Section 1877 of the Social Security Act known as the Stark Law), anti-kickback and other applicable laws as they may apply to the direct and indirect relationships created under this Agreement among Hospital, Medical Group and individual Physicians. Without limiting the generality of the foregoing, Medical Group represents, warrants, and covenants that compensation paid to each Physician shall be fair market value compensation for the service provided by that Physician and shall not take into account the value or volume of referrals of "designated health services" (as defined under the Stark Law) or other business generated by the Physician for Hospital.

5.10 Maximum Payable. The maximum payable under this Agreement shall not exceed Twenty Million Five Hundred Ten Thousand Three Hundred Thirty-One Dollars (\$20,510,331.00) over the four-year term of this Agreement.

SECTION 6. TERM AND TERMINATION

6.1 Term. The term of this Agreement shall commence on the Effective Date and continue for a period of four (4) years unless terminated earlier pursuant to this section. This Agreement shall automatically renew for one (1) additional term of one (1) year, but only upon mutual written agreement of the parties, unless either party gives the other party written notice of its intention not to renew this Agreement at least one hundred eighty (180) days prior to the expiration of the initial four-year term.

6.2 Early Termination. This Agreement may be terminated prior to its expiration for any of the following reasons:

(a) **Immediate Termination by Hospital.** Hospital may terminate this Agreement immediately by written notice to Medical Group upon the occurrence of any of the following events:

(1) Medical Group's misrepresentation of any material fact referenced in Section 2.7 of this Agreement (Representations and Warranties);

(2) Failure of Medical Group to remove a Physician after requested by Hospital pursuant to Section 7 (Removal of a Physician);

(3) Medical Group's failure to obtain or maintain professional liability insurance for Medical Group or Physicians, as required in Section 8 (Insurance);

(4) Medical Group's unauthorized disclosure of Patient Information or Hospital Information, as defined in Section 12 (Confidentiality);

(5) Loss or restriction of Hospital's license or accreditation, or destruction of Hospital or the portion(s) thereof dedicated to the operation of the Surgicalist Program, such that Hospital is not able to continue the uninterrupted operation of the Surgicalist Program;

(6) Either party becomes insolvent or declares bankruptcy;

(7) Closure of the Hospital's Emergency Department or sale or closure of Hospital, so long as Hospital provides Medical Group with at least thirty (30) days' advanced notice of such sale or closure; or

(8) The dissolution or discontinuance of the operations of Medical Group.

(b) **Material Breach.** Subject to the immediate termination rights of Hospital set forth in Section 6.2(a) (Immediate Termination by Hospital), either party shall have the right to terminate this Agreement upon a material breach of any terms or conditions of this Agreement by the other party, provided such breach continues uncured for thirty (30) days after receipt by the breaching party of written notice of such breach from the non-breaching party. The parties expressly acknowledge and agree that each of the following constitutes a material breach of this Agreement: (i) failure to provide the Coverage Services described in Section 2.2 (Coverage Services) or in **Exhibit 2.2**; (ii) failure of a Physician to respond to calls as provided in Section 2 of **Exhibit 2.2** (Response Time); (iii) failure to satisfy the requirements of Section 12 (Confidentiality); or (iv) any act or omission by Medical Group or any Physician that jeopardizes the quality of care provided to Hospital's patients.

(c) **Legal Jeopardy.** If either party obtains an opinion of outside legal counsel stating that, in the event of an audit or investigation, this Agreement is likely to be challenged by any governmental agency as illegal or improper or to result in fines, penalties or exclusion from the Medicare or Medicaid programs, that party may provide written notice of termination of this Agreement, including a short statement of why this section has been determined applicable, to the other party. If the parties agree and enter into a joint defense agreement, the party that obtained the legal opinion shall agree to waive any attorney-client privilege with regard to the legal opinion and provide a copy of such opinion to the other party. Within fifteen (15) days of such notice, the parties shall meet and confer to discuss mutually acceptable means of restructuring the relationship to eliminate the legal concern. In the event that the parties are unable to reach agreement on new terms within thirty (30) days of their meeting, this Agreement shall automatically terminate.

(d) **Non-appropriation.** Hospital 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 Medical Group, except for services performed prior to the date of termination or any liability due to any default existing at the time this Section 6.2(d) is exercised. Medical Group will be given thirty (30) days' prior written notice in the event that Hospital requires such an action.

(e) **Without Cause Termination.** Either party may elect to terminate this Agreement, without cause, upon one hundred eighty (180) days' advance written notice to the other party.

6.3 Effect of Expiration or Termination.

(a) **Obligations.** Except as otherwise provided in this Section 6.3, upon expiration or other termination of this Agreement, the parties shall be relieved and released from any further duties and obligations under this Agreement. Notwithstanding the foregoing, each party understands and agrees that termination of this Agreement shall not release or discharge the parties from any obligation, debt or liability which shall have previously accrued and remains to be performed upon the date of termination.

(b) **Continuation of Patient Services.** Except for termination due to legal jeopardy, illegality or risk to patient welfare, Medical Group shall continue to be obligated under this Agreement, until the effective date of its termination, to continue to provide professional services to any patients in Hospital for whom a Physician has assumed responsibility in the course of providing Coverage Services. In addition, if circumstances applicable to such a patient require the continuation of such services after the effective date of termination of this Agreement, Medical Group shall continue to provide professional services to such patient for a reasonable period in order to accomplish the orderly transfer of care to another physician.

(c) **Liability for Breach.** Termination of this Agreement by any party as a result of a material breach by the other party shall not be an exclusive remedy, and the non-breaching party shall be entitled to pursue other remedies for such breach available at law or in equity, subject to Section 13 (Dispute Resolution) of this Agreement.

(d) **Vacating Premises and Removing Property.** Except as otherwise permitted for other similarly situated members of Hospital's Medical Staff, upon expiration or termination of this Agreement and upon the request of Hospital, Medical Group shall cause all Physicians to immediately vacate Hospital premises and remove all of their personal property. Any personal property that is not removed shall be removed by Hospital at Medical Group's expense.

(e) **Survival.** The provisions of Sections 2.11 (Corporate Compliance Program), 6 (Term and Termination), 8 (Insurance), 9 (Medical Records), 10 (Access to Books and Records), 11 (Independent Contractor Relationship), 12 (Confidentiality), 13 (Dispute Resolution), 14 (Indemnification), 15 (Non-Solicitation), 16 (Notices) and 17 (Miscellaneous Provisions) other than 17.11 (Litigation Cooperation) and 17.10 (Other Service Agreements) shall survive termination of this Agreement.

(f) **Medical Staff Privileges.**

(1) **Termination of Physician/APP.** If a Physician or APP is no longer eligible to provide Coverage Services or APP Services, as the case may be, at Hospital pursuant to and as contemplated by this Agreement, the medical staff membership and clinical privileges of the Physician or APP shall automatically terminate concurrently with the loss of Physician's or APP's eligibility to provide such services. In such circumstances, Physician's or APP's medical staff membership and clinical privileges shall automatically terminate without the necessity of Hospital following the procedures set forth in the medical staff bylaws, and the Physician or APP shall have no right to exercise or assert any procedural rights that are set forth in or based on the medical staff bylaws; provided, however, in the event any action or proposed action by Hospital results or would result, if taken, in a report to the Medical Board of California, Board of Registered Nursing or the National Practitioner Data Bank as an adverse professional review action against one or more Physicians or APPs, then Hospital shall comply with the procedural requirements set forth in the medical staff bylaws, including the provisions regarding the conduct of investigations, hearings and appeals. Nothing in this Agreement shall preclude any current or former Physician or APP from applying for medical staff membership or clinical privileges at Hospital, provided that neither the governing body nor the medical staff of Hospital shall have any obligation to grant such privileges. Except as provided herein, Physicians and

APPs shall be entitled to all rights otherwise provided to members of the medical staff in the bylaws, rules, regulations or policies of the medical staff or Hospital.

(2) **Termination of Contract.** In the event of the termination or expiration of this Agreement, the medical staff membership and clinical privileges of all Physicians and APPs providing Coverage Services or APP Services, as the case may be, pursuant to this Agreement shall automatically terminate concurrently with the termination or expiration of this Agreement. In such circumstances, the medical staff membership and clinical privileges of each Physician and APP shall terminate without the necessity of Hospital following the procedures set forth in the medical staff bylaws, and Physicians and APPs shall have no right to exercise or assert any procedural rights that are set forth in or based on the medical staff bylaws.

(3) **Election to Participate.** Each Physician and APP shall execute an “Election to Participate,” in the form set forth in **Exhibit 6.3(f)**, attached hereto, prior to the Physician or APP being approved by Hospital to provide services pursuant to this Agreement.

(g) **Renewal, Extensions, New Agreements.** Neither party shall have any obligation to renew or extend, nor to negotiate a renewal or extension of, this Agreement, nor enter into a new agreement for any period after this Agreement is terminated. If this Agreement is terminated prior to its first anniversary for any reason, the parties shall not enter into a renewal or extension of this Agreement or a new agreement for the same or substantially similar services of Medical Group prior to the first anniversary of the Effective Date of this Agreement.

SECTION 7. REMOVAL OF A PHYSICIAN

7.1 Without Cause. All Physicians providing the Coverage Services are subject to continuing approval by Hospital. However, Hospital acknowledges that in the normal course of events, Medical Group must have at least ninety (90) days prior notice to remove a Physician without cause from the coverage schedule. Accordingly, except as otherwise provided in Section 7.2 (Removal for Cause), Hospital agrees to give Medical Group not less than ninety (90) days’ written notice before it will require removal of a Physician without cause.

7.2 Cause for Removal. Hospital may require the immediate cessation of services by any Physician or APP and/or require Medical Group to immediately remove from the coverage schedule under this Agreement any Physician or APP for cause upon written notice to Medical Group specifying the reasons therefore. Cause shall mean:

(a) Failure of a Physician or APP to meet any of the requirements of Section 2.6 (Professional Qualifications);

(b) The disability of a Physician or APP (for purposes of this Agreement, “disability” shall mean a physical or mental condition, verified by a physician designated by Hospital, which prevents, or is substantially certain to prevent, Physician or APP from carrying out one or more of the essential functions of Physician or APP’s position, with or without reasonable accommodation, for a continuous period of ninety (90) days, or if otherwise an undue hardship on Hospital;

(c) A Physician or APP becomes legally incompetent or is convicted of a felony, uses, possesses, or is found under the influence of alcohol, drugs or other controlled substances at the work place and while on duty; or

(d) Any act or omission by a Physician or APP that appears to create the risk of imminent danger to the health of any individual pursuant to Medical Staff bylaws;

(e) Failure of a Physician or APP to comply with Section 2.9 (Working Cooperatively with Others); or

(f) Failure of a Physician or APP to abide by any of the terms and conditions of this Agreement applicable to Physicians or APPs, as the case may be.

SECTION 8. INSURANCE

8.1 Professional Liability Insurance. Medical Group shall maintain, at its sole expense, a policy or policies of professional liability insurance that covers any acts of Physicians' and APPs' professional negligence. The limits of liability for Medical Group and each Physician shall be at least \$1,000,000 per claim/\$3,000,000 annual aggregate, and the limits of liability for all APPs shall be at least \$1,000,000 per claim/\$3,000,000 annual aggregate. If coverage is provided on a claims-made policy, Medical Group further agrees to maintain continuous coverage, by either obtaining "tail" insurance from the preceding carrier, or "nose" coverage from the subsequent carrier, through the term of this Agreement, as well as any extensions or renewals, and for a period thereafter of not less than five (5) years. In addition, with respect to any Physician or APP who terminates employment or other association with Medical Group for any reason, Medical Group shall secure tail coverage for a period of not less than five (5) years for claims and losses in connection with services rendered by any such Physician or APP prior to such termination. Medical Group may satisfy this requirement by assuring that the terminating Physician or APP maintains insurance with a retroactive date prior to or coinciding with the first date of employment or other association with Medical Group; provided, however, that upon termination of any such insurance for any reason, Medical Group shall procure its own tail coverage. Hospital shall not have any responsibility to pay, or reimburse Medical Group for such tail insurance coverage that is the obligation of Medical Group, or the departing Physician or APP. Medical Group shall provide proof of current insurance and will, in the event of modification, termination, expiration or cancellation of any of the required policies of insurance, give Hospital written notice within five (5) business days.

8.2 Business Insurance. With respect to performance of work under this Agreement, Medical Group shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as described in **Exhibit 8.2**, attached hereto.

SECTION 9. MEDICAL RECORDS

9.1 Medical Records and Reports. Medical Group shall cause Physicians and APPs to prepare complete, timely and accurate medical and other records with respect to the services and treatment provided by Physicians and APPs under this Agreement. All such medical and other records shall be prepared in accordance with Hospital and Medical Staff bylaws, rules,

policies and procedures and in accordance with all applicable laws, and standards and recommendations of The Joint Commission. Medical Group, Physicians, and APPs agree that all records and reports required by this Section 9.1 shall be the exclusive personal property of Hospital, with the exception of Medical Group's Intellectual Property (as defined in Section 9.4 below).

