



AGENDA

KERN COUNTY HOSPITAL AUTHORITY BOARD OF GOVERNORS

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

Regular Meeting
Wednesday, November 15, 2023

11:30 A.M.

BOARD TO RECONVENE

Board Members: Berjis, Bigler, McLaughlin, Pelz, Pollard, Zervis
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" OR "C" 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. In addition, the Board may take action to direct the staff to place a matter of business on a future agenda. SPEAKERS ARE LIMITED TO TWO MINUTES. PLEASE STATE AND SPELL YOUR NAME BEFORE MAKING YOUR PRESENTATION. THANK YOU!

BOARD MEMBER ANNOUNCEMENTS OR REPORTS

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

RECOGNITION

- 3) Presentation by the Chief Executive Officer recognizing Raji Brar for her service on the Kern County Hospital Authority Board of Governors –
MAKE PRESENTATION

ITEMS FOR CONSIDERATION

CA

- 4) Minutes for the Kern County Hospital Authority Board of Governors regular meeting on October 18, 2023 –
APPROVE

CA

- 5) Proposed acceptance of donation of travel and related expenses from Safety National and MedPro for two Kern Medical Center employees to attend CHA's "2023 Behavioral Health Care Symposium" in Sacramento, California, from December 12-13, 2023 –
APPROVE; ADOPT RESOLUTION

CA

- 6) Proposed retroactive Sixth Amendment to Operating Agreement of Kern Medical Surgery Center, LLC, to provide that the books and records of the Company shall be subject to the provisions of the California Public Records Act, effective October 1, 2023 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 7) Proposed retroactive Amendment P2402410071626 to Master Agreement 050-2018 with Change Healthcare Technologies, LLC, an independent contractor, containing nonstandard terms and conditions, for Interqual licensed software, for the period August 15, 2018 through August 14, 2023, extending the term for three years from August 15, 2023 through August 14, 2026, in an amount not to exceed \$109,957, to cover the term –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 8) Proposed Subscription Renewal Quote Q-1059696 with Lansweeper Inc., an independent contractor, containing nonstandard terms and conditions, for the purchase of IT asset management software licenses and support, from December 18, 2023 through December 17, 2024, in an amount not to exceed \$12,800 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 9) Proposed Quote 00005079 with Fujifilm Healthcare Americas Corporation, an independent contractor, containing nonstandard terms and conditions, for purchase of urology supplies, in an amount not to exceed \$10,775 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 10) Proposed Master Services Agreement and Proposal with inforgant, LLC, an independent contractor, for a Chief Information Security Officer and related software services, from November 15, 2023 through November 14, 2024, in an amount not to exceed \$310,000 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 11) Proposed Agreement with GE Healthcare, an independent contractor, for purchase of anesthesia machines and vaporizers, effective November 15, 2023, in an amount not to exceed \$586,718 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 12) Proposed Amendment No. 7 to Agreement 1048-2010 with Total Renal Care, Inc., an independent contractor, for acute dialysis services, for the period December 1, 2010 through November 30, 2023, extending the term for three months from December 1, 2023 through February 29, 2024, at no additional cost –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 13) Proposed Customer Order 1000253922 with Carefusion Solutions, LLC, an independent contractor, for Secure Medication Dispensing Units and support, for a term of five years from November 15, 2023 through November 14, 2028, in an amount not to exceed \$3,000,000 plus applicable taxes and fees –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 14) Proposed recommendation to Kern County Board of Supervisors to appoint candidate Candace B. Neal, to the Kern County Hospital Authority Board of Governors to fill the community at large member vacancy created by the resignation of Raji Brar, term to expire June 30, 2024 –
MAKE RECOMMENDATION; REFER TO KERN COUNTY BOARD OF SUPERVISORS PENDING RESULTS OF THE BACKGROUND CLEARANCE TO MAKE APPOINTMENT

15)

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

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

CA

- 17) Monthly report on What's Happening at Kern Medical Center –
RECEIVE AND FILE

CA

- 18) Claims and Lawsuits Filed as of October 31, 2023 –
RECEIVE AND FILE

ADJOURN TO CLOSED SESSION

CLOSED SESSION

- 19) Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) –
- 20) CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Christopher Harkins, Plaintiff, v. Kern County Hospital Authority, a municipal corporation; and DOES 1 through 50, inclusive, Defendants, Kern County Superior Court Case No. BCV-23-102237 DRZ –
- 21) CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521, Charging Party, v. Kern County Hospital Authority, Respondent, Public Employment Relations Board Case No. LA-CE-1633-M –
- 22) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Government Code Section 54956.9(d)(2) & (e)(2)) Number of cases: One (1) Significant exposure to litigation in the opinion of the Board of Governors on the advice of legal counsel, based on: Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the Authority and that are known to a potential plaintiff or plaintiffs. Facts and circumstances are as follows: Rebecca Rivera, M.D. –
- 23) CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521, Charging Party, v. Kern County Hospital Authority, Respondent, Public Employment Relations Board Case No. LA-CE-1580-M –
- 24) CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521 Plaintiff/Petitioner, v. Kern County Hospital Authority, Kern Medical Surgery Center, LLC, and DOES 1-25, Defendants/ Respondents, Kern County Superior Court Case No. BCV-22-101782 JEB –
- 25) CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Chief Executive Officer Scott Thygerson, and designated staff - Unrepresented Employees (Government Code Section 54957.6) –

- 26) Request for Closed Session regarding peer review of health facilities (Health and Safety Code Section 101855(j)(2)) –
- 27) 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, DECEMBER 13, 2023 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.

- 18) CLAIMS AND LAWSUITS FILED AS OF OCTOBER 31, 2023 –
RECEIVE AND FILE
- A) Claim in the matter of Jose Angel Guzman
 - B) Claim in the matter of Ana Heredia
 - C) Claim in the matter of Esmeralda Arellano



SUMMARY OF PROCEEDINGS

KERN COUNTY HOSPITAL AUTHORITY BOARD OF GOVERNORS

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

Regular Meeting
Wednesday, October 18, 2023

11:30 A.M.

BOARD RECONVENED

Board Members: Berjis, Bigler, McLaughlin, Pelz, Pollard, Zervis
Roll Call: 4 Present, 2 Absent - Bigler, Pollard

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

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

BOARD ACTION SHOWN IN CAPS

NOTE: DIRECTOR POLLARD JOINED THE MEETING AFTER THE VOTE ON THE CONSENT AGENDA AND PRIOR TO THE DISCUSSION AND VOTE ON ITEM 35

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. In addition, the Board may take action to direct the staff to place a matter of business on a future agenda. **SPEAKERS ARE LIMITED TO TWO MINUTES. PLEASE STATE AND SPELL YOUR NAME BEFORE MAKING YOUR PRESENTATION. THANK YOU!**
NO ONE HEARD

BOARD MEMBER ANNOUNCEMENTS OR REPORTS

- 2) On their own initiative, Board members may make an announcement or a report on their own activities. They may ask a question for clarification, make a referral to staff or take action to have staff place a matter of business on a future agenda (Government Code section 54954.2(a)(2)) –
NO ONE HEARD

ITEMS FOR CONSIDERATION

CA

- 3) Minutes for the Kern County Hospital Authority Board of Governors regular meeting on September 20, 2023 –
APPROVED
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard

CA

- 4) Proposed election of officers to the Kern County Hospital Authority Board of Governors to include Russell E. Bigler, Chairman, Philip McLaughlin, Vice Chairman, and Amir Berjis, M.D., Secretary/Treasurer, terms to expire June 30, 2025 –
ELECTED OFFICERS
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard

CA

- 5) Proposed Resolution establishing regular meeting dates of the Kern County Hospital Authority Board of Governors for calendar year 2024 –
APPROVED; ADOPTED RESOLUTION 2023-011
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard

CA

- 6) Proposed retroactive Resolution affirming the appointments of Scott Thygerson, Andrew J. Cantu, Tyler S. Whitezell, Glenn E. Goldis, M.D., and Tonya Barraza, RN, MSN, CNOR, as officers of the Kern County Hospital Authority, effective September 25, 2023 –
APPROVED; ADOPTED RESOLUTION 2023-012
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard

CA

- 7) Proposed retroactive Kern County Hospital Authority Organizational Chart, effective September 25, 2023 –
APPROVED
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard

CA

- 8) Proposed retroactive Resolution delegating authority to the Chief Executive Officer of Kern County Hospital Authority to execute instruments and other documents in the name of and on behalf of Kern Medical Surgery Center, LLC, effective October 1, 2023 –
APPROVED; ADOPTED RESOLUTION 2023-013
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard

CA

- 9) Proposed retroactive Fifth Amendment to Operating Agreement of Kern Medical Surgery Center, LLC, to comply with the open meeting requirements of the Ralph M. Brown Act, and appointing Russell E. Bigler as President and Chief Executive Officer, Phillip McLaughlin as Executive Vice President and Amir Berjis, M.D., as Executive Vice President, effective October 1, 2023 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 128-2023
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard

CA

- 10) Proposed retroactive Combined Insurance Company of America Policyholder Application, an independent contractor, for voluntary election of long-term care coverage, effective January 1, 2024 for a period of 12 months –
APPROVED; AUTHORIZED CHIEF EXECUTIVE OFFICER TO SIGN AGREEMENT 129-2023
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard

CA

- 11) Proposed retroactive Group Pet Insurance Application with Independence American Insurance Company, an independent contractor, for voluntary election of employer group pet insurance administered by PetPartners, Inc., effective January 1, 2024 for a period of 12 months –
APPROVED; AUTHORIZED CHIEF EXECUTIVE OFFICER TO SIGN AGREEMENT 130-2023
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard

CA

- 12) Proposed Change Order No. 1 to Agreement 076-2023 with James E. Thompson, Inc., doing business as JTS Construction, an independent contractor, installation of additional devices for the temporary nurse call system in the Emergency Department, increasing the maximum by \$50,020, from \$98,450 to \$148,470, to cover project costs –
MADE FINDING THAT THE PROJECT IS EXEMPT FROM FURTHER CEQA REVIEW PER SECTIONS 15301, 15302 AND 15061(B)(3) OF STATE CEQA GUIDELINES; APPROVED;
AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 131-2023
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard

CA

- 13) Proposed Master Managed Services Agreement with Presidio Networked Solutions LLC, an independent contractor, containing nonstandard terms and conditions, for IT support services for the Microsoft Azure infrastructure from October 18, 2023 through October 17, 2026, at no additional cost –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 132-2023
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard

CA

- 14) Proposed Sales Order OPT-0485723 to Agreement 2016-36 with Cerner Corporation, an independent contractor, containing nonstandard terms and conditions, to utilize the embedded About Healthcare Post-Acute Services Platform, from October 18, 2023 through October 17, 2028, in an amount not to exceed \$283,461 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 133-2023
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard

CA

- 15) Proposed retroactive Amendment No. 1 to Agreement 052-2023 with Ralph Garcia-Pacheco Suarez, M.D., a contract employee, for professional medical services as Chair, Department of Medicine, adding an annual stipend of \$25,000 per year for services as Chair, and increasing the maximum payable by \$75,000, from \$2,100,000 to \$2,175,000, to cover the term, effective September 20, 2023 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 134-2023
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard

CA

- 16) Proposed Amendment No. 2 to Agreement 069-2019 with Aslan GhandForoush, D.O., a contract employee, for professional medical services in the Department of Medicine, for the period of November 26, 2019 through November 25, 2024, increasing the rates for extra clinic shifts, and increasing the maximum payable by \$100,000, from \$5,000,000 to \$5,100,000, to cover the term –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 135-2023
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard

CA

- 17) Proposed retroactive Agreement with Fowrooz S. Joolhar, M.D., a contract employee, for professional medical services in the Department of Medicine from September 30, 2023 through September 29, 2028, in an amount not to exceed \$3,850,000 plus applicable benefits –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 136-2023
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard

CA

- 18) Proposed Amendment No. 1 to Agreement 110-2022 with Naheedy and Zarandy Medical Group, Inc., an independent contractor, for professional medical services in the Department of Radiology, for the period November 1, 2022 through October 31, 2024, extending the term for one year from November 1, 2024 through October 31, 2025, increasing the hourly rate for coverage from \$220 per hour to \$250 per hour, and increasing the maximum payable by \$800,000, from \$800,000 to \$1,600,000, to cover the term –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 137-2023
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard

CA

- 19) Proposed Teleradiology Services Agreement with Virtual Radiologic Professionals of California, P.A., an independent contractor, containing nonstandard terms and conditions, for teleradiology interpretation services, from October 18, 2023 through October 17, 2025, in an amount not to exceed \$2,000,000 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 138-2023
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard

CA

- 20) Proposed Health Information Integration Master Services Agreement with Virtual Radiologic Professionals of California, P.A., an independent contractor, containing nonstandard terms and conditions, to establish a health information interface, from October 18, 2023 through project completion, in an amount not to exceed \$10,500 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 139-2023
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard

- CA
21) Proposed Purchase Agreement with Sysmex America, Inc., an independent contractor, for the purchase of the Sysmex Novus Benchtop Urine Chemistry Analyzer and maintenance, effective October 18, 2023, in an amount not to exceed \$140,579, plus applicable fees and taxes –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 140-2023
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard
- CA
22) Proposed Commitment Agreement with Nova Biomedical Corporation, an independent contractor, for purchase of point of care glucose meters and disposables from October 18, 2023 through October 17, 2028, in an amount not to exceed \$400,000 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 141-2023
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard
- CA
23) Proposed Contract Supplement OPTY-820024 to Information Systems Agreement 276-99 with Change Healthcare Technologies, LLC, an independent contractor, containing nonstandard terms and conditions, for Picture Archiving Communication System software and software maintenance, for a term of five years effective upon installation, in an amount not to exceed \$3,000,000 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 142-2023
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard
- CA
24) Proposed Contract Supplement OPTY-827836 to Information Systems Agreement 276-99 with Change Healthcare Technologies, LLC, an independent contractor, containing nonstandard terms and conditions, to establish an HL7 interface, effective October 18, 2023 until project completion, in an amount not to exceed \$13,674 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 143-2023
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard
- CA
25) Proposed Amendment No. 1 to Recordkeeping Services Agreement 80222, RetirePlus Supplement to Recordkeeping Services Agreement, Statement of Work, Application for TIAA Group Supplemental Retirement Annuity Contract with Teachers Insurance and Annuity Association of America and Application for CREF Group Supplemental Retirement Annuity Contract with College Retirement Equities Fund to implement the Model Portfolio Investment Option for the Kern County Hospital Authority Defined Contribution Plan for Physician Employees –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENTS 144-2023, 145-2023 AND 146-2023
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard
- CA
26) Proposed acceptance of donation of travel and related expenses from Health Connect Partners for one Kern Medical Center employee to attend the HCP23 Hospital Pharmacy Fall Conference in St. Louis, Missouri, from October 23-25, 2023 –
APPROVED; ADOPTED RESOLUTION 2023-014
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard

- CA
27) Proposed acceptance of donation of travel and related expenses from Public Risk Innovation, Solution, and Management for up to three Kern Medical Center employees to attend the 2023 Cyber Symposium in Ontario, California on November 9, 2023 –
APPROVED; ADOPTED RESOLUTION 2023-015
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard
- CA
28) Proposed acceptance of donation of travel and related expenses from Experian Health for up to three Kern Medical Center employees to attend the Experian Health High-Performance Summit 23 in Denver, Colorado, from November 6-8, 2023 –
APPROVED; ADOPTED RESOLUTION 2023-016
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard
- CA
29) Proposed Amendment No. 2 to Affiliation Agreement 153-2015 with The Regents of the University of California, on behalf of The University of California, David Geffen School of Medicine at UCLA, an independent contractor, for the period April 13, 2015 through October 27, 2023, for clinical training of residents and fellows, extending the term for five years from October 28, 2023 through October 27, 2028 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 147-2023
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard
- CA
30) Proposed retroactive Agreement with MedPoint Management, an independent contractor, containing nonstandard terms and conditions, for nonclinical administrative services related to health plan contracts from September 29, 2023 through September 28, 2025, in an amount not to exceed \$10,000 per month or up to 10% of all health plan gross revenue –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 148-2023; AUTHORIZED CHIEF EXECUTIVE OFFICER TO APPROVE FUTURE DOCUMENTS IN SUPPORT THEREOF SUBJECT TO APPROVAL AS TO FORM BY COUNSEL
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard
- CA
31) Proposed Medi-Cal Managed Care Medical Services Agreement with Blue Cross of California and Affiliates doing business as Anthem Blue Cross, an independent contractor, containing nonstandard terms and conditions, for the provision of professional medical services to Medi-Cal beneficiaries enrolled in Anthem's Medi-Cal managed care program for an initial term of one year from January 1, 2024 through December 31, 2024 (Rates confidential per Health and Safety Code section 101855) –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 149-2023
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard
- CA
32) Proposed Amendment No. 1 to Agreement 099-2023 with Alton Scott Thygerson, a contract employee, for professional services as chief executive officer of Kern County Hospital Authority, for the period July 19, 2023 through July 19, 2026, adding performance-based metrics for fiscal year 2023-2024 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 150-2023
Pelz-Berjis: 4 Ayes; 2 Absent - Bigler, Pollard

CA

- 33) Proposed Agreement with J. Noble Binns Plumbing Co., Inc., an independent contractor, for installation of a nitrogen and nitrous oxide panel, effective October 18, 2023 until project completion, in an amount not to exceed \$85,360 –
MADE FINDING THAT THE PROJECT IS EXEMPT FROM FURTHER CEQA REVIEW PER SECTIONS 15301, 15302 AND 15061(B)(3) OF STATE CEQA GUIDELINES; APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 151-2023; AUTHORIZED CHIEF EXECUTIVE OFFICER TO SIGN FUTURE CHANGE ORDERS IN AN AMOUNT NOT TO EXCEED 10% OF THE TOTAL CONTRACT PRICE
Pelz-Berjjs: 4 Ayes; 2 Absent - Bigler, Pollard

CA

- 34) Proposed Personal Professional Service Agreement with Xanitos, Inc., an independent contractor, for environmental and janitorial services from December 1, 2023 through November 30, 2026, in an amount not to exceed \$2,109,755 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 152-2023
Pelz-Berjjs: 4 Ayes; 2 Absent - Bigler, Pollard

35)

- Kern County Hospital Authority Chief Financial Officer report –
CHIEF FINANCIAL OFFICER ANDREW CANTU MADE PRESENTATION; RECEIVED AND FILED
Berjjs-Zervis: 5 Ayes; 1 Absent - Bigler

CA

- 36) Kern County Hospital Authority Chief Executive Officer report –
WITHDRAWN

CA

- 37) Monthly report on What's Happening at Kern Medical Center –
RECEIVED AND FILED
Pelz-Berjjs: 4 Ayes; 2 Absent - Bigler, Pollard

CA

- 38) Claims and Lawsuits Filed as of September 30, 2023 –
RECEIVED AND FILED
Pelz-Berjjs: 4 Ayes; 2 Absent - Bigler, Pollard

ADJOURNED AS KERN COUNTY HOSPITAL AUTHORITY BOARD OF GOVERNERS; CONVENED AS KERN MEDICAL SURGERY CENTER, LLC BOARD OF MANAGERS
Pelz-Pollard: 5 Ayes; 1 Absent - Bigler

- C-39) Proposed Resolution establishing regular meeting dates of the Kern Medical Surgery Center, LLC Board of Managers for calendar year 2023 –
APPROVED; ADOPTED RESOLUTION 2023-001
Pollard-Berjjs: 5 Ayes; 1 Absent - Bigler

- C-40) Proposed Resolution establishing regular meeting dates of the Kern Medical Surgery Center, LLC Board of Manager for calendar year 2024 –
APPROVED; ADOPTED RESOLUTION 2023-002
Pollard-Berjjs: 5 Ayes; 1 Absent - Bigler

- C-41) Kern Medical Surgery Center, LLC Administrative Report
RECEIVED AND FILED
Pollard-Berjis: 5 Ayes; 1 Absent - Bigler

ADJOURNED AS KERN MEDICAL SURGERY CENTER, LLC BOARD OF MANAGERS;
RECONVENED AS KERN COUNTY HOSPITAL AUTHORITY BOARD OF GOVERNERS
Zervis-Berjis: 5 Ayes; 1 Absent - Bigler

ADJOURNED TO CLOSED SESSION
Berjis-Pollard

CLOSED SESSION

- 42) Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) – SEE RESULTS BELOW
- 43) CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Christopher Harkins, Plaintiff, v. Kern County Hospital Authority, a municipal corporation; and DOES 1 through 50, inclusive, Defendants, Kern County Superior Court Case No. BCV-23-102237 DRZ – SEE RESULTS BELOW
- 44) CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521, Charging Party, v. Kern County Hospital Authority, Respondent, Public Employment Relations Board Case No. LA-CE-1633-M – SEE RESULTS BELOW
- 45) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Government Code Section 54956.9(d)(2) & (e)(2)) Number of cases: One (1) Significant exposure to litigation in the opinion of the Board of Governors on the advice of legal counsel, based on: Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the Authority and that are known to a potential plaintiff or plaintiffs. Facts and circumstances are as follows: Rebecca Rivera, M.D. – SEE RESULTS BELOW
- 46) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Government Code Section 54956.9(d)(2) & (e)(2)) Number of cases: One (1) Significant exposure to litigation in the opinion of the Board of Governors on the advice of legal counsel, based on: Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the Authority and that are known to a potential plaintiff or plaintiffs. Facts and circumstances are as follows: Thomas Campi, M.D. – SEE RESULTS BELOW
- 47) CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521, Charging Party, v. Kern County Hospital Authority, Respondent, Public Employment Relations Board Case No. LA-CE-1580-M – SEE RESULTS BELOW