9.2 Patient Records. Any and all patient records and charts produced as a result of either party's performance under this Agreement shall be and remain the sole property of Hospital, provided that, Hospital shall allow Medical Group access to the medical records for purposes related to the provision of post-surgical follow-up care and to the registrar for purposes of Medical Group's clinical outcomes database which is a "limited data set" in compliance with all applicable rules and regulations. Both during and after the term of this Agreement, Medical Group shall be permitted to inspect and/or duplicate, at Medical Group's expense, any individual chart or record to the extent necessary to meet professional responsibilities to such patient(s), to assist in the defense of any malpractice or similar claim, to generate patient bills for professional services rendered, and/or for any other lawful purpose to which such chart or record may be pertinent; provided, however, that such inspection or duplication shall be conducted in accordance with applicable legal requirements and pursuant to commonly accepted standards of patient confidentiality. Medical Group shall be solely responsible for maintaining patient confidentiality with respect to any information obtained by Medical Group pursuant to this Section 9.2.

9.3 Record Requirements. Each party agrees in connection with the subject matter of this Agreement to cooperate fully with the other party in order to assure that each party will be able to meet all requirements for record keeping associated with public or private third-party payment programs.

9.4 Intellectual Property Ownership and Assignment. Hospital shall be the owner of all proprietary rights in and to any documentation, records, text and other works of authorship, data, databases, information, know-how, conceptions, discoveries, inventions, designs, symbols, names, procedures, methods, processes, improvements, products, prototypes, samples and other property and materials, tangible or intangible, whether or not patentable or registrable under copyright, patent or similar laws, within the foregoing: (i) furnished to Medical Director or Medical Group, or to which Medical Director or Medical Group is given access by Hospital in connection with the performance of this Agreement; and/or (ii) conceived, reduced to practice, or otherwise created, authored, developed or generated in connection with performance of this Agreement by Medical Director or Medical Group either solely or jointly with Hospital (collectively "Intellectual Property"). Neither Medical Director nor Medical Group shall have any interest in such Intellectual Property. Accordingly, Medical Group and Medical Director hereby assign to Hospital all of Medical Director's and/or Medical Group's right, title and interest in and to the Intellectual Property. The parties further agree that nothing in this paragraph or in this Agreement shall limit Hospital's sole and exclusive intellectual property rights in and to its own data provided to Medical Director or Medical Group during the course of this Agreement. Hospital hereby grants to Medical Group a non-exclusive, revocable (for any material breach of this Agreement), non-sublicensable license in order for Medical Group to make, use, reproduce, modify, distribute, publicly display and publicly perform, for patient care, educational and marketing purposes only, certain Intellectual Property items that do not place

Hospital or its affiliated organization(s) at a competitive disadvantage, or create any potential for disclosure of confidential or propriety information of Hospital in the course of Medical Group executing the rights granted to it under the license. Except as expressly set forth herein, no right, title or interest in or to any Intellectual Property is granted to Medical Group and/or Medical Director by virtue of this Agreement, whether by implication, estoppel or otherwise.

SECTION 10. ACCESS TO BOOKS AND RECORDS

10.1 Access. Medical Group shall maintain and make available all necessary books, documents and records applicable to the services provided under this Agreement in order to assure that Hospital will be able to meet all requirements of the Medicare and Medicaid programs, including, but not limited to, matters covered by Section 1861(v)(1)(I) of the Social Security Act, as amended.

(a) Until expiration of four (4) years after furnishing services pursuant to this Agreement, Medical Group shall make available upon written request of the Secretary of Health and Human Services (“Secretary”) or the Comptroller General of the United States General Accounting Office, or any of their duly authorized representatives, this Agreement, books, documents, and records of Medical Group that are necessary to verify the nature and extent of costs incurred by Hospital under this Agreement.

(b) If Medical Group carries out any of the duties of this Agreement by way of a subcontract with a value of \$10,000 or more over a 12-month period, such subcontract shall contain, and Medical Group shall enforce, a clause to the same effect as subparagraph (1) immediately above.

10.2 Limits. The availability of Medical Group’s books, documents, and records shall be available at all times subject to all applicable legal requirements, including, without limitation, such criteria and procedures for seeking and obtaining access that may be promulgated by the Secretary by regulation.

SECTION 11. INDEPENDENT CONTRACTOR RELATIONSHIP

In performing the services described in this Agreement, Physicians, APPs, and Medical Group are acting as independent contractors, and shall not be considered employees, joint venturers or partners of Hospital for any purpose whatsoever. Hospital shall neither have nor exercise any control or direction over the methods by which Physicians or APPs shall perform the services required under this Agreement, and Medical Group shall neither have nor exercise any control or direction over Hospital’s affairs. The sole interest and responsibility of Hospital is to assure that such services are performed in a competent, efficient and satisfactory manner. Neither party shall have any claim against the other party arising under this Agreement or otherwise for workers’ compensation, severance pay, vacation pay, sick leave, retirement benefits, health plan benefits, Social Security benefits, disability insurance benefits, unemployment insurance benefits or any other benefits of any kind. Each party shall be solely responsible for, and shall indemnify, defend and hold harmless the other party from and against any claim, liability or expense related to its duties regarding, any and all income tax withholding, estimated income tax, social security tax, self-employment tax, unemployment tax or any other

tax obligations related to the compensation payable by Hospital to Medical Group under this Agreement and the compensation payable by each party to its respective employees.

SECTION 12. CONFIDENTIALITY

12.1 Confidential Information. Each party recognizes and acknowledges that, by virtue of entering into this Agreement, each party and its representatives (specifically including Physicians and Manager in the case of Medical Group) may have access to certain information of the other party that is confidential and constitutes valuable, special and unique property of the other party. Each party agrees that neither such party nor its representatives will at any time, either during or subsequent to the term of this Agreement, disclose to others, use, copy or permit to be copied, without the other party's express prior written consent, except pursuant to such party's duties hereunder, any confidential or proprietary information of the other party, including, but not limited to, information that concerns the other party's patients, costs, prices and treatment methods at any time used, developed or made by the other party, and that is not otherwise available to the public.

12.2 Terms of this Agreement. Except for disclosure to the parties' legal counsel, accountant or financial advisors, neither party will disclose the terms of this Agreement to any person who is not a party to this Agreement, unless disclosure is required by law or otherwise authorized by this Agreement or consented to in writing by the other party.

12.3 Patient Information. Medical Group will not disclose, and will ensure that the Physicians, APPs, and Manager will not disclose, to any third party, except where permitted or required by law or where such disclosure is expressly approved by Hospital in writing, any patient or medical record information regarding Hospital patients, and Medical Group will comply, and will ensure that Physicians, APPs, and Manager will comply, with all federal and state laws and regulations, all rules, regulations and policies of Hospital and its Medical Staff, regarding the confidentiality of such information, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), Subtitle D of the Federal HITECH Act ("HITECH Act," 42 U.S.C. § 17921 et seq.), and the regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations," 45 C.F.R. Part 160, et seq.), the Confidentiality of Medical Information Act (Civ. Code, § 56 et seq.), and the Confidentiality of Alcohol and Drug Abuse Patient Records regulations (42 C.F.R. Part 2), as amended from time to time.

12.4 Business Associate Agreement. By signing and/or acknowledging this Agreement, the parties and Medical Director hereby agree to comply with the HIPAA security and privacy regulations (in current or amended form) regarding the use or disclosure of Protected Health Information ("PHI"). The parties further agree to comply with and execute the Business Associate Agreement set forth in **Exhibit 12.4**, attached hereto.

SECTION 13. DISPUTE RESOLUTION

13.1 Meet and Confer. In the event of any dispute between Medical Group (including Physicians and/or APPs) and Hospital arising out of or related to the validity, interpretation,

enforcement or performance of this Agreement, or otherwise arising out of the relationship between the parties or the termination of that relationship, either party may by written notice call a meeting regarding such dispute to be attended by an executive officer of each party who has the authority to negotiate and bind that party to a resolution. At the meeting, such officers shall attempt in good faith to resolve the dispute. If the dispute cannot be resolved within forty-five (45) days from the date of the initial notice, and if either party wishes to pursue the dispute, the dispute shall be submitted for trial before a privately compensated temporary judge appointed by the Kern County Superior Court pursuant to Article VI, Section 21 of the California Constitution and Rules 3.810 through 3.830 of the California Rules of Court.

13.2 Attorneys' Fees and Costs. The cost of any dispute resolution shall be shared equally by Hospital and Medical Group, provided that each party shall bear its own legal expenses, including attorneys' and experts' fees and costs, and such fees and costs that may be encountered enforcing a judgment or order entered in any legal action, except as ordered by the temporary judge as part of his/her damages award pursuant to an applicable fee-shifting statute.

13.3 Venue. Venue for any dispute resolution shall be the County of Kern.

SECTION 14. INDEMNIFICATION

Each party (the "Indemnifying Party") agrees to defend, indemnify, and hold harmless the other party (the "Indemnified Party") and its directors, trustees, members, shareholders, partners, officers, employees and agents from and against any and all liability, loss, expense (including reasonable attorneys' fees) or claims for injury or damages arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense or claim for injury or damages is caused by or results from the negligence or intentional acts or omissions of the Indemnifying Party or its directors, trustees, members, shareholders, partners, officers, employees or agents.

Additionally, each party agrees to indemnify and defend, and hold harmless the other party, its affiliates, and any of its or their officers, directors, attorneys, agents or employees, from all claims, costs (including costs of settlement and attorneys' fees), losses, damages, liabilities and penalties arising from or connected with the breach by the Indemnifying Party, or any of its officers, directors, agents, subcontractors or employees, of its obligations under the Agreement with respect to PHI. The foregoing sentence shall not apply to (i) any Civil Monetary Penalties (or any other claims, costs, losses, damages, liabilities, fines or penalties which are derivative of a Civil Monetary Penalty) levied by the Office of the Inspector General, the Department of Health and Human Services, or any other agency or governing body possessing the power to levy such penalties, nor to (ii) any claims, costs, losses, damages, liabilities, fines or penalties levied by the state of California for violations of state law.

SECTION 15. NON-SOLICITATION

During the term of this Agreement and for a period of one (1) year thereafter, neither party nor any of their affiliates shall, without the prior written approval of the other (i) employ, retain, offer employment to or offer retention of any person who is or was employed by or under

contract with the non-soliciting party during the term of this Agreement, (ii) solicit, advise or otherwise do, or attempt to do, business with any employee or independent contractor of the non-soliciting party who is or was employed by or under contract with the non-soliciting party during the term of this Agreement, or (iii) directly or indirectly, induce or attempt to induce any person who is under contract with the non-soliciting party to terminate his or her contract with such non-soliciting party. In the event either party breaches this Section 15, the breaching party agrees to pay to the non-breaching party as liquidated damages, which the parties agree is not a penalty, an amount equal to One Hundred Fifty Thousand Dollars (\$150,000.00) per instance of breach. The parties agree that the true damages incurred by the non-breaching party in the event of a breach of this Section 15 are difficult to estimate, and that the liquidated damages sum provided for herein (i) fairly represents the market cost of recruiting, relocating, and replacing the employee/agent, and for the non-breaching party to provide a *locum tenens* in the interim, and (ii) is reasonably proportionate to the non-breaching party's expected damages from such breach. Notwithstanding the foregoing, this Section 15 shall not apply to any Medical Group Physician who is a member of Hospital's medical staff prior to the Effective Date of this Agreement, or who was introduced to Medical Group by Hospital.

SECTION 16. NOTICES

All written notices to be given in connection with this Agreement shall be sufficient if sent by certified or registered mail, postage prepaid or by national overnight delivery service addressed to the party entitled to receive such notice at the address specified by such party below, or, if inconsistent, at the address as provided by any W-9 tax form to Hospital. Either party may from time to time change its address for purpose of receipt of notice by a notice delivered in compliance with this subsection.

If to Authority: Kern County Hospital Authority
 1700 Mount Vernon Avenue
 Bakersfield, CA 93306
 Attn: Chief Executive Officer

With a copy to: Kern County Hospital Authority
 4520 California Avenue, Suite 100
 Bakersfield, CA 93309
 Attn: Legal Services Department

If to Medical Group: Acute Care Surgery Medical Group, Inc.
 555 Capital Mall, Suite 570
 Sacramento, CA 95814
 Attn: Leon J. Owens, M.D.

SECTION 17. MISCELLANEOUS PROVISIONS

17.1 Recitals, Exhibits, and Appendices. The recitals, exhibits, and appendices attached hereto or referred to herein are hereby incorporated into this Agreement by reference.

17.2 Ambiguities. This Agreement has been negotiated at arm's length, and the parties have participated fully in the review and revision of this Agreement. Accordingly, any rule of law or legal decision that would require interpretation of any ambiguities to be resolved against the drafting party shall not apply in interpreting this Agreement, and is hereby waived.

17.3 No Waiver. No waiver of a breach of any provision of this Agreement may be construed as a waiver of any breach of any other provision. To be effective, a waiver must be in writing. No single waiver may be treated as an ongoing waiver unless expressly agreed in writing.

17.4 Severability. Except as provided in Section 6.2(c) (Legal Jeopardy), the invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision, unless the effect of such severance would substantially alter the Agreement or the obligations of either party, in which case the Agreement may be terminated by either party upon 30 days prior written notice or as otherwise allowed by the term and termination provisions of this Agreement.

17.5 Assignability and Subcontracting. The rights and obligations of each party under this Agreement shall inure to the benefit of said party and to its successors and permitted assigns. Neither party may subcontract or otherwise assign any of its rights or obligations under this Agreement to a third party without obtaining the prior written consent of the other party.

17.6 Use of Name. Medical Group shall not use the name of Hospital or any affiliated entity of Hospital, or any of their trademarks, service marks, or trade names for any purpose without the prior written consent of Hospital.

17.7 No Third Party Rights. Unless otherwise expressly provided in this Agreement, nothing contained herein is intended nor shall be construed to create rights running to the benefit of any person or entity not a party to this Agreement.

17.8 Governing Law. This Agreement, and all transactions contemplated by this Agreement, shall in all respects be governed by, and construed and interpreted in accordance with, the laws of the state of California without giving effect to any conflicts of law principles of such state that might refer the governance, construction or interpretation of this Agreement to the laws of another jurisdiction.

17.9 Entire Agreement. This Agreement constitutes the entire understanding and agreement between the parties as to those matters contained in it, and supersedes any and all prior or contemporaneous agreements, representations and understandings of the parties. This Agreement may be amended or extended at any time by mutual agreement of the parties, but any such amendment or extension must be in writing, dated, and signed by the parties.

17.10 Other Service Agreements. Hospital will maintain a database that shall include copies of all other agreements under which Medical Group, any Medical Group physician (or any immediate family member of Medical Group physician), provides services to Hospital.

17.11 Litigation Cooperation. Each party shall reasonably cooperate with the other party in furnishing information, testimony and other assistance in connection with any litigation, audits, proceedings or disputes relating to this Agreement or the services, other than proceedings or disputes between the parties to this Agreement.

17.12 Excess Payment. Subject to defenses based on waiver, estoppel, accord and satisfaction, laches, statute of limitations or any similar doctrine, if either party discovers that Hospital has made a payment or payments to Medical Group in deficit or in excess of the amount(s) due and payable under this Agreement (the "Erroneous Payment"), the party shall promptly notify the other party ("Notice of Error"). The Notice of Error shall be specific enough to fairly notify the other party of the nature of the error. The parties shall work diligently to calculate the error, and shall mutually agree on the amount of the Erroneous Payment ("Payment Amount"), if any. If the Payment Amount is an underpayment, Hospital shall pay to Medical Group the Payment Amount within not more than ninety (90) days following the Notice of Error. If the Payment Amount is an overpayment, Hospital may offset the Payment Amount from future payments owed to Medical Group under this Agreement or any successor agreement pertaining to the same subject matter as this Agreement. In the event that there are no future payments owed under this Agreement or a successor agreement, or that future payments are not sufficient to cover the Payment Amount, Hospital may seek repayment of the Payment Amount or the remaining Payment Amount from Medical Group and Medical Group shall repay within ninety (90) days following the Notice of Error.

17.13 No Referrals/Non-Exclusivity. Nothing in this Agreement is intended to obligate, nor shall anything in this Agreement obligate any party to the Agreement to refer business to any other party. Medical Group understands and agrees that Hospital will utilize the services of Medical Group pursuant to the terms of this Agreement on a non-exclusive basis. Medical Group further agrees that Hospital shall retain the option to enter into agreements with other organizations for purposes of securing the services, in its sole discretion.

17.14 Tax Reporting. To ensure proper tax reporting of the compensation paid under this Agreement, Medical Group shall complete, execute and deliver to Hospital an IRS Form W-9, and any analogous California state forms (if requested by Hospital) which sets forth the correct taxpayer identification number for Medical Group. To the extent required by law, Hospital shall report all payments to Medical Group on IRS Form 1099 and its state law counterpart.

17.15 Counterparts. This Agreement may be executed in counterparts, each of which will be an original and which together will constitute one and the same instrument. A photocopy or scanned version of the executed Agreement may be used as if it were the original Agreement.

17.16 Execution. By their signatures below, the signatories to this Agreement represent that they have the authority to execute this Agreement and to bind the party on whose behalf the execution is made.

17.17 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.

17.18 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

17.19 Conflict of Interest. Medical Group 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. Medical Group 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. Manager and Medical Director shall complete and file a “Statement of Economic Interest” with Hospital if required by Hospital’s Conflict of Interest Code.

17.20 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.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below to be effective as of the Effective Date.


AUTHORITY:

Kern County Hospital Authority

By: _____
Name: Russell E. Bigler
Title: Chairman, Board of Governors
Date: _____

MEDICAL GROUP:

Acute Care Surgery Medical Group, Inc.


By: _____
Name: Leon Owens, M.D.
Title: President and CEO
Date: 8/8/18

**APPROVED AS TO CONTENT:
KERN MEDICAL CENTER**

By: _____
Name: Russell V. Judd
Title: Chief Executive Officer
Date: _____

**APPROVED AS TO FORM:
LEGAL SERVICES DEPARTMENT**

By: _____
Name: Karen S. Barnes
Title: VP & General Counsel
Date: _____

EXHIBIT 2.2

COVERAGE REQUIREMENTS

1. **Coverage Services.** Beginning on the Commencement Date, Medical Group shall ensure that two (2) Physicians provide trauma and general surgery call coverage to Hospital on a twenty-four (24) hour/seven (7) days per week basis to patients that present to Hospital's emergency department ("Emergency Department"). The Physician providing trauma call coverage shall remain on Hospital's campus at all times, and the Physician providing general surgery call coverage shall remain on-call and arrive at Hospital within thirty (30) minutes of Hospital's request. Physicians shall provide coverage for (1) all trauma and acute care surgery patients that present to the Emergency Department, (2) all trauma and acute care surgery patients admitted to the Intensive Care Unit ("ICU") and ward, (3) all general surgical critical care in-house emergencies, and (4) all requests for Emergency Department or inpatient consultation. Physicians shall provide such coverage and respond to such consultation requests in the timeframes described in Section 2 below. Physicians shall work twenty-four (24) hour shifts (each a "Coverage Shift") pursuant to a rotation on-call schedule ("Specialty Call Schedule") established and amended from time-to-time by Medical Group. As a member of Hospital's Emergency Department on-call panel, at all times during a Physician's Coverage Shift (and as necessary for completion of services or follow-up care), Medical Group agrees that such Physician shall provide (a) consultation or assistance within the scope of Physician's Medical Staff privileges to physicians in the Emergency Department; (b) consultation or assistance within the scope of Physician's Medical Staff privileges to other Medical Staff members who call for Specialty consults for their patients who are in the Hospital; (c) direct treatment to all patients who present in the Emergency Department and who are in need of medical care within the Specialty as required in accordance with Hospital's Medical Staff Bylaws, policies and procedures; and (d) follow-up hospitalist and related services in the Specialty (including but not limited to rounding on patients post-surgery) within the scope of Physician's Medical Staff privileges for all "Unassigned Patients," (i.e., patients who present to the Emergency Department but have no established relationship with a member of Hospital's Medical Staff, or patients who have been admitted to Hospital under the care of a member of the Hospital Medical Staff and require the services of a trauma surgeon but have no established relationship with one). In furtherance but not in limitation of the above, Medical Group shall ensure that Physicians:

- Dictate all required documentation such as admitting history and physical examinations, procedure notes and discharge summaries within twenty-four (24) hours of the admission, procedure or discharge, respectively;
- Provide postoperative follow-up care, including any postoperative or post discharge procedures and/or surgery that could reasonably be considered an extension of care rendered during their hospital stay;
- Upon request of the admitting surgeon, consult on any surgical ICU patients and enter appropriate progress notes (but Physicians shall not assume primary responsibility for the care of such patients or the management of functions including discharge planning, chaplaincy, pharmacy, social services, etc.);

- Provide inpatient surgical consults as requested by any attending/admitting physician;
- Provide “first call” for emergencies, but not routine situations involving hospitalized private group patients under the care of general surgeons;
- Coordinate relationships with the Emergency Department, the Hospital staff, specialist physicians, health plans, and patient family members;
- Participate in family meetings, as appropriate;
- Communicate with primary care physicians regarding follow-up needs;
- Implement Medical Group initiatives to promote improved bedside communication with patients;
- Carry a pager or mobile phone and respond to pages/calls immediately upon receipt of such pages/calls;
- Be available for both telephonic and in-person consultation with individual members of the Medical Staff, committees of the Medical Staff, and Hospital’s nursing and administrative staff regarding call coverage services; and
- Provide all clinical services within the scope of Medical Group and Physicians’ practice reasonably requested by Hospital for hospitalized patients needing general surgery care and treatment.

2. **Response Time.** Medical Group will ensure that Physicians will be immediately available to Hospital on a scheduled and pre-assigned basis in accordance with the Specialty Call Schedule to provide Coverage Services. For purposes of this Agreement, “immediately available” means being unencumbered by conflicting duties or responsibilities, responding without delay upon request, and responding by telephone as well as to the patient bedside. For the trauma patient population, in accordance with requirements of the American College of Surgeons, a fifteen (15) minute response time to the patient’s bedside is required for the highest-level activation in the outpatient (Emergency Department) setting, and an immediate response is required for the inpatient (ICU) setting. For all other acute general surgery patients, ‘immediately available’ means responding by telephone within fifteen (15) minutes of being paged/called, and being physically at the bedside within thirty (30) minutes of a request. In the event a Physician is encumbered due to being in surgery and is unable to respond to a request within the respective times, Physician will request a response from the back-up surgeon.

3. **Transfers and Consultations.** During Coverage Shifts, Medical Group will ensure that Physicians accept transfers of all appropriate patients requiring the Specialty services who are transferred from another hospital that does not have the capacity or capability to see that patient, and Hospital has the capacity and capability to treat such patient(s). In addition, Medical Group shall ensure that Physicians take inpatient consultations in the Specialty during Coverage Shifts. Medical Group shall evaluate all patients who present to the Emergency Department,

regardless of age. If a patient requires medical care that is beyond the Physician's scope of practice, the patient shall be transferred to a facility that is able to adequately treat the patient. The parties anticipate that Medical Group will be able to treat trauma patients aged fifteen (15) years and older, provided, however, that Medical Group may treat patients younger than fifteen (15) years if their care can be appropriately managed at Hospital.

EXHIBIT 2.4

MEDICAL DIRECTOR ADMINISTRATIVE SERVICES

Medical Director shall be responsible to perform the Administrative Services for the Hospital's Department of Surgery set forth below:

1. **License and Accreditation.** Medical Director shall provide such medical professional guidance and supervision as directed by Hospital in an effort to obtain and maintain the Service's license and accreditation. Medical Director shall participate in the program in such a manner as to uphold the expectations set forth in the American College of Surgery document entitled "Resources for the Optimal Care of the Injured Patient."
2. **Policies and Procedures.** Medical Director shall develop, maintain, implement, and update as necessary policies and procedures for the effective operation of the Service. These policies and procedures shall be consistent with applicable licensing regulations, and shall promote high quality patient care, standardization of procedures, efficiency of scheduling, and highly trained professional and technical personnel. Policies and procedures shall be approved in the appropriate hospital committees or governing.
3. **Call Schedule.** Medical Director shall develop a system for assuring Physician and APP coverage of the Service, 24 hours per day, seven (7) days per week. Physicians and APPs scheduled to provide this coverage must:
 - Be members in good standing of the Medical Staff, with full privileges to provide necessary patient care services;
 - Comply with Hospital's nondiscrimination policies, and be eligible to and agree to treat Medicare and Medicaid patients; and
 - Provide services in accordance with Hospital's standards of quality and efficiency and in accordance with all applicable Medical Staff and Hospital bylaws, rules, regulations, and policies.
4. **Personnel.** Medical Director shall advise Hospital in the identification, recruiting, evaluation, and retention of key Hospital personnel working in the Service.
5. **Supervision.** Medical Director shall provide clinical supervision of technical personnel in the Service.
6. **Training and Education.** Medical Director shall train or arrange for the training of Service personnel, and if requested by Hospital, shall participate in the development of such continuing education materials and instruction as necessary to properly instruct members of Hospital's medical, nursing, and allied health professional staffs, as well as other employee groups deemed appropriate by Hospital and Medical Director.
7. **Planning.** Upon request of Hospital, Medical Director shall participate in Hospital's planning process as it relates to the operation of the Service.