- 48) CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521 Plaintiff/Petitioner, v. Kern County Hospital Authority, Kern Medical Surgery Center, LLC, and DOES 1-25, Defendants/ Respondents, Kern County Superior Court Case No. BCV-22-101782 JEB – SEE RESULTS BELOW
- 49) CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Chief Executive Officer Scott Thygeron, and designated staff - Unrepresented Employees (Government Code Section 54957.6) – SEE RESULTS BELOW
- 50) CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521, Charging Party, v. Kern County Hospital Authority, Respondent, Public Employment Relations Board Case No. LA-CE-1607-M – SEE RESULTS BELOW
- 51) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Government Code Section 54956.9(d)(2) & (e)(2)) Number of cases: One (1) Significant exposure to litigation in the opinion of the Board of Governors on the advice of legal counsel, based on: Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the Authority and that are known to a potential plaintiff or plaintiffs. Facts and circumstances are as follows: Dawn M. Cimmarusti LeRoy – SEE RESULTS BELOW
- 52) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Government Code Section 54956.9(d)(2) & (e)(2)) Number of cases: One (1) Significant exposure to litigation in the opinion of the Board of Governors on the advice of legal counsel, based on: Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the Authority and that are known to a potential plaintiff or plaintiffs. Facts and circumstances are as follows: Novarad Corporation – SEE RESULTS BELOW
- NOTE: CHIEF EXECUTIVE OFFICER SCOTT THYGERSON LEFT THE ROOM PRIOR TO THE DISCUSSION ON AGENDA ITEM 53 AND RETURNED TO THE MEETING FOLLOWING THE DISCUSSION ON AGENDA ITEM 53
- NOTE: VICE PRESIDENT & GENERAL COUNSEL KAREN S. BARNES LEFT THE ROOM PRIOR TO THE DISCUSSION ON AGENDA ITEM 53 AND RETURNED TO THE MEETING FOLLOWING THE DISCUSSION ON AGENDA ITEM 53
- 53) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Government Code Section 54956.9(e)(3)) Number of cases: Three (3) Significant exposure to litigation in the opinion of the Board of Governors on the advice of legal counsel, based on: The receipt of a claim pursuant to the Government Claims Act or some other written communication from a potential plaintiff threatening litigation, which non-exempt claim or communication is available for public inspection – SEE RESULTS BELOW
- 54) Request for Closed Session regarding peer review of health facilities (Health and Safety Code Section 101855(j)(2)) – SEE RESULTS BELOW

- 55) PUBLIC EMPLOYEE PERFORMANCE EVALUATION - Title: Chief Executive Officer (Government Code Section 54957) – SEE RESULTS BELOW

RECONVENED FROM CLOSED SESSION

Berjis-Pollard

REPORT ON ACTIONS TAKEN IN CLOSED SESSION

Item 42 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 BERJIS, SECOND BY DIRECTOR POLLARD); 1 ABSENT - DIRECTOR BIGLER), THE BOARD APPROVED ALL PRACTITIONERS RECOMMENDED FOR INITIAL APPOINTMENT, REAPPOINTMENT, RELEASE OF PROCTORING, CHANGE IN STAFF STATUS, AND VOLUNTARY RESIGNATION OF PRIVILEGES; NO OTHER REPORTABLE ACTION TAKEN

Item 43 concerning CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Christopher Harkins, Plaintiff, v. Kern County Hospital Authority, a municipal corporation; and DOES 1 through 50, inclusive, Defendants, Kern County Superior Court Case No. BCV-23-102237 DRZ – HEARD; NO REPORTABLE ACTION TAKEN

Item 44 concerning CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521, Charging Party, v. Kern County Hospital Authority, Respondent, Public Employment Relations Board Case No. LA-CE-1633-M – HEARD; NO REPORTABLE ACTION TAKEN

Item 45 concerning CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Government Code Section 54956.9(d)(2) & (e)(2)) Number of cases: One (1) Significant exposure to litigation in the opinion of the Board of Governors on the advice of legal counsel, based on: Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the Authority and that are known to a potential plaintiff or plaintiffs. Facts and circumstances are as follows: Rebecca Rivera, M.D. – HEARD; NO REPORTABLE ACTION TAKEN

Item 46 concerning CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Government Code Section 54956.9(d)(2) & (e)(2)) Number of cases: One (1) Significant exposure to litigation in the opinion of the Board of Governors on the advice of legal counsel, based on: Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the Authority and that are known to a potential plaintiff or plaintiffs. Facts and circumstances are as follows: Thomas Campi, M.D. – HEARD; NO REPORTABLE ACTION TAKEN

Item 47 concerning CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521, Charging Party, v. Kern County Hospital Authority, Respondent, Public Employment Relations Board Case No. LA-CE-1580-M – HEARD; NO REPORTABLE ACTION TAKEN

Item 48 concerning ONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521 Plaintiff/Petitioner, v. Kern County Hospital Authority, Kern Medical Surgery Center, LLC, and DOES 1-25, Defendants/ Respondents, Kern County Superior Court Case No. BCV-22-101782 JEB – HEARD; NO REPORTABLE ACTION TAKEN

Item 49 concerning CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Chief Executive Officer Scott Thygerson, and designated staff - Unrepresented Employees (Government Code Section 54957.6) – NOT HEARD

Item 50 concerning CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521, Charging Party, v. Kern County Hospital Authority, Respondent, Public Employment Relations Board Case No. LA-CE-1607-M – HEARD; NO REPORTABLE ACTION TAKEN

Item 51 concerning CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Government Code Section 54956.9(d)(2) & (e)(2)) Number of cases: One (1) Significant exposure to litigation in the opinion of the Board of Governors on the advice of legal counsel, based on: Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the Authority and that are known to a potential plaintiff or plaintiffs. Facts and circumstances are as follows: Dawn M. Cimmarusti LeRoy – HEARD; NO REPORTABLE ACTION TAKEN

Item 52 concerning CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Government Code Section 54956.9(d)(2) & (e)(2)) Number of cases: One (1) Significant exposure to litigation in the opinion of the Board of Governors on the advice of legal counsel, based on: Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the Authority and that are known to a potential plaintiff or plaintiffs. Facts and circumstances are as follows: Novarad Corporation – HEARD; NO REPORTABLE ACTION TAKEN

Item 53 concerning CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Government Code Section 54956.9(e)(3)) Number of cases: Three (3) Significant exposure to litigation in the opinion of the Board of Governors on the advice of legal counsel, based on: The receipt of a claim pursuant to the Government Claims Act or some other written communication from a potential plaintiff threatening litigation, which non-exempt claim or communication is available for public inspection – HEARD; NO REPORTABLE ACTION TAKEN

Item 54 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 55 concerning PUBLIC EMPLOYEE PERFORMANCE EVALUATION - Title: Chief Executive Officer (Government Code Section 54957) – HEARD; NO REPORTABLE ACTION TAKEN

ADJOURNED TO WEDNESDAY, NOVEMBER 15, 2023 AT 11:30 A.M.