8. **Quality Assurance.** In cooperation with Hospital's formal quality assurance program, Medical Director shall develop and implement appropriate quality assurance activities for the Service. In addition, Medical Director shall monitor quality of services, and shall recommend steps necessary to remedy deficiencies therein. These activities shall be conducted through Hospital's Medical Staff committee structure. Nothing in this Agreement is intended to affect the privileges and immunities that attend such Medical Staff activities.
9. **Equipment.** Medical Director shall advise Hospital on the selection, maintenance, and repair of equipment for the Service, and advise Hospital on the need for maintenance or repair of equipment within the Service.
10. **Reimbursement.** Medical Director shall cooperate with Hospital, at Hospital's request, in the preparation of claim forms for reimbursement, and of other appropriate reports on the operation of the Service.
11. **Committees.** Medical Director shall participate on Hospital and Medical Staff committees, including but not limited to Peer Review Committee, Medical Executive Committee, and Surgical Unit Staff Meetings at the request of the Administrator or the Medical Staff.
12. **Marketing.** At Hospital's request, Medical Director shall assist in developing and implementing Hospital's marketing plan as it relates to the Service. Medical Director shall maintain the confidentiality of such marketing plan.
13. **Miscellaneous.** Medical Director shall perform the following additional miscellaneous duties and activities:
 - a. **Medical Administration:**
 - Medical Director shall participate at Hospital's request in assuring regulatory compliance of the Service.
 - Medical Director shall assist Hospital in resource utilization analysis and rigorous management of operating costs necessary to cover the Department of Surgery.
 - Meet regularly and upon request with Hospital leadership to review service performance and care delivery as appropriate.
 - b. **Surgicalist Program Oversight:**
 - Medical Director shall schedule, coordinate and supervise the provision of medical services within the Surgicalist Program.
 - Medical Director shall participate in appropriate performance improvement activities and benchmark measures with respect to the Surgicalist Program.
 - Medical Director shall assume primary clinical responsibility for physician related performance improvement activities and initiatives as appropriate.

- Medical Director shall assist with Medical Group and Hospital medical staff and Emergency Department staff regarding the efficiency and effectiveness of the Surgicalist Program for specific outcomes and indicators.
- Medical Director shall assist in the development of protocols and policies of the Surgicalist Program as needed.

c. Physician Relations:

- Medical Director shall be a member of the medical staff.
- Medical Director shall, with input from Hospital leadership, be responsible for team building with the Hospital-based medical staff.
- Medical Director shall, with input from Hospital leadership, be responsible for developing an ongoing communications process to Hospital medical staff, including maintaining high levels of morale/satisfaction and actively promoting service changes that affect physicians.
- Medical Director shall work collaboratively with Hospital leadership in recruiting, physician hiring, contracting, and evaluating physician performance. Medical Director, along with Hospital leadership, shall oversee the effectiveness of new physician orientation programs relating to acute care and trauma surgery.
- Medical Director shall have shared accountability with the Chief Nursing Officer, Clinical Director of Emergency Services and Clinical Director of Surgical Services for accessibility for services to referring physicians via marketing and availability of services.

d. Community Outreach

- Medical Director shall actively promote acute care surgery services to member and medical staff communities through MEC reports, attendance at other department meetings as dictated by administrative directive.
- Medical Director shall participate with Community Relations in the development of outreach and communications programs for the community at large at the request of Hospital.
- Medical Director shall direct and/or participate in outreach education programs for facilities that refer general surgery patients to Hospital and participate in education programs to the community.

e. Educational Activities:

- Medical Director may assist in identifying continuing education needs to ensure ongoing quality of care.
- Upon mutual agreement by the parties, Medical Director shall attend CME courses and instruct Hospital staff and Physicians on new knowledge as needed.

14. **Other Responsibilities.** Medical Director shall perform such other responsibilities as reasonably necessary for the proper operation of the Service.

EXHIBIT 4.4

QUARTERLY PERFORMANCE REVIEW CRITERIA

Care Management of Inpatient Stay. Participating as part of a multi-disciplinary team, Medical Group will provide physician leadership to implementation of the inpatient plan of care. This includes:

- Maintaining a patient-centered and service oriented approach,
- Communicating with patients and families regarding care preferences, the overall plan of care, discharge plans (and date) and the role of the Physician in the process; including explanation of how multiple Physicians provide continuous coverage for patient care.
- Assuring accurate and effective hand-offs between the different Physicians caring for the same patient
- Coordinating with case management on care transitions and discharge planning; including daily meetings to coordinate patient care and implement plan of care
- Encouraging consistency, quality, service and teamwork among hospital staff members, such as nurses and ancillary staff (e.g., multidisciplinary rounding, huddles, etc.)
- Assisting and/or reinforcing patient education concerning the disease/disease process, symptoms/symptom management, medications and overall self-efficacy
- Providing consistency in inpatient care; including use of clinical care pathways and other standardized procedures and processes.
- Acting cooperatively, cost-consciously, efficiently and providing high-quality care

Care Coordination and Transitions of Care Management. Participating as part of a multi-disciplinary team, Medical Group shall provide physician leadership in assuring care coordination and care transitions for the patient including:

- Communications with the patient's PCP upon admission and discharge, with Physician making reasonable efforts to communicate directly with PCP
- Verify and document that next level of care provider has received all relevant medical documentation prior to the patient's discharge. This includes (as may be applicable):
 - Reconciled list of medications,
 - Patient education provided,
 - Advanced care plan documents (including POLST),
 - All consult summaries, and
 - Discharge summary
- Assuring that education and information are provided to the patient about the following subjects, while the patient is in the hospital, so that the patient is properly prepared for post-hospitalization:
 - **R** – “Red flags” and symptom management (patient awareness/ability)
 - **E** – Education on disease and disease process (interactive/coaching)
 - **A** – Appointments; follow-up with PCP, tests and procedures (as may be applicable)
 - **D** – Drugs and medication reconciliation/management
 - **Y** – Your (the patient's) wishes being known; advance care planning/POLST

Discharge from Hospital. Participating as part of a multi-disciplinary team, hospitalist shall provide physician leadership in assuring an effective, patient-centered hospital discharge. This includes:

- Reviewing discharge plan and discussing patient expectations for next level of care,
- Reinforcing key elements of the plan; such as reason and importance of follow-up appointments, “red flags” and symptom management, medication management/reconciliation and advance care panning.
- Assuring the patient has written discharge instructions
- Assuring that the patient receives a follow-up call within a reasonable time of discharge to verify transition to next level of care, reinforce follow-up appointments and assure they have been able to access any needed prescribed medications, and undertake reasonable efforts to communicate directly with patient and/or family

Meeting Participation. Physicians shall participate in ongoing utilization management and quality/service/risk management activities as facilitated by analysis of reports. Physicians will also participate in Hospital medical staff department and committee meetings as requested.

Quality and Care Systems Improvement. Physicians shall assist in developing and implementing care guidelines and other quality tools, including protocols to expedite care and provide care more efficiently.

EXHIBIT 6.3(f)

ELECTION TO PARTICIPATE

[See attached]

ELECTION TO PARTICIPATE

I, the undersigned Physician/APP (**circle one**), am a member of the Medical Staff of Kern Medical Center (“Hospital”), and am an employee/independent contractor/member/shareholder (**circle all that apply**) of Acute Care Surgery Medical Group, Inc., a California professional medical corporation organized under the laws of the state of California (“Medical Group”). I further state that I am board certified/eligible for board certification (**circle one if applicable**) in _____ by the American Board of _____.

I hereby acknowledge that I have read the provisions of the Trauma and General Surgery Hospitalist Coverage Services and Medical Director Agreement between the Kern County Hospital Authority, which owns and operates Hospital, and Medical Group (the “Agreement”) that affect my professional obligations, prohibited conduct, and medical staff membership, and hereby elect to participate in the rendering of Coverage Services/APP Services (**circle one**) pursuant to the Agreement and agree to abide by the provisions of the Agreement. I have been specifically advised and agree that my medical staff membership and clinical privileges at Hospital, including access to and use of Hospital facilities, equipment, personnel, and resources necessary to exercise such privileges, shall automatically terminate concurrently with loss of my eligibility to provide Coverage Services/APP Services (**circle one**) pursuant to and as contemplated by the Agreement, without the necessity of Hospital or its medical staff following the procedures set forth in the medical staff bylaws, and, in such circumstances, I shall have no right to exercise or assert any procedural rights based on or set forth in the medical staff bylaws. I have also been advised and agree that in the event Medical Group ceases to provide Coverage Services/APP Services (**circle one**) to Hospital pursuant to the Agreement for any reason whatsoever, my medical staff membership and clinical privileges, including access to and use of Hospital facilities, equipment, personnel, and resources necessary to exercise such privileges, shall terminate concurrently with the cessation of such services without the necessity of Hospital or its medical staff following the procedures set forth in the medical staff bylaws. In such circumstances, I further acknowledge and agree that I shall have no right to exercise or assert any procedural rights that are set forth in or based on the medical staff bylaws.

DATED this _____ day of _____, 20__

By: _____

(Signature of Physician/APP)

Print Name: _____, M.D./D.O./PA/NP (**circle one**)

(Address of Physician/APP)

EXHIBIT 8.2
BUSINESS INSURANCE

With respect to performance of work under this Agreement, Medical Group 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 Hospital. Any requirement for insurance to be maintained after completion of the work shall survive the termination or expiration of this Agreement.

Hospital 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 Medical Group 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 Medical Group has employees. If Medical Group currently has no employees, Medical Group's written confirmation of such will be required before execution of this Agreement. If Medical Group engages any employees during the Term of this Agreement or any extensions thereof, Medical Group 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 Medical Group maintains higher limits than the specified minimum limits, Hospital requires and shall be entitled to coverage for the higher limits maintained by Medical Group.
- (c) If Medical Group 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 Hospital. Medical Group is responsible for any deductible or self-insured retention and shall fund it upon Hospital's written request, regardless of whether Medical Group has a claim against the insurance or is named as a party in any action involving Hospital.

- (e) Hospital shall be named as an additional insured for liability arising out of operations by or on behalf of Medical Group in the performance of this Agreement. See section 5 below for full Additional Insured wording.
- (f) The insurance provided to Hospital as an additional insured shall be primary to and non-contributory with any insurance or self-insurance program maintained by Hospital.
- (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 Hospital and Medical Group 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 Medical Group currently owns no autos, Medical Group 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 Medical Group 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, Medical Group 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: **“Trauma and General Surgery Hospitalist Coverage Services and Medical Director Agreement.”**
- (b) All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Medical Group agrees to maintain current Evidence of Insurance on file with Hospital 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) Medical Group 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 Hospital within 30 days.

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

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

**EXHIBIT 12.4
BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (“**BAA**”) is entered into by and between the Kern County Hospital Authority on behalf of Kern Medical Center (“**Covered Entity**”) and Acute Care Surgery Medical Group, Inc. (“**Business Associate**”) (each a “**Party**” and collectively the “**Parties**”), effective as of November 5, 2018 (the “**Effective Date**”).

RECITALS

WHEREAS, Covered Entity is a “Covered Entity” as that term is defined under the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-91), as amended, (“**HIPAA**”), and the regulations promulgated thereunder by the Secretary of the U.S. Department of Health and Human Services (“**Secretary**”), including, without limitation, the regulations codified at 45 C.F.R. Parts 160, 162, and 164 (“**HIPAA Rules**”);

WHEREAS, Business Associate performs Services for or on behalf of Covered Entity, and in performing said Services, Business Associate creates, receives, maintains, or transmits Protected Health Information (“**PHI**”);

WHEREAS, the Parties intend to protect the privacy and provide for the security of PHI Disclosed by Covered Entity to Business Associate, or received or created by Business Associate, when providing Services in compliance with HIPAA, the Health Information Technology for Economic and Clinical Health Act (Public Law 111-005) (the “**HITECH Act**”) and its implementing regulations and guidance issued by the Secretary; and

WHEREAS, the Privacy and Security Rules (defined below) require Covered Entity and Business Associate to enter into a BAA that meets certain requirements with respect to the Use and Disclosure of PHI, which are met by this BAA.

AGREEMENT

NOW THEREFORE, in consideration of the Recitals and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

**ARTICLE I
DEFINITIONS**

1.1 “**Breach**” shall have the meaning given under [45 C.F.R. § 164.402](#).

1.2 “**Breach Notification Rule**” shall mean the Breach Notification for Unsecured Protected Health Information interim final rule at 45 C.F.R. Parts 160 and 164, Subpart D, as may be amended from time to time.

1.3 “**Designated Record Set**” shall have the meaning given such term under [45 C.F.R. § 164.501](#).

1.4 “**Disclose**” and “**Disclosure**” mean, with respect to PHI, the release, transfer, provision of access to, or divulging in any other manner of PHI outside of Business Associate or to other than members of its Workforce, as set forth in [45 C.F.R. § 160.103](#).

1.5 “**Electronic PHI**” or “**e-PHI**” means PHI that is transmitted or maintained in electronic media, as set forth in [45 C.F.R. § 160.103](#).