Pelz

/s/ Mona A. Allen
Authority Board Coordinator

/s/ Phillip McLaughlin
Vice Chairman, Board of Governors
Kern County Hospital Authority



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

November 15, 2023

Subject: Proposed acceptance of donation of travel and related expenses from Safety National and MedPro for CHA's "2023 Behavioral Health Care Symposium"

Recommended Action: Approve; Adopt Resolution

Summary:

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

Safety National covers the Authority's workers' compensation program; MedPro provides Hospital Professional Excess Liability insurance to the Authority. Safety National and MedPro have offered to donate to the Authority all travel and related expenses for two Kern Medical employees to attend CHA's "2023 Behavioral Health Care Symposium" from December 12-13, 2023, in Sacramento, California. This training session is necessary in connection with official Authority business.

Therefore, Kern Medical recommends your Board adopt the attached proposed resolution to accept the travel donation from Safety National and MedPro for travel and related expenses and authorize the Chief Executive Officer to designate two employees to attend this important conference.

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

In the matter of:

Resolution No. 2023-____

**ACCEPTANCE OF DONATION OF
TRAVEL AND RELATED EXPENSES
FOR THE CHA “2023 BEHAVIORAL
HEALTH CARE SYMPOSIUM”**

I, MONA A. ALLEN, Authority Board Coordinator for the Kern County Hospital Authority, hereby certify that the following Resolution, on motion of Director _____, seconded by Director _____, was duly and regularly adopted by the Board of Governors of the Kern County Hospital Authority at an official meeting thereof on the 15th day of November, 2023, by the following vote, and that a copy of the Resolution has been delivered to the Chairman of the Board of Governors.

AYES:

NOES:

ABSENT:

MONA A. ALLEN
Authority Board Coordinator
Kern County Hospital Authority

Mona A. Allen

RESOLUTION

Section 1. WHEREAS:

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

(b) Safety National provides coverage for the Authority’s self-insured workers’ compensation program; and

(c) MedPro provides Hospital Professional Excess Liability insurance to the Authority; and

(d) Safety National and MedPro have offered to donate to the Authority all travel and related expenses for two Authority employees to attend CHA’s “2023 Behavioral Health Care Symposium” in Sacramento, California, from December 12-13, 2023; and

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

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

(g) Neither Safety National nor MedPro has made any restrictions as to how the donation may be used.

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

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

2. This Board hereby accepts from Safety National and MedPro the donation of travel and related expenses to cover all costs for one Authority employee to travel to Sacramento, California, to attend CHA’s “2023 Behavioral Health Care Symposium” from December 12-13, 2023.

3. This Board authorizes the Chief Executive Officer to designate two Authority employees to attend CHA’s “2023 Behavioral Health Care Symposium” in Sacramento, California, from December 12-13, 2023.

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

Chief Financial Officer
Legal Services Department
Human Resources Department



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

November 15, 2023

Subject: Proposed retroactive Sixth Amendment to Operating Agreement of Kern Medical Surgery Center, LLC, a California Limited Liability Company

Recommended Action: Approve; Authorize Chairman to sign

Summary:

On September 20, 2023, your Board approved the Fourth Amendment to the Operating Agreement of Kern Medical Surgery Center, LLC (the “Company”), increasing the number of managers from three to seven and appointing your Board as the managers of the Company (each a “Manager” and, collectively, the “Board of Managers”), effective October 1, 2023.

Subsequently, on October 18, 2018, your Board approved the Fifth Amendment to the Operating Agreement to align the management of the Company and the conduct of the Board of Managers with the Ralph M. Brown Act, California’s open meeting law, and appoint officers of the Company, effective October 1, 2023.

The Authority, in its capacity as the sole Member of the Company, has determined that it is in the best interest of the public to amend the Operating Agreement to state with specificity that the books and records of the Company shall be subject to the provisions of the California Public Records Act, in the same manner and to the same extent as applicable to the Member.

Therefore, it is recommended that your Board retroactively approve the Sixth Amendment to the Operating Agreement of Kern Medical Surgery Center, LLC, to provide that the books and records of the Company shall be subject to the provisions of the California Public Records Act, effective October 1, 2023.

**SIXTH AMENDMENT
TO
OPERATING AGREEMENT
OF
Kern Medical Surgery Center, LLC
a California Limited Liability Company**

This Sixth Amendment (this “Amendment”) to the Operating Agreement of Kern Medical Surgery Center, LLC, a California limited liability company (the “Company”), dated as of August 18, 2016, amends the Operating Agreement of the Company (the “Agreement”), effective as of this 15th day of November, 2023, and is made by the Kern County Hospital Authority, a California governmental entity, in its capacity as the sole member (the “Member”) of the Company.

WHEREAS, Section 10.7 of the Agreement states the Agreement shall not be amended or modified except by a writing signed by the Member; and

WHEREAS, the Member desires to amend the Agreement as set forth herein; and

WHEREAS, the Agreement is amended effective October 1, 2023;

NOW, THEREFORE, the Member hereby amends the Agreement as follows:

1. Article VIII, Accounting, Records and Reports, section 8.1, Books and Records, shall be deleted in its entirety and replaced with the following:

“8.1 Books and Records. Board shall cause the books and records of the Company to be accurately and fully kept, and the financial position and the results of its operations recorded, consistent with any and all requirements of this Agreement. The books and records of the Company shall be subject to the provisions of the California Public Records Act, in the same manner and to the same extent as applicable to the Member.”

2. Except as otherwise defined herein, all capitalized terms used in this Amendment have the meaning set forth in the Agreement.

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

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

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

[SIGNATURES FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned has executed this Sixth Amendment to the Agreement as of the day and year first written above.

KERN COUNTY HOSPITAL AUTHORITY,
a California governmental entity

By _____
Russell E. Bigler, Chairman
Board of Governors

APPROVED AS TO FORM:
LEGAL SERVICES DEPARTMENT

By _____
Karen S. Barnes
Vice President & General Counsel
Kern County Hospital Authority



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

November 15, 2023

Subject: Proposed retroactive Amendment #P202410071626 to the Master Agreement (050-2018) with Change Healthcare Technologies, LLC to extend the term of the agreement for appropriate Interqual licensed software

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical requests that your Board approve the proposed retroactive Amendment with Change Healthcare Technologies, LLC, to extend the term by three (3) years and add \$109,957 in fees to cover the extended term. At the end of the extended three (3) term, the agreement will renew for an additional two (2) year term unless canceled by either party prior to auto-renewal.

In this proposed Amendment, subscription services for certain unnecessary Interqual software will be terminated and other necessary subscription software and services will be renewed for an additional three (3) year term. The annual cost savings is \$100,743 with a total contract savings for the extended term of \$302,227. Interqual is the software used by Case Management for conducting inpatient utilization review and for inpatient medical necessity review, which is required by the Centers for Medicare and Medicaid Services' Conditions of Participation and Department Health Care Services.

Counsel is unable to approve as to form due to non-standard terms and condition, which include the inability to cancel and the auto-renewal of the term. Efforts were made to negotiate with the Vendor, but to no avail.

Therefore, it is recommended that your Board approve the proposed retroactive Amendment #P202410071626, with Change Healthcare Technologies, LLC to extend the term for three (3) years from August 15, 2023 to August 14, 2026, with an additional cost to cover the extended term of \$109,957, and authorize the Chairman to sign.

Amendment

This Amendment ("Amendment") to the contract(s) listed in the Amended Agreements table ("Agreement") is between Change Healthcare Technologies, LLC ("CHC" or "Change Healthcare") and Kern County Hospital Authority ("Customer"). This Amendment is effective as of the latest date in the signature block ("Amendment Effective Date").

Amended Agreements

Contract No./Name:	Effective Date:
Lic#17037 Amd#32690	November 20, 2018
Lic#17037 OF#30757	August 15, 2018
Lic#17037	August 15, 2018

Purpose

Customer wishes to renew the Agreement for a three (3) year term.

The parties agree to the following terms.

Exhibits

1	Product Terms
2	Supplemental Exhibits
	Solutions and Pricing Exhibit
	Implementation, Education and Consulting Services

Terms

1. Renewal Term.

1.1. As of **August 14, 2023**, the term of the Agreement for the Products listed in Exhibit 2, Solutions and Pricing Exhibit, will renew for a term of three (3) years beginning on August 15, 2023 ("Renewal Term Start Date") and ending on August 14, 2026 ("Renewal Term").

1.2. Upon expiration of the Renewal Term, the Agreement will automatically renew for additional two-year periods unless either party provides with written notice of nonrenewal at least 90 days prior to expiration of the then-current term.

2. **Fees.** The annual License fees for the Products listed in Exhibit 2, Solutions and Pricing Exhibit, are as set forth in that exhibit. The Services fees for the Services listed in Exhibit 2, Implementation, Education, and Consulting Services, are as listed in that exhibit.

3. **Discount Reporting.** This Amendment, and any discounts provided under this Amendment, are intended to comply with the discount safe harbor of the federal Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b). To the extent required by the discount safe harbor of the Anti-Kickback Statute or other similar applicable state laws and regulations, Customer must fully and accurately reflect in cost reports or other submissions to federal healthcare programs all discounts provided under this Amendment and, upon request by the Secretary of the U.S. Department of Health and Human Services or a state agency, make available information provided to Customer by CHC about the discount.
4. **Authorization.** The pricing in this Amendment and CHC's corresponding offer to Customer expires unless CHC receives this Amendment signed by Customer on or before the expiration date in the attached Exhibit 2, Solutions and Pricing Exhibit.
5. Capitalized terms not defined in this Amendment are defined in the Agreement. All terms in the Agreement not modified by this Amendment are still in force. This Amendment contains all the terms agreed upon by the parties regarding the subject matter of this Amendment and supersedes any other communications relating to the subject matter of this Amendment.

CHANGE HEALTHCARE TECHNOLOGIES, LLC

By: Andrea McIntyre
Andrea McIntyre (Nov 1, 2023 15:33 CDT)

Name: Andrea McIntyre

Title: CFO, Software, Network, Data

Date: Nov 1, 2023

KERN COUNTY HOSPITAL AUTHORITY

By: _____

Name: Russell Bigler

Title: Chairman, Board of Governors

Date: November 15, 2023

**REVIEWED ONLY
NOT APPROVED AS TO FORM**

By: [Signature]
Legal Services Department

Exhibit 1
Product Terms

1. Third Party Products.

- a. CHC may provide Third-Party Products to Customer together with, or incorporated into, the CHC Product. Customer is authorized to use these Third-Party Products solely with the related CHC Product. Customer's use of Third-Party Products is subject to the terms of this Amendment and any applicable terms on <https://customerconnection.changehealthcare.com/tpt/login> ("Third-Party Terms"), which Customer may access using the following confidential login information:

User ID: contractprovisions@changehealthcare.com

Password (case sensitive): Portal!Access

- b. If any Third-Party Terms conflict with this Amendment, then the conflicting Third-Party Terms control only with respect to the Third-Party Solution to which they apply. CHC may substitute any Third-Party Product licensed to Customer with different Products or Services containing similar features and functionality. If a Third Party raises its fees for a Third-Party Solution, then CHC may increase its fees to Customer by the same amount on the next invoice.

2. Clinical Content.

- a. Applicable Clinical Content License. Clinical Content may only be accessed and used through certain licensed Software, Products, or Services. Customer's license to the Clinical Content is subject to the same license and use restrictions as the applicable licensed Software, Products, or Services.

- b. Copying of Clinical Content.

- i. Definitions. 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

- ii. Permitted Ad-Hoc Disclosures. 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 CHC Statement of Disclosure, all as set forth below:

- (1) to a Member included as one of Customer's Covered Lives under an Agreement when the Clinical Content have been referenced in the

process of denying, limiting, or discontinuing authorization of services for the Member;

- (2) to a Member for the sole purpose of satisfying Customer's contractual obligations to report review results;
 - (3) 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;
 - (4) 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;
 - (5) 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 CHC as soon as practicable prior to any disclosure so that CHC may, at its option, object to or dispute the disclosure); or
 - (6) pursuant to a judicial order or subpoena (copy to be furnished to CHC by at least five (5) business days' notice prior to any disclosure so that CHC 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, than as soon as possible prior to disclosure).
- iii. If Customer has reason to request flexibility to disclose Clinical Content beyond the requirements as set forth in the subsections above, Customer and CHC agree to work cooperatively prior to disclosure to ensure appropriate measures are in place for protecting CHC's intellectual property, trade secrets and confidential information.
 - iv. Customer's disclosure and CHC's agreement for disclosure of Clinical Content pursuant to this section to comply with regulatory or legal requirements does not constitute a waiver of CHC's rights to protect its intellectual property, trade secrets and confidential information.
 - v. In connection with each disclosure/distribution, all Clinical Content copies will prominently display on the cover page and/or introductory screen CHC's trademark and copyright notices and Proprietary Notice, as provided herein, and Customer will maintain and furnish the disclosure/distribution to CHC upon request.
 - vi. The following is the CHC 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. Product Integrations and Interfaces

- a. Customer may not install any interface and/or integration to the Software without the prior written consent of Change Healthcare, not to be unreasonably withheld. Only interfaces or integrations, including Customer-developed integrations or third-party integrations, that have been approved by CHC in writing may be used in conjunction with Products and Services. Customer is solely responsible for securing the installation, support, and maintenance of any interface and/or integration. ALL SUCH INTERFACE OR INTEGRATION PRODUCTS AND SERVICES ARE NOT PROVIDED BY CHC AND ARE EXPRESSLY EXCLUDED FROM WARRANTIES PROVIDED BY CHC UNDER THE AGREEMENT
- b. To the extent Customer is permitted to develop an interface or integration for use in conjunction with Products and Services, Customer will develop such integration in accordance with specification guidelines or other Documentation as provided by CHC, and such interface or integration will be subject to CHC's then-current integration validation process.

4. InterQual Mobile. InterQual Mobile is ASP Software and will not be installed at Customer's Facility(ies) or Data Center(s).

Exhibit 2

Supplemental Exhibits

The Supplemental Exhibits listed in the Exhibits table on page 1 are attached below and continue on subsequent pages.

[SEE FOLLOWING PAGES]

Solutions and Pricing Exhibit
 Kern County Hospital Authority
 Opportunity Number: OPTY-824484
 Master Agreement: MA_17037

FEES SUMMARY

Product Category	Fees
Products	\$109,956.03
GRAND TOTALS:	\$109,956.03

*Plus applicable taxes and any Fees listed on attached Services Exhibit.