1.6 “**Protected Health Information**” and “**PHI**” mean any information created, received or maintained by Business Associate on behalf of Covered Entity, whether oral or recorded in any form or medium, that: (a) relates to the past, present or future physical or mental health or condition of an Individual; the provision of health care to an Individual, or the past, present or future payment for the provision of health care to an individual; (b) identifies the Individual (or for which there is a reasonable basis for believing that the information can be used to identify the Individual); and (c) shall have the meaning given to such term under the Privacy Rule at [45 C.F.R. § 160.103](#). Protected Health Information includes e-PHI.

1.7 “**Privacy Rule**” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Parts 160 and 164, Subparts A and E, as may be amended from time to time.

1.8 “**Security Rule**” shall mean the Security Standards at 45 C.F.R. Parts 160 and 164, Subparts A and C, as may be amended from time to time.

1.9 “**Services**” shall mean the services for or functions on behalf of Covered Entity performed by Business Associate pursuant to any service agreement(s) between Covered Entity and Business Associate which may be in effect now or from time to time (the “**Underlying Agreement**”), or, if no such agreements are in effect, then the services or functions performed by Business Associate that constitute a Business Associate relationship, as set forth in [45 C.F.R. § 160.103](#).

1.10 “**Subcontractor**” shall have the meaning given to such term under [45 C.F.R. § 160.103](#).

1.11 “**Unsecured PHI**” shall have the meaning given to such term under [42 U.S.C. § 17932\(h\)](#), [45 C.F.R. § 164.402](#), and guidance issued pursuant to the HITECH Act including, but not limited to the guidance issued on April 17, 2009 and published in 74 Federal Register 19006 (April 27, 2009) by the Secretary.

1.12 “**Use**” or “**Uses**” mean, with respect to PHI, the sharing, employment, application, utilization, examination or analysis of such PHI within Business Associate’s internal operations, as set forth in [45 C.F.R. § 160.103](#).

1.13 “**Workforce**” shall have the meaning given to such term under [45 C.F.R. § 160.103](#)

Capitalized terms not otherwise defined in this Agreement shall have the meanings given to them in HIPAA or the HITECH Act, as applicable.

ARTICLE II OBLIGATIONS OF BUSINESS ASSOCIATE

2.1 Permitted Uses and Disclosures of Protected Health Information. Business Associate shall not Use or Disclose PHI other than as permitted or required by any Underlying Agreement, this BAA, or as Required by Law. Business Associate shall not Use or Disclose PHI in any manner that would constitute a violation of the Privacy Rule if so Used or Disclosed by Covered Entity, except that Business Associate may Use or Disclose PHI (i) for the proper management and administration of Business Associate; (ii) to carry out the legal responsibilities of Business Associate, provided that with respect to any such Disclosure either: (a) the Disclosure is Required by Law; or (b) Business Associate obtains a written agreement from the person to whom the PHI is to be Disclosed that such person will hold the PHI in confidence and shall not Use and further Disclose such PHI except as Required by Law and for the purpose(s) for which it was Disclosed by Business Associate to such person, and that such person will notify Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been breached. Business Associate may perform Services, including Data Aggregation for the Health Care Operations purposes of Covered Entity and de-identification of PHI in accordance with 45 C.F.R. § 164.514, if required by any Underlying Agreement or with the advance written permission of Covered Entity.

2.2 Adequate Safeguards of PHI. Business Associate shall implement and maintain appropriate safeguards to prevent Use or Disclosure of PHI other than as provided for by this BAA. Business Associate shall reasonably and appropriately protect the confidentiality, integrity, and availability of e-PHI that it creates, receives, maintains or transmits on behalf of Covered Entity and shall comply with Subpart C of 45 C.F.R. Part 164 to prevent Use or Disclosure of PHI other than as provided for by this BAA.

2.3 Reporting Non-Permitted Use or Disclosure.

2.3.1 Reporting Security Incidents and Non-Permitted Use or Disclosure. Business Associate shall report to Covered Entity in writing each Security Incident or Use or Disclosure that is made by Business Associate, members of its Workforce, or Subcontractors that is not specifically permitted by this BAA no later than twenty-four (24) hours days after becoming aware of such Security Incident or non-permitted Use or Disclosure, in accordance with the notice provisions set forth herein. Notwithstanding the foregoing, Business Associate and Covered Entity acknowledge the ongoing existence and occurrence of attempted but ineffective Security Incidents that are trivial in nature, such as pings and other broadcast service attacks, and Covered Entity acknowledges and agrees that no additional notification to Covered Entity of such ineffective Security Incidents is required, as long as no such incident results in unauthorized access, Use or Disclosure of PHI. Business Associate shall investigate each Security Incident or non-permitted Use or Disclosure of Covered Entity's PHI that it discovers to determine whether such Security Incident or non-permitted Use or Disclosure constitutes a reportable Breach of Unsecured PHI and shall provide a summary of its investigation and risk assessment to Covered Entity. Business Associate shall document and retain records of its investigation of any suspected Breach, including its reports to Covered Entity under this Section

2.3.1. Business Associate shall take prompt corrective action and any action required by applicable state or federal laws and regulations relating to such Security Incident or non-permitted disclosure. If Business Associate or Covered Entity, in its review of this initial report, determines that such Security Incident or non-permitted Use or Disclosure constitutes a reportable Breach of Unsecured PHI, then Business Associate shall comply with the additional requirements of Section 2.3.2 below.

2.3.2 Breach of Unsecured PHI. If Business Associate or Covered Entity determines that a reportable Breach of Unsecured PHI has occurred, Business Associate shall provide a written report to Covered Entity without unreasonable delay but no later than five (5) calendar days after discovery of the Breach. To the extent that information is available to Business Associate, Business Associate's written report to Covered Entity shall be in accordance with 45 C.F.R. §164.410(c). Business Associate shall cooperate with Covered Entity in meeting Covered Entity's obligations under the HIPAA Rules with respect to such Breach. Covered Entity shall have sole control over the timing and method of providing notification of such Breach to the affected individual(s), the Secretary and, if applicable, the media. Business Associate shall reimburse Covered Entity for its reasonable and actual costs and expenses in providing the notification, including, but not limited to, any administrative costs associated with providing notice, printing and mailing costs, public relations costs, and costs of mitigating the harm (which may include the costs of obtaining credit monitoring services and identity theft insurance) for affected individuals whose PHI has or may have been compromised as a result of the Breach.

2.3.3 Data Breach Notification and Mitigation Under Other Laws. In addition to the requirements of Sections 2.3.1 and 2.3.2, Business Associate agrees to implement reasonable systems for the discovery and prompt reporting of any breach of individually identifiable information (including but not limited to PHI, and referred to hereinafter as "Individually Identifiable Information") that, if misused, disclosed, lost or stolen, Covered Entity believes would trigger an obligation under applicable state security breach notification laws ("State Breach") to notify the individuals who are the subject of the information. Business Associate agrees to: (i) cooperate and assist Covered Entity with any investigation into any State Breach or alleged State Breach; (ii) cooperate and assist Covered Entity with any investigation into any State Breach or alleged State Breach conducted by a state agency or Attorney General; (iii) comply with Covered Entity's determinations regarding Covered Entity's and Business Associate's obligations to mitigate to the extent practicable any potential harm to the individuals impacted by the State Breach; and (iv) assist with the implementation of any decision by Covered Entity or any State agency to notify individuals impacted or potentially impacted by a State Breach.

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

2.5 Use of Subcontractors. Business Associate shall require each of its Subcontractors that creates, maintains, receives, or transmits PHI on behalf of Business Associate, to execute a Business Associate Agreement that imposes on such Subcontractors

substantially the same restrictions, conditions, and requirements that apply to Business Associate under this BAA with respect to PHI.

2.6 Access to Protected Health Information. To the extent that Business Associate maintains a Designated Record Set on behalf of Covered Entity and within fifteen (15) days of a request by Covered Entity, Business Associate shall make the PHI it maintains (or which is maintained by its Subcontractors) in Designated Record Sets available to Covered Entity for inspection and copying, or to an Individual to enable Covered Entity to fulfill its obligations under 45 C.F.R. § 164.524. If Business Associate maintains PHI in a Designated Record Set electronically, Business Associate shall provide such information in the electronic form and format requested by the Covered Entity if it is readily reproducible in such form and format, and, if not, in such other form and format agreed to by Covered Entity to enable Covered Entity to fulfill its obligations under 45 C.F.R. § 164.524(c)(2). Business Associate shall notify Covered Entity within five (5) days of receipt of a request for access to PHI from an Individual.

2.7 Amendment of Protected Health Information. To the extent that Business Associate maintains a Designated Record Set on behalf of Covered Entity and within fifteen (15) days of a request by Covered Entity, Business Associate shall amend the PHI it maintains (or which is maintained by its Subcontractors) in Designated Record Sets to enable the Covered Entity to fulfill its obligations under 45 C.F.R. § 164.526. Business Associate shall notify Covered Entity within five (5) days of receipt of a request for amendment of PHI from an Individual.

2.8 Accounting. Within thirty (30) days of receipt of a request from Covered Entity or an Individual for an accounting of disclosures of PHI, Business Associate and its Subcontractors shall make available to Covered Entity the information required to provide an accounting of disclosures to enable Covered Entity to fulfill its obligations under 45 C.F.R. § 164.528 and 42 U.S.C. § 17935(c). Business Associate shall notify Covered Entity within five (5) days of receipt of a request by an Individual or other requesting party for an accounting of disclosures of PHI from an Individual.

2.9 Delegated Responsibilities. To the extent that Business Associate carries out one or more of Covered Entity's obligations under Subpart E of 45 C.F.R. Part 164, Business Associate must comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

2.10 Availability of Internal Practices, Books, and Records to Government. Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, created, maintained, or transmitted by Business Associate on behalf of Covered Entity promptly available for inspection and copying to the Secretary, in a time and manner designated by the Secretary, for purposes of the Secretary determining Covered Entity's or Business Associate's compliance with the HIPAA Rules. In addition, Business Associate agrees that Covered Entity shall have the right to audit and monitor all applicable activities and records of Business Associate to determine Business Associate's compliance with the HIPAA Rules and shall promptly make available to Covered Entity such books, records, or other information relating to the Use and Disclosure of

PHI provided, created, received, maintained or transmitted by Business Associate on behalf of Covered Entity for such purpose.

2.11 Minimum Necessary. Business Associate (and its Subcontractors) shall, to the extent practicable, limit its request, Use, or Disclosure of PHI to the minimum amount of PHI necessary to accomplish the purpose of the request, Use or Disclosure, in accordance with 42 U.S.C. § 17935(b) and 45 C.F.R. § 164.502(b)(1) or any other guidance issued thereunder.

2.12 Acknowledgement. Business Associate acknowledges that it is obligated by law to comply, and represents and warrants that it shall comply, with HIPAA, the HITECH Act, and the HIPAA Rules. Business Associate shall comply with all applicable state privacy and security laws, to the extent that such state laws are not preempted by HIPAA or the HITECH Act.

ARTICLE III OBLIGATIONS OF COVERED ENTITY

3.1 Covered Entity's Obligations.

3.1.1 Covered Entity shall notify Business Associate of any limitation(s) in the Notice of Privacy Practices of Covered Entity under 45 C.F.R. 164.520, to the extent that such limitation may affect Business Associate's Use or Disclosure of PHI.

3.1.2 Covered Entity shall notify Business Associate of any changes in, or revocation of, the permission by an individual to Use or Disclose his or her PHI, to the extent that such changes may affect Business Associate's Use or Disclosure of PHI.

3.1.3 In the event Covered Entity agrees with an Individual to any restrictions on Use or Disclosure of PHI pursuant to 45 C.F.R. § 164.522(a) or if Covered Entity determines that it is obligated to accommodate a reasonable request of an Individual to receive communications of PHI pursuant to 45 C.F.R. § 164.522(b), Covered Entity promptly shall notify Business Associate of the same, as well as any revocation or modification of the same, and Business Associate thereupon shall observe such restriction or accommodation (or revocation or modification, if any, thereof) to the extent applicable to its Use or Disclosure of PHI hereunder, notwithstanding any other provision hereof, except as otherwise required by law.

3.1.4 Covered Entity agrees to obtain any consent or authorization that may be required under HIPAA or any other applicable law and/or regulation prior to furnishing Business Associate with PHI.

3.1.5 Covered Entity shall not request Business Associate to make any Use or Disclosure of PHI that would not be permitted under HIPAA if made by Covered Entity. Covered Entity agrees to fulfill its obligations under this BAA in a timely manner.

ARTICLE IV TERM AND TERMINATION

4.1 Term. Subject to the provisions of Section 4.1, the term of this BAA shall be the term of any Underlying Agreement.

4.2 Termination of Underlying Agreement.

4.2.1 A breach by Business Associate of any provision of this BAA, as determined by Covered Entity, shall constitute a material breach of the Underlying Agreement and shall provide grounds for immediate termination of the Underlying Agreement, any provision in the Underlying Agreement to the contrary notwithstanding.

4.2.2 Covered Entity may terminate the Underlying Agreement, effective immediately, if: (i) Business Associate is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Rules or other security or privacy laws or (ii) a finding or stipulation that the Business Associate has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Rules or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.

4.3 Termination for Cause. In addition to and notwithstanding the termination provisions set forth in any Underlying Agreement, upon Covered Entity's knowledge of a material breach or violation of this BAA by Business Associate, Covered Entity shall either:

4.3.1 Notify Business Associate of the breach in writing, and provide an opportunity for Business Associate to cure the breach or end the violation within ten (10) business days of such notification; provided that if Business Associate fails to cure the breach or end the violation within such time period to the satisfaction of Covered Entity, Covered Entity may terminate this BAA and any Underlying Agreement upon thirty (30) calendar days written notice to Business Associate; or

4.3.2 Upon thirty (30) calendar day written notice to Business Associate, immediately terminate this BAA and any Underlying Agreement if Covered Entity determines that such breach cannot be cured.

4.4 Disposition of Protected Health Information Upon Termination or Expiration.

4.4.1 Upon termination or expiration of this BAA, Business Associate shall return or destroy all PHI received from, or created or received by Business Associate on behalf of Covered Entity, that Business Associate still maintains in any form and retain no copies of such PHI. If Covered Entity requests that Business Associate return PHI, PHI shall be returned in a mutually agreed upon format and timeframe.

4.4.2 If return or destruction is not feasible, Business Associate shall: (a) retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities; (b) return to Covered Entity the remaining PHI that the Business Associate still maintains in any form; (c) continue to extend the protections of this BAA to the PHI for as long as Business Associate retains the PHI; (d) limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction of the PHI not feasible and subject to the same conditions set out in Sections 2.1 and 2.2 above, which applied prior to termination; and (e) return to Covered Entity the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

ARTICLE V MISCELLANEOUS

5.1 Regulatory References. A reference in this BAA to a section or other part of HIPAA, the HIPAA Rules, or the HITECH Act means, as of any point in time, the section or part as it may be amended or in effect at such time.

5.2 Amendment. The Parties agree to take such action as is necessary to amend this BAA from time to time as necessary for Covered Entity to implement its obligations pursuant to HIPAA, the HIPAA Rules, or the HITECH Act.

5.3 Relationship to Underlying Agreement Provisions. In the event that a provision of this BAA is contrary to a provision of an Underlying Agreement, the provision of this BAA shall control. Otherwise, this BAA shall be construed under, and in accordance with, the terms of such Underlying Agreement, and shall be considered an amendment of and supplement to such Underlying Agreement.

5.4 Headings. The headings of the paragraphs and sections of this BAA are inserted solely for convenience of reference and are not a part or intended to govern, limit or aid in the construction of any term or provision hereof.

5.5 Equitable Relief. Business Associate understands and acknowledges that any Disclosure or misappropriation of any PHI in violation of this BAA will cause Covered Entity irreparable harm, the amount of which may be difficult to ascertain, and therefore agrees that Covered Entity shall have the right to apply to a court of competent jurisdiction for specific performance and/or an order restraining and enjoining any such further Disclosure or Breach and for such other relief as Covered Entity shall deem appropriate. Such right of Covered Entity is to be in addition to the remedies otherwise available to Covered Entity at law or in equity. Business Associate expressly waives the defense that a remedy in damages will be adequate and further waives any requirement in an action for specific performance or injunction for the posting of a bond by Covered Entity.

5.6 Insurance. In addition to any general and/or professional liability insurance required of Business Associate, Business Associate agrees to obtain and maintain, at its sole expense, liability insurance on an occurrence basis, covering any and all claims, liabilities, demands, damages, losses, costs and expenses arising from a breach of the security or privacy obligations of Business Associate, its officers, employees, agents and Subcontractors under this BAA. Such insurance coverage will be maintained for the term of this BAA, and a copy of such policy or a certificate evidencing the policy shall be provided to Covered Entity at Covered Entity's request.

5.7 Assistance in Litigation or Administrative Proceedings. Business Associate shall make itself and any Subcontractors or members of its Workforce assisting Business Associate in the performance of its obligations under this BAA available to Covered Entity, at no cost to Covered Entity, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against Covered Entity, its directors, officers or employees based upon a claim of violation of the HIPAA or other applicable laws relating to privacy or security.

5.8 Indemnification. Notwithstanding anything to the contrary which may be contained in any Underlying Agreement, including but not limited to any limitations on liability contained therein, Business Associate hereby agrees to indemnify and hold harmless Covered Entity and its respective officers, directors, managers, members, employees and agents from and against any and all losses, damages, fines, penalties, claims or causes of action and associated expenses (including, without limitation, costs of judgments, settlements, court costs and attorney's fees) resulting from Business Associate's (including its employees, directors, officers, agents, or other members of its Workforce, and its Subcontractors) breach of PHI or violation of the terms of this BAA, including but not limited to failure of Business Associate to perform its obligations under this BAA, or to comply with HIPAA or applicable state privacy or security law.

5.9 Legal Actions. Promptly, but no later than five (5) business days after notice thereof, Business Associate shall advise Covered Entity of any actual or potential action, proceeding, regulatory or governmental orders or actions, or any material threat thereof that becomes known to it that may affect the interests of Covered Entity or jeopardize this BAA, and of any facts and circumstances that may be pertinent to the prosecution or defense of any such actual or potential legal action or proceeding, except to the extent prohibited by law.

5.10 Notice of Request or Subpoena for Data. Business Associate agrees to notify Covered Entity promptly, but no later than five (5) business days after Business Associate's receipt of any request or subpoena for PHI or an accounting thereof. Business Associate shall promptly comply with Covered Entity's instructions for responding to any such request or subpoena, unless such Covered Entity instructions would prejudice Business Associate. To the extent that Covered Entity decides to assume responsibility for challenging the validity of such request, Business Associate agrees to reasonably cooperate with Covered Entity in such challenge. The provisions of this Section shall survive the termination of this BAA.

5.11 Requests from Secretary. Promptly, but no later than five (5) calendar days after notice thereof, Business Associate shall advise Covered Entity of any inquiry by the Secretary concerning any actual or alleged violation of the Privacy Rule or the Security Rule.

5.12 Notices. Any notices required or permitted to be given hereunder by either Party to the other shall be given in writing: (1) by personal delivery; (2) by electronic mail or facsimile with confirmation sent by United States first class registered or certified mail, postage prepaid, return receipt requested; (3) by bonded courier or by a nationally recognized overnight delivery service; or (4) by United States first class registered or certified mail, postage prepaid, return receipt, in each case, addressed to a Party on the signature page(s) to this BAA, or to such other addresses as the Parties may request in writing by notice given pursuant to this Section 5.12. Notices shall be deemed received on the earliest of personal delivery; upon delivery by electronic facsimile with confirmation from the transmitting machine that the transmission was completed; twenty-four (24) hours following deposit with a bonded courier or overnight delivery service; or seventy-two (72) hours following deposit in the U.S. mail as required herein.

Covered Entity's Notice Address:

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

Business Associate's Notice Address:

Acute Care Surgery Medical Group, Inc.
555 Capital Mall, Suite 570
Sacramento, CA 95814
Attn: Leon J. Owens, M.D.

5.13 Relationship of Parties. Notwithstanding anything to the contrary in any Underlying Agreement, Business Associate is an independent Consultant and not an agent of Covered Entity under this BAA. Business Associate has the sole right and obligation to supervise, manage, contract, direct, procure, perform or cause to be performed all Business Associate obligations under this BAA.

5.14 Survival. To the extent that Business Associate retains PHI, the respective rights and obligations of the Parties set forth in Sections 2.3, 4.4, 5.8, and 5.10 of this BAA shall survive the termination, expiration, cancellation, or other conclusion of the BAA or any Underlying Agreement.

5.15 Interpretation. Any ambiguity in this BAA shall be interpreted to permit the Parties to comply with HIPAA, the HITECH Act, and the HIPAA Rules.

5.16 Governing Law; Applicable Law and Venue. This BAA shall be construed in accordance with the laws of the State of California applicable to agreements made and to be performed in such state. Any dispute between the Parties shall be brought before the Superior Court of Kern County, California, which shall have jurisdiction over all such claims.

5.17 Waiver of Provisions. Any waiver of any terms and conditions hereof must be in writing and signed by the Parties hereto. A waiver of any of the terms and conditions hereof shall not be construed as a waiver of any other term or condition hereof.

5.18 Assignment and Delegation. Neither this BAA nor any of the rights or duties under this BAA may be assigned or delegated by either Party hereto.

5.19 Disclaimer. Neither Party represents or warrants that compliance by the other Party with this BAA, HIPAA, the HIPAA Rules, or the HITECH Act will be adequate or satisfactory for the other Party's own purposes. Each Party is solely responsible for its own decisions regarding the safeguarding of PHI.

5.20 Certification. To the extent that Covered Entity determines that such examination is necessary to comply with Covered Entity's legal obligations pursuant to HIPAA relating to certification of its security practices, Covered Entity or its authorized agents or Consultants may, at Covered Entity's expense, examine Business Associate's facilities, systems, procedures, and records, as may be necessary for such agents or Consultants to certify to Covered Entity the extent to which Business Associate's security safeguards comply with HIPAA, the HIPAA Rules, the HITECH Act, or this BAA.

5.21 Counterparts. This BAA may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement, binding on both Parties hereto.

The Parties hereto have executed this BAA as of the Effective Date.

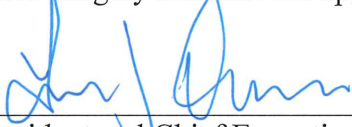
COVERED ENTITY:

The Kern County Hospital Authority on behalf of Kern Medical Center

Title: Chairman, Board of Governors
Date: _____

BUSINESS ASSOCIATE:

Acute Care Surgery Medical Group, Inc.



Title: President and Chief Executive Officer
Date: 8/8/18



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

August 15, 2018

Subject: Comments Regarding Budget Variances for Operating Expenses – June 2018

Recommended Action: Receive and File

Summary:

The following items have budget variances for the month of June 2018:

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 to reserve five percent of the total indigent funding receivables to account for the possibility of future changes in calculations or changes in the methodology used to allocate funds among California's public hospitals. The favorable budget variance for the month is due to the recognition of Managed Care IGT revenue for the month of June 2018.

Other Revenue:

Other revenue has a favorable budget variance for June due to the receipt of prior months' professional fees revenue, the receipt of prior months' Behavioral Health revenue, and the receipt of KHS physician recruitment grant funding.

Benefits Expense:

Benefits expense has an unfavorable budget variance for the month of June due to employee medical and life insurance invoices received from the County in June that pertain to several prior months. County will invoice these items on a monthly or quarterly basis in FY 2019.

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.

Medical Fees:

Medical fees have an unfavorable budget variance for the month of June primarily because of increased Locum Tenens fees for trauma coverage. Weatherby Locums fees were also higher than average for the month. Fees paid to the orthopedic surgeons Dr. Bowen and Dr. Malerich for services provided at Kern Medical's new orthopedic hand center also contributed to the budget variance.

Other Professional Fees:

Other professional fees have a small favorable budget variance for the month of June and a large favorable variance year-to-date. The architect firm HGA is close to completion on several projects. Therefore, the monthly expense accrual was reduced for HGA, contributing to the favorable variance. In addition, the creation of a Kern Medical legal department has substantially decreased legal fees from outside law firms and there are no longer legal fees billed to Kern Medical from the County Counsel. This has resulted in substantial savings year-to-date. Kern Medical also no longer accrues for AMF marketing expenses and no longer accrues for Mercer human resources consulting. Both of these vendors were included in the FY 2018 budget.

Supplies Expense:

Supplies expense has a slightly favorable budget variance for the month of June due to a year-end inventory adjustment made based on physical counts of the inventory. On a year-to-date basis, pharmaceuticals are the primary expense driving the unfavorable variance. Surgical supplies and minor equipment also have unfavorable year-to-date budget variances.

Purchased Services:

Purchased services has an unfavorable budget variance for the month due in large part to the receipt of several invoices for HFRI collection agency services dating back to October 2017 that were not accrued for in prior months. Mission Linen expense was also over budget for the month due to an under accrual in the prior month. Expense for Change Healthcare (formerly McKesson) was higher than average for the month of June. There were also expenses for Health Advocates and for Elevator Advisors International that were not considered in the FY 2018 budget.

Other Expenses:

Other expenses are over budget for the month of June due to an increase in office rent for several new medical office building leases that were not included in the FY 2018 budget. There is also a corresponding increase in utilities expense because of the expansion of office space.

Interest Expense:

Interest expense has an unfavorable budget variance for the month of June due to year-end true-up entries for the Pension Obligation Bonds.