The pricing in this Exhibit expires unless Change Healthcare receives this agreement signed by Customer on or before **04-08-2024**.

TERM ROLL UP PRODUCTS

Term Start Date	Term End Date	Term	Net \$ Products
08-15-2023	08-14-2024	Term 1	\$36,652.01
08-15-2024	08-14-2025	Term 2	\$36,652.01
08-15-2025	08-14-2026	Term 3	\$36,652.01

PAYMENT SCHEDULE

Payment Schedule for Products Licenses Fees: Notwithstanding anything to the contrary in the Agreement, the annual payments for the Software, Clinical Content, and ASP Services, and the number of Covered Lives/Beds/Reviews/Claims/Transactions set forth herein are not subject to decrease.

Products:	<p>Annual Fees: 100% of the fees for Term 1 are due on the Effective Date, and if applicable, pro-rated to the end of the current billing period.</p> <p>Subsequent annual Fees are due on each Term Start Date.</p>
Implementation, Education and Consulting Services:	Fees are due in accordance with the payment terms on the attached Services exhibit

FACILITIES

Kern Medical Center
 1700 Mount Vernon Avenue, Bakersfield, CA, 93306, UNITED STATES

IRR Administrator: Sandra Bakich

Tel:

E-Mail: sandra.bakich@kernmedical.com

Software Admin Contact: Sandra Bakich

Tel:

E-Mail: sandra.bakich@kernmedical.com

Product Code(s)	Product Name	Solution Type	Size/Type	Start Date	End Date
72026290	InterQual(R) Acute Adult Criteria	Clinical Content	222 Beds	08-15-2023	08-14-2026
72026291	InterQual(R) Acute Pediatric Criteria	Clinical Content	222 Beds	08-15-2023	08-14-2026
72031163	InterQual(R) Adult and Geriatric Psychiatry Criteria	Clinical Content	24 Beds	08-15-2023	08-14-2026
72031161	InterQual(R) Behavioral Health Services Criteria	Clinical Content	24 Beds	08-15-2023	08-14-2026
72035426	InterQual(R) View (Included)	Software-Term	222 Beds	08-15-2023	08-14-2026
72020947	InterQual(R) View (SQL)	Software-Term	222 Beds	08-15-2023	08-14-2026
72034984	InterQual Learning Basics	Subscription Services	222 Beds	08-15-2023	08-14-2026
72032112	InterQual(R) Connect Medical Review Service (Core)	Subscription Services	222 Beds	08-15-2023	08-14-2026
72026317	InterQual(R) Interrater Reliability Standard Tests	Subscription Services	222 Beds	08-15-2023	08-14-2026
72034985	InterQual(R) Mobile	Subscription Services	222 Beds	08-15-2023	08-14-2026
72035433	AMA CPT Codes IQ	Third Party Solution	222 Beds	08-15-2023	08-14-2026

Indicates a product being added to the license as set forth above.

ADMINISTRATION

Sold To:	Bill To:
Kern County Hospital Authority	Kern County Hospital Authority
1700 Mt Vernon Ave	1700 Mt Vernon Ave
Bakersfield, CA, 93306-4018, USA	Bakersfield, CA, 93306-4018, USA
	Attention: Rey Lopez
	Telephone: 661-326-5473
	E-mail: rey.lopez@kernmedical.com
Ship To:	
See Facilities information	
Software Download Admin Contact:	
See Facilities information	
IRR Administrator:	
See Facilities information	

IMPLEMENTATION, EDUCATION AND CONSULTING SERVICES TERMS

InterQual® Services

1.0 SERVICE PRICING (MHS19275-M)

Table 1: Services for Kern County Hospital Authority

InterQual Services	Participants	Annual Fee (Years 1-3)
<u>ILS LOC: InterQual® (Acute)</u> • VILT - LOC: InterQual Acute Criteria	Up to 10 participants annually Material: 75005568	\$2,250.00
Fixed Fee Total:		\$2,250.00

Payment Terms - Services Fees

\$2,250.00 *due on Term 1 Start Date.

\$2,250.00 *due on Term 2 Start Date.

\$2,250.00 *due on Term 3 Start Date.

* plus any applicable taxes

2.0 STATEMENT OF PROJECT SCOPE

Services will be delivered in accordance with the Change Healthcare Guide to Standard Implementation and Education 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 Connection. At no time will there be a material change that will reduce or adversely affect the services to be delivered.

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 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.
- 3.2 Change Healthcare will contact Customer to schedule education although it is ultimately Customer's responsibility for contacting Change Healthcare to ensure that annual education sessions(s) are scheduled.
- 3.3 Customer acknowledges that Services will be provided only for licensed Facilities.
- 3.4 Training Services will not be carried over from prior years.
- 3.5 Training includes all applicable self-paced trainings.
- 3.6 Applicable self-paced education should be completed prior to virtual session(s).

4.0 DEFINITIONS

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

"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.



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

November 15, 2023

Subject: Proposed Subscription Renewal Quote Q-1059696 with Lansweeper Inc.

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical requests your Board approve the proposed Quote Q-1059696 with Lansweeper Inc., a Texas corporation, for the purchase of product licenses to a software subscription in support of Information Technology Asset Management. This product is required for Kern Medical to maintain compliance with the Health Insurance Portability and Accountability Act (HIPAA) security standards outlined in *45 C.F.R. § 164.310(d)*. HIPAA requires entities to maintain an inventory of all assets that access or contain Electronic Protected Health Information and this product will be used to meet this requirement. The product is also critical for Information Systems staff to identify issues and resolve end user problems with equipment, as well as assist in the budgeting process for asset lifecycle.

The 1-year cost for the subscription and support will not exceed \$12,800.00 as referenced below:

A. Quote No. Q-1059696:

Subscription	Costs
Lansweeper Asset quantity 8000 – 1 Year	\$12,800.00

The Agreement contains non-standard terms and conditions and cannot be approved as to form by Counsel due to the possibility that Cloud services would be hosted on a public cloud (although not using cloud services at this time); no indemnification by Lansweeper, we only indemnify Lansweeper; licensed content will transferred to Lansweeper and can be disclosed by applicable law; Lansweeper may permanently erase content if our account becomes delinquent; we grant Lansweeper a non-exclusive license to use our aggregate content and metadata; Lansweeper has no liability for product failures, nor claims of infringement or intellectual property rights in the use of the product; Lansweeper’s total liability is limited to the cost of the quote; Lansweeper may amend the terms and conditions at any time; and the terms and conditions are governed by Texas law.