**BOARD OF GOVERNORS' FINANCIAL REPORT
KERN MEDICAL – JUNE 2018**

AUGUST 2018

3-Month Trend Analysis: Revenue & Expense

June 30, 2018

	APRIL	MAY	JUNE	BUDGET JUNE	VARIANCE POS (NEG)	PY JUNE
Gross Patient Revenue	\$ 66,725,939	\$ 76,324,544	\$ 74,141,642	\$ 69,604,919	7%	\$ 72,937,524
Contractual Deductions	(48,966,685)	(58,515,057)	(56,803,914)	(52,087,757)	9%	(60,590,491)
Net Revenue	17,759,254	17,809,486	17,337,727	17,517,162	2%	12,347,033
Indigent Funding	9,834,611	10,256,412	12,879,197	9,339,464	38%	11,763,624
Correctional Medicine	2,157,165	2,157,165	2,157,165	1,937,469	11%	1,976,045
County Contribution	285,211	285,211	285,211	287,671	(1%)	285,211
Net Patient Revenue	30,036,241	30,508,274	32,659,300	29,081,766	12%	26,371,913
Other Operating Revenue	604,784	672,124	2,042,686	1,032,521	98%	568,764
Other Non-Operating Revenue	(92,828)	23,846	239,995	33,346	620%	114,156
Total Operating Revenue	30,548,197	31,204,244	34,941,982	30,147,633	16%	27,054,832
Expenses						
Salaries	11,702,564	12,487,250	12,862,779	12,568,748	2%	10,926,437
Employee Benefits	5,423,574	5,545,510	7,665,746	6,073,769	26%	3,422,737
Contract Labor	1,242,843	1,179,159	1,430,534	876,136	63%	1,075,607
Medical Fees	1,800,805	1,881,421	1,968,988	1,373,842	43%	891,480
Other Professional Fees	1,439,190	1,419,233	1,695,930	1,721,448	(1%)	1,942,998
Supplies	4,700,388	4,795,533	4,052,141	4,071,918	(0.5%)	4,380,226
Purchased Services	2,179,477	1,384,848	2,662,683	1,519,141	75%	1,687,100
Other Expenses	1,129,901	1,392,454	1,411,990	1,262,116	12%	4,384,888
Operating Expenses	29,618,742	30,085,408	33,750,792	29,467,118	15%	28,711,474
Earnings Before Interest, Depreciation, and Amortization (EBIDA)	929,455	1,118,836	1,191,190	680,515	75%	(1,656,641)
EBIDA Margin	3%	4%	3%	2%	51%	-6%
Interest	61,358	79,754	2,731,430	41,741	6,444%	3,009,934
Depreciation	535,424	700,296	507,587	467,141	9%	477,071
Amortization	54,015	50,511	50,511	24,510	106%	32,280
Total Expenses	30,269,540	30,915,968	37,040,319	30,000,509	23%	32,230,758
Operating Gain (Loss)	278,658	288,276	(2,098,337)	147,123	(1,526%)	(5,175,926)
Operating Margin	0.9%	0.9%	-6.0%	0.5%	(1,331%)	-19%

3-Month Trend Analysis: Cash Indicators

June 30, 2018

		APRIL	MAY	JUNE	GOALS JUNE	PY JUNE
Cash						
	Total Cash	25,006,125	16,404,780	74,824,823	57,429,347	67,319,461
	Days Cash On Hand	25	17	67	58	70
	Days In A/R - Gross	83.10	74.06	71.54	76.00	86.21
	Patient Cash Collections	\$ 16,138,640	\$ 20,686,021	\$ 15,961,517	\$ 18,805,681	\$ 18,963,104
Indigent Funding Liabilites Due to the State						
	FY 2007 Waiver Payable (County Responsibility)	\$ (745,824)	\$ (745,824)	\$ (745,824)	N/A	\$ (745,824)
	FY 2008 Waiver Payable (County Responsibility)	\$ (6,169,000)	\$ (6,169,000)	\$ (6,169,000)	N/A	\$ (6,169,000)
	FY 2009 Waiver Payable (County Responsibility)	\$ (2,384,000)	\$ (2,384,000)	\$ (2,384,000)	N/A	\$ (2,384,000)
	FY 2011 Waiver Payable (County Responsibility)	\$ (10,493,878)	\$ (10,493,878)	\$ (10,493,878)	N/A	\$ (10,493,878)
	Total County Responsibility	\$ (19,792,702)	\$ (19,792,702)	\$ (19,792,702)		\$ (19,792,702)
	FY 2015 Waiver Payable (Kern Medical Responsibility)	\$ (11,223,792)	\$ (11,223,792)	\$ (11,223,792)	N/A	\$ (23,770,144)
	FY 2016 Waiver Payable (Kern Medical Responsibility)	\$ (2,819,361)	\$ (2,819,361)	\$ (2,819,361)	N/A	\$ (2,819,361)
	Managed Care SPD IGT (Kern Medical Responsibility)	\$ 2,982,712	\$ (407,593)	\$ (1,907,399)	N/A	-
	FY 2014 DSH Payable (Kern Medical Responsibility)	\$ (24,746,355)	\$ (24,746,355)	\$ (26,851,210)	N/A	\$ (24,746,355)
	Total Kern Medical Responsibility	\$ (35,806,796)	\$ (39,197,101)	\$ (42,801,762)		\$ (51,335,860)
	Total Indigent Funding Liabilites Due to the State	\$ (55,599,498)	\$ (58,989,803)	\$ (62,594,464)	N/A	\$ (71,128,562)

3-Month Trend Analysis: Operating Metrics

June 30, 2018

					BUDGET	VARIANCE	PY
	APRIL	MAY	JUNE		JUNE	POS (NEG)	JUNE
Operating Metrics							
Total Expense per Adjusted Admission	19,408	19,625	23,758		19,821	20%	20,380
Total Expense per Adjusted Patient Day	4,128	3,871	4,722		3,926	20%	3,998
Supply Expense per Adjusted Admission	3,014	3,044	2,599		2,690	(3%)	2,770
Supply Expense per Surgery	1,697	1,777	2,565		1,716	49%	1,549
Supplies as % of Net Patient Revenue	16%	16%	12%		14%	(11%)	17%
Pharmaceutical Cost per Adjusted Admission	1,175	1,197	1,307		1,099	19%	1,022
Net Revenue Per Adjusted Admission	\$ 11,387	\$ 11,305	\$ 11,121		\$ 11,573	-4%	\$ 7,807

INDIGENT PATIENT CARE FUNDING - MTD & YTD

FOR THE MONTH JUNE 30, 2018

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	1,425,000	1,500,000	(75,000)	-5.0%
2,017,258	2,123,429	(106,171)	-5.0%	MEDI-CAL EXPANSION REVENUE FROM HMO	24,543,306	25,835,059	(1,291,753)	-5.0%
0	189,926	(189,926)	-100.0%	COUNTY REALIGNMENT FUNDS	0	2,310,772	(2,310,772)	-100.0%
5,353,378	1,214,934	4,138,443	340.6%	MEDI-CAL SUPPLEMENTAL FUNDING	19,530,777	14,781,704	4,749,074	32.1%
2,108,219	2,219,178	(110,959)	-5.0%	PRIME - NEW WAIVER	25,650,000	27,000,000	(1,350,000)	-5.0%
2,052,781	2,160,822	(108,041)	-5.0%	GPP - NEW WAIVER	26,131,941	26,290,000	(158,059)	-0.6%
1,228,602	1,293,265	(64,663)	-5.0%	WHOLE PERSON CARE	14,947,989	15,734,725	(786,736)	-5.0%
1,836	14,621	(12,784)	-87.4%	MEANINGFUL USE	1,829,336	177,884	1,651,452	928.4%
12,879,197	9,339,464	3,539,733	37.9%	SUB-TOTAL - GOVERNMENTAL REVENUE	114,058,348	113,630,142	428,205	0.4%
2,157,165	1,937,469	219,696	11.3%	CORRECTIONAL MEDICINE	23,894,352	23,572,537	321,815	1.4%
285,211	287,671	(2,460)	-0.9%	COUNTY CONTRIBUTION	3,422,532	3,500,000	(77,468)	-2.2%
15,321,573	11,564,604	3,756,969	32.5%	TOTAL INDIGENT CARE & COUNTY FUNDING	141,375,232	140,702,679	672,553	0.5%

OTHER REVENUE

FOR THE MONTH JUNE 30, 2018

OTHER OPERATING REVENUE

	<u>MTD ACTUAL</u>	<u>MTD BUDGET</u>	<u>VARIANCE</u>	<u>YTD ACTUAL</u>	<u>YTD BUDGET</u>	<u>VARIANCE</u>
MEDICAL POSTGRAD EDUC TUITION	521,592	357,607	163,985	3,068,280	4,350,880	(1,282,600)
STAFF DEVELOPMENT EDUC FEES	415	789	(374)	10,742	9,601	1,141
CAFETERIA REVENUE	76,456	85,547	(9,091)	918,592	1,040,823	(122,232)
FINANCE CHARGES-PATIENT AR	11,521	20,593	(9,072)	221,614	250,304	(28,690)
REBATES AND REFUNDS	40,144	75,953	(35,809)	825,331	924,093	(98,762)
DRUG CO. CASH BACK	1,355	0	1,355	26,523	0	26,523
PHOTOCOPY FEES	1,785	1,741	44	22,580	21,180	1,400
JURY WITNESS FEES	0	315	(315)	456	3,838	(3,382)
MEDICAL RECORDS FEES	0	2,888	(2,888)	43,269	35,138	8,131
PHYSICIAN PRO FEE-ER LOCKBOX	275,334	45,370	229,964	463,346	552,000	(88,654)
OTHER REVENUE	43,118	31,776	11,342	149,539	386,605	(237,066)
LASER CENTER REVENUE	24,280	0	24,280	30,593	0	30,593
CANCELLED OUTLAWED WARRANTS	438	(60)	499	49,209	(733)	49,941
GRANTS - KHS	426,416	123,367	303,049	2,665,835	1,500,968	1,164,868
MADDY FUNDS-EMERG MEDICAL SVCS	97,239	44,561	52,678	393,958	542,159	(148,201)
PRIMARY CARE & OTHER INCENTIVE	25	0	25	16,474	0	16,474
VETERANS ADMIN REVENUE	(4,134)	7,646	(11,780)	29,349	93,030	(63,681)
JAMISON CENTER MOU	4,534	28,558	(24,024)	254,526	347,457	(92,930)
MENTAL HEALTH MOU	343,378	181,558	161,819	2,506,351	2,208,959	297,393
PEDIATRIC FORENSIC EXAMS	24,400	9,930	14,470	89,400	120,819	(31,419)
FOUNDATION CONTRIBUTIONS	11,839	0	11,839	64,834	0	64,834
DONATED EQUIPMENT	0	0	0	71,519	0	71,519
PAY FOR PERFORMANCE	142,552	0	142,552	267,753	0	267,753
WORKERS COMPENSATION REFUNDS	0	13,209	(13,209)	111	160,704	(160,593)
TOTAL OTHER OPERATING REVENUE	2,042,686	1,032,521	1,010,166	12,202,384	12,562,092	(359,708)
OTHER NON-OPERATING REVENUE						
OTHER MISCELLANEOUS REVENUE	724	871	(147)	3,191	10,600	(7,409)
INTEREST ON FUND BALANCE	239,271	32,475	206,796	622,448	395,113	227,335
TOTAL OTHER NON-OPER REVENUE	239,995	33,346	206,649	625,640	405,714	219,926

**KERN MEDICAL
BALANCE SHEET**

	June 2018	June 2017
CURRENT ASSETS:		
CASH	\$74,824,823	\$67,319,461
CURRENT ACCOUNTS RECEIVABLE (incl. CLINIC CHARGES RECEIVABLE)	170,742,858	199,467,581
ALLOWANCE FOR UNCOLLECTIBLE RECEIVABLES - CURRENT	(127,614,192)	(155,254,961)
-NET OF CONT ALLOWANCES	43,128,666	44,212,620
CORRECTIONAL MEDICINE RECEIVABLE	1,617,874	1,778,440
MD SPA	5,161,006	2,882,856
HOSPITAL FEE RECEIVABLE	(2,286,198)	3,355,207
CPE - O/P DSH RECEIVABLE	4,644,613	4,461,748
BEHAVIORAL HEALTH MOU	-	362,285
MANAGED CARE IGT (RATE RANGE)	4,330,100	15,188,767
RECEIVABLE FROM LIHP	(6,547,536)	(6,547,536)
OTHER RECEIVABLES	1,891,648	973,000
PRIME RECEIVABLE	9,055,029	14,637,894
AB85/75% DEFAULT PCP RECEIVABLE	(9,146,436)	862,739
GPP (Global Payment Program)	3,834,883	5,833,305
WPC (Whole Person Care)	5,310,727	0
INTEREST ON FUND BALANCE RECEIVABLE	165,600	147,030
MANAGED CARE IGT (SPD)	(1,907,399)	68,546
OTHER NON PATIENT RECEIVABLE	0	1,232,780
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 FY15	(11,223,792)	(23,770,144)
WAIVER RECEIVABLE FY16	(2,819,361)	(2,819,361)
PREPAID EXPENSES	3,311,089	2,738,707
PREPAID MORRISON DEPOSIT	813,320	799,706
INVENTORY AT COST	5,347,217	4,488,030
TOTAL CURRENT ASSETS	110,972,176	119,672,382
PROPERTY, PLANT & EQUIPMENT:		
LAND	180,401	170,395
EQUIPMENT	51,337,031	46,909,454
BUILDINGS	84,915,514	82,462,622
CONSTRUCTION IN PROGRESS	13,172,196	5,253,447
LESS: ACCUMULATED DEPRECIATION	(90,015,664)	(83,611,939)
NET PROPERTY, PLANT & EQUIPMENT	59,589,479	51,183,979
NET INTANGIBLE ASSETS		
INTANGIBLE ASSETS	13,973,190	12,302,618
ACCUMULATED AMORTIZATION INTANGIBLES	(11,007,236)	(10,550,369)
NET INTANGIBLE ASSETS	2,965,954	1,752,249
LONG-TERM ASSETS:		
LONG-TERM PATIENT ACCOUNTS RECEIVABLE		
DEFERRED OUTFLOWS - PENSIONS	71,752,645	49,355,076
INVESTMENT IN SURGERY CENTER	753,820	0
CASH HELD BY COP IV TRUSTEE	922,330	912,973
TOTAL LONG-TERM ASSETS	73,428,795	50,268,049
TOTAL ASSETS	\$246,956,404	\$222,876,659

**KERN MEDICAL
BALANCE SHEET**

	June 2018	June 2017
CURRENT LIABILITIES:		
ACCOUNTS PAYABLE	\$16,782,918	\$23,011,928
ACCRUED SALARIES & EMPLOYEE BENEFITS	22,784,478	6,796,039
INTEREST PAYABLE	4,853,434	2,465,137
OTHER ACCRUALS	2,512,023	3,366,379
ACCRUED CWCAP LIABILITY	0	105,906
CURRENT PORTION - CAPITALIZED LEASES	2,500,320	537,387
CURR LIAB - COP 2011 PAYABLE	1,085,718	1,032,670
CURR LIAB - P.O.B.	2,888,476	2,674,831
MEDICARE COST REPORT LIAB PAYABLE	3,094,510	3,637,452
MEDI-CAL COST REPORT LIABILITY	1,070,179	1,430,435
INDIGENT FUNDING PAYABLE	13,530,649	14,617,312
DSH PAYABLE FY14	26,851,210	24,746,355
CREDIT BALANCES PAYABLES	3,090,211	2,899,286
DEFERRED REVENUE - COUNTY CONTRIBUTION	2,090,345	2,090,345
TOTAL CURRENT LIABILITIES	103,134,473	89,411,462
LONG-TERM LIABILITIES:		
LONG-TERM LIABILITY-COP 2011	1,131,693	2,217,410
NET UNAMORTIZED DISCOUNT COP	39,985	59,978
LONG-TERM LIABILITY - CAPITAL LEASES	3,682,609	1,387,154
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	14,842,004	14,722,232
L.T. LIAB. - P.O.B. INTEREST PAYABLE 03	4,329,041	3,917,722
L.T. P.O.B. PAYABLE 95	11,590,866	16,695,541
L.T. P.O.B. PAYABLE 08	5,392,893	5,392,893
ACCRUED PROFESSIONAL LIABILITY	5,465,597	3,119,059
ACCRUED WORKERS' COMPENSATION PAYABLE	6,773,000	0
DEFERRED INFLOWS - PENSIONS	22,238,926	15,299,688
PENSION OBLIGATION BOND PAYABLE	2,643,205	3,678,145
ACCRUED COMPENSATED ABSENCES	3,830,085	15,320,340
TOTAL LONG-TERM LIABILITIES	416,096,552	432,427,586
NET POSITION		
RETAINED EARNINGS - CURRENT YEAR	39,814,215	17,156,541
RETAINED EARNINGS - PRIOR YEAR	(312,088,836)	(316,118,930)
TOTAL NET POSITION	(272,274,621)	(298,962,389)
TOTAL LIABILITIES & NET POSITION	\$246,956,404	\$222,876,659



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

August 15, 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



**BOARD OF GOVERNORS' VOLUMES REPORT
KERN MEDICAL – JUNE 2018**

AUGUST 2018

3-Month Trend Analysis: Volume and Strategic Indicators

June 30, 2018

					BUDGET	VARIANCE	PY
		APRIL	MAY	JUNE	JUNE	POS (NEG)	JUNE
VOLUME							
	Adjusted Admissions (AA)	1,560	1,575	1,559	1,514	3%	1,581
	Adjusted Patient Days	7,332	7,986	7,844	7,642	3%	8,062
	Admissions	783	775	767	788	(3%)	818
	Average Daily Census	123	127	129	133	(3%)	139
	Patient Days	3,681	3,929	3,859	3,980	(3%)	4,170
	Available Occupancy %	57.3%	59.2%	60.1%	62.0%	(3%)	65.0%
	Average LOS	4.7	5.1	5.0	5.0	(0%)	5.1
	Surgeries						
	Inpatient Surgeries (Main Campus)	218	241	219	237	(8%)	235
	Outpatient Surgeries (Main Campus)	275	263	246	258	(4%)	255
	Total Surgeries	493	504	465	495	(6%)	490
	Births	185	189	189	222	(14.9%)	199
	ER Visits						
	Admissions	431	435	396	414	(4%)	417
	Treated & Released	3,611	3,724	3,672	3,710	(1%)	3,737
	Total ER Visits	4,042	4,159	4,068	4,124	(1%)	4,154
	Trauma Activations	244	269	215	N/A	N/A	N/A
	Outpatient Clinic Visits						
	Total Clinic Visits	12,754	13,624	12,294	10,744	14%	11,341
	Total Unique Patient Clinic Visits	9,519	9,869	9,083	N/A	N/A	8,711
	New Unique Patient Clinic Visits	2,054	2,052	1,774	N/A	N/A	1,890

Year-to-Date: Volume and Strategic Indicators

June 30, 2018

		ACTUAL	BUDGET	VARIANCE	PY	PY VARIANCE
		FYTD	FYTD	POS (NEG)	FYTD	POS (NEG)
VOLUME						
	Adjusted Admissions (AA)	18,247	18,563	(1.7%)	18,052	1%
	Adjusted Patient Days	90,888	93,728	(3.0%)	91,658	(0.8%)
	Admissions	9,735	9,668	1%	9,659	1%
	Average Daily Census	133	134	(1%)	134	(0.7%)
	Patient Days	48,491	48,815	(1%)	48,841	(0.7%)
	Available Occupancy %	62.1%	62.5%	(1%)	62.5%	(0.7%)
	Average LOS	5.0	5.0	(1.3%)	5.1	(1%)
	Surgeries					
	Inpatient Surgeries (Main Campus)	2,792	2,964	(5.8%)	2,935	(5%)
	Outpatient Surgeries (Main Campus)	2,949	3,114	(5%)	3,083	(4%)
	Total Surgeries	5,741	6,078	(5.5%)	6,018	(5%)
	Births	2,464	2,723	(9%)	2,604	(5%)
	ER Visits					
	Admissions	5,118	5,075	1%	4,951	3%
	Treated & Released	44,399	45,496	(2%)	39,775	12%
	Total ER Visits	49,517	50,571	(2%)	44,726	11%
	Trauma Activations	2,939	N/A	N/A	N/A	N/A
	Outpatient Clinic Visits					
	Total Clinic Visits	144,006	131,765	9%	129,696	11%
	Total Unique Patient Clinic Visits	41,651	N/A	N/A	N/A	N/A
	New Unique Patient Clinic Visits	22,443	N/A	N/A	N/A	N/A

3-Month Trend Analysis: Payor Mix

June 30, 2018

		APRIL	MAY	JUNE	BUDGET JUNE	VARIANCE POS (NEG)	PY JUNE
PAYOR MIX - Charges							
Commercial FFS		1.0%	1.0%	2.3%	6.2%	(63%)	4.9%
Commercial HMO/PPO		8.8%	10.9%	6.6%	4.6%	44%	5.5%
Medi-Cal		30.2%	29.3%	31.5%	31.1%	1%	25.7%
Medi-Cal HMO - Kern Health Systems		31.0%	30.1%	32.4%	32.0%	1%	31.6%
Medi-Cal HMO - Health Net		9.1%	8.8%	9.5%	9.4%	1%	9.3%
Medi-Cal HMO - Other		1.1%	1.0%	1.1%	1.1%	1%	1.1%
Medicare		11.1%	9.4%	8.6%	11.1%	(22%)	9.5%
Medicare - HMO		1.2%	2.6%	2.5%	1.9%	33%	2.4%
County Programs		0.3%	0.3%	0.3%	0.3%	9%	1.8%
Workers' Compensation		0.30%	0.98%	0.94%	0.5%	85%	0.8%
Self Pay		5.9%	5.7%	4.2%	1.8%	129%	7.4%
Total		100.0%	100.0%	100.0%	100.0%		100.0%

Year-to-Date: Payor Mix

June 30, 2018

		ACTUAL	BUDGET	VARIANCE	PY	PY VARIANCE
		FYTD	FYTD	POS (NEG)	FYTD	POS (NEG)
PAYOR MIX - Charges						
	Commercial FFS	4.0%	4.4%	(10%)	4.0%	0.3%
	Commercial HMO/PPO	6.7%	5.9%	14%	6.1%	10%
	Medi-Cal	30.1%	26.4%	14%	26.8%	12%
	Medi-Cal HMO - Kern Health Systems	30.9%	29.9%	3%	29.5%	5%
	Medi-Cal HMO - Health Net	9.1%	10.4%	(12%)	10.5%	(14%)
	Medi-Cal HMO - Other	1.1%	1.1%	(6%)	1.0%	6%
	Medicare	10.0%	8.9%	13%	9.4%	6%
	Medicare - HMO	2.1%	2.0%	5%	2.1%	(0.1%)
	County Programs	0.5%	2.3%	(78%)	2.2%	(77%)
	Workers' Compensation	0.8%	0.6%	27%	0.7%	16%
	Self Pay	4.8%	8.0%	(40%)	7.7%	(38%)
	Total	100.0%	100.0%		100.0%	

3-Month Trend Analysis: Labor and Productivity Metrics

June 30, 2018

		APRIL	MAY	JUNE	BUDGET JUNE	VARIANCE POS (NEG)	PY JUNE
Labor Metrics							
	Productive FTEs	1,402.76	1,392.32	1,387.88	1,374.88	1%	1,316.63
	Non-Productive FTEs	197.29	204.68	237.97	210.07	13%	238.80
	Contract Labor FTEs	88.32	83.93	85.05	64.06	33%	85.23
	Total FTEs	1,600.05	1,597.00	1,625.85	1,584.95	3%	1,555.43
	FTE's Per AOB Paid	6.55	7.24	6.22	6.22	(0.1%)	5.79
	FTE's Per AOB Worked	5.74	6.31	5.31	5.40	(2%)	4.90
	Labor Cost/FTE (Annualized)	123,684.35	129,545.48	145,725.82	130,203.20	12%	107,122.12
	Benefits Expense as a % of Benefitted Labor Expense	58%	58%	81%	66%	23%	39%
	Salaries & Benefits as % of Net Patient Revenue	61%	63%	67%	67%	0.2%	58%

Year-to-Date: Labor and Productivity Metrics

June 30, 2018

		ACTUAL	BUDGET	VARIANCE	PY	PY VARIANCE
		FYTD	FYTD	POS (NEG)	FYTD	POS (NEG)
Labor Metrics						
	Productive FTEs	1,371.94	1,357.94	1%	1,255.87	9%
	Non-Productive FTEs	213.61	207.81	3%	215.22	(1%)
	Contract Labor FTEs	87.15	64.54	35%	68.93	26%
	Total FTEs	1,585.55	1,565.75	1%	1,471.09	8%
	FTE's Per AOB Paid	6.31	6.10	3%	5.86	8%
	FTE's Per AOB Worked	5.46	5.29	3%	5.00	9%
	Labor Cost/FTE (Annualized)	130,237.21	131,580.29	(1%)	130,658.67	(0.3%)
	Benefits Expense as a % of Benefitted Labor Expense	61%	66%	(8%)	70%	(13%)
	Salaries & Benefits as % of Net Patient Revenue	64%	66%	(4%)	62%	3%

**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 August 15, 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**

On the recommendation of the Chief Executive Officer, the Board of Governors will hold a closed session on August 15, 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; Unrepresented Employees (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 August 15, 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: Eric vanSonnenberg,
M.D. v. County of Kern, et al., Kern County Superior Court Case No. BCV-15-
100859 TSC –

**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 August 15, 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 August 15, 2018, to consider:

 X PUBLIC EMPLOYEE PERFORMANCE EVALUATION - Title: Chief Executive Officer (Government Code Section 54957) –