Due to these non-standard terms and conditions, Information Systems staff worked diligently to find another vendor that maintained a comparable product that would work within our current system and our budget, but was unsuccessful. Therefore, it is recommended that your Board approve the proposed Quote with Lansweeper Inc. for the purchase of product licenses and support for a one (1) year term beginning on December 18, 2023 through December 17, 2024, with a cost of \$12,800.00, and authorize the Chairman to sign

Prepared by: **Alcortney Smith**
Email: alcortney.smith@lansweeper.com
Quote Expires On: **12/28/2023**



Client:
Kern Medical
1700 Mount Vernon Avenue
93306 Bakersfield
California
United States

Lansweeper Inc.
11044 Research
Boulevard, Building D,
Suite D-500
78759 Austin
Texas United States

Quote Creation Date: July 21, 2023
Quote Expiration Date: December 28, 2023
Subscription Start Date: December 18, 2023
Subscription End Date: December 17, 2024

Quote Q-1059696

Product	Quantity	Unit Price	Term	Subtotal	One-time Discount	Net Price
Lansweeper Pro	8,000.00	USD 2.00	1-Y	USD 16,000.00	USD 3,200.00	USD 12,800.00

An overview of the features and functionalities entailed in your subscription plan can be found [here](#).

Total

USD 12,800.00

License fee prices are exclusive of VAT, other taxes and delivery costs but may still apply
Delivery of the Lansweeper product(s) shall happen electronically

To proceed with the purchase, please send your PO to sales@lansweeper.com

Chairman, KCHA Board of Governors

REVIEWED ONLY
NOT APPROVED AS TO FORM

By *Shannon Hochstein*
Kern County Hospital Authority

Notes:

This quote is subject to our Terms of Use (lansweeper.com/terms-of-use) and identifies the details of your Paid Subscription. The capitalized terms used in this quote will have the meaning assigned to them in our Terms of Use.
"Quantity" refers to the number of Assets for a Paid Subscription or the number of Help Desk-Agents for a Help Desk-Agent Subscription.
Please refer to our Terms of Use (lansweeper.com/terms-of-use) for our payment conditions. Payment term is NET thirty (30) days from invoice date, except if otherwise stipulated on this quote or the subsequent invoice. Lansweeper reserves the right to contract and bill the Product licenses provided herein through Lansweeper NV, Lansweeper, Inc. or Cleverbridge AG/Inc. ("Cleverbridge") based on the customer's final invoicing details. In the latter case, Cleverbridge's payment conditions shall apply.
This offer is noncommittal and does not create any agreement between you and Lansweeper, unless this offer and the Terms of Use (lansweeper.com/terms-of-use) are acknowledged and accepted by you. Purchase orders are only binding when accepted by Lansweeper. The submission of a purchase order implies the acceptance of our offer and our Terms of Use (lansweeper.com/terms-of-use). Any purchase or other conditions mentioned on your purchase order are expressly excluded and shall be null and void.
Lansweeper, Inc. is a limited liability company existing under the laws of the State of Delaware, United States, with its principal business address at 11044 Research Boulevard, Building D, Suite D-500, Austin, Texas 78759.

Version 2.1, dated 5 May 2023

1. GENERAL

1.1. These Terms of Use ("**Terms**"), together with the Order and the data processing agreement ("**DPA**") govern Customer's use of the Product (as defined below) and form a legal contract between the Lansweeper entity designated in clause 1.3 below ("**Lansweeper**") and Customer (as defined below). These Terms are accessible via Lansweeper's website.

1.2. By purchasing, installing, or otherwise using all or any portion of the Product, Customer indicates that it has read, understood, and agreed to be legally bound by these Terms.

1.3. If Customer is incorporated or has its primary place of business anywhere in the world except for the United States and any US territory, the Lansweeper entity with whom Customer will be contracting is Lansweeper NV, a limited liability company existing under Belgian law, with registered address at Belgium, 9820 Merelbeke, Fraterstraat 212, registered under enterprise number 0538.668.417. If Customer is incorporated in or has its primary place of business in any location within the United States or any US territory, including American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands, Customer will be contracting with Lansweeper Inc., with offices at 11044 Research Blvd, Building D, Suite D-500, Austin, TX 78759.

1.4. The individual accepting the Agreement on behalf of a company or other legal entity ("**Customer**") represents and warrants that he or she has full authority to bind the Customer to this Agreement.

1.5. Customer may not accept the Agreement or use the Product if Customer or anyone it represents is barred from using the Product under the (export control) laws of the European Union, United States or any other country, and/or any applicable trade sanctions or embargoes.

2. DEFINITIONS

2.1. The terms and expressions written with a capital letter shall have the meaning given to them in this clause 2.1, unless the context in which they are used requires a different meaning.

"Administrator" means the End-User creating a Site;

"Affiliate" means an entity that owns or controls, is owned or controlled by or is under common control or ownership with Customer or Lansweeper as applicable,

where 'control' is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity through majority ownership of voting securities or otherwise;

"Agreement" means these Terms together with the Order and the DPA;

"Aggregate Data" means any data that is the result of aggregation and/or de-identification of Customer Content and Device Fingerprints or derivations thereof, and which does not or no longer relates to an identified or identifiable natural person. Aggregate Data does not constitute Confidential Information of Customer;

"Applicable Data Protection Legislation" has the meaning given to it in the DPA;

"Application" means any application developed to interact with the Cloud API or otherwise interact with the Product (including the Cloud Platform);

"Asset" means (i) any IT device scanned, using the Product on Customer's local systems; (ii) any IT resource scanned by the Product in Customer's cloud environment; and (iii) any IT assets that are created by/added to the Product by Customer;

"Beta Release" means a feature of the Product on a "beta" free of charge pre-release, owned by Lansweeper and licensed and made available to Customer solely for testing purposes;

"Billing Contact Email" means the email address provided by Customer to which Lansweeper may send all billing-related information and the License Key;

"Business Day" means every day except Saturdays, Sundays and public holidays in the jurisdiction where Lansweeper is incorporated;

"Charges" means the amounts due by Customer to Lansweeper for the delivery of the Product;

"Cloud API" means an application programming interface, including updates and including any API offered by Lansweeper to its Customer through its Cloud Platform;

"Cloud API Key" means the security key Lansweeper creates and makes available to Customer, to access the Cloud API;

"Cloud Platform" means a cloud-hosted platform on a multi-tenant basis, managed by Lansweeper, which connects to Customer's Lansweeper Installation and which allows Customer to view its Customer Content available within its Lansweeper Installation(s) via its Lansweeper Account;

"Cloud Services" means cloud-based services made available through the Product;

"Confidential Information" means all information which is disclosed by one Party to the other whether before or after Effective Date, which is designated in writing as confidential or would appear to a reasonable person to be confidential and which relates to a Party's business including its products, operations, processes, plans or intentions, developments, trade secrets, know how, design rights, market opportunities, personnel, suppliers and/or customers, all information derived from any of the above (including but not limited to these Terms) but excludes information which (i) at the Effective Date is, or becomes at any time after that date, within the public domain (other than as result of a breach of clause 12 of these Terms); (ii) is obtained, free from any restrictions as to its use or disclosure from a third party who was free to divulge it; and (iii) is developed by, or for, the receiving Party independently of any information received under the Agreement and by persons who had no access to, or knowledge of, that Confidential Information;

"Contract Year" means each twelve (12) month period beginning on the Effective Date and on each subsequent anniversary thereof during the Term;

"Customer" means the legal entity validly subscribing to the Product under the Agreement;

"Customer Content" means any data (in electronic form) collected through the Product or uploaded to the Product by Customer or its Affiliates (including their respective End-Users) for the purpose of using the Product or facilitating the Customer's use of the Product, including outputted data by the Cloud API but excluding Aggregate Data and Installation Metadata;

"Device Fingerprint" means a set of information elements obtained through network protocols used to recognize Assets;

"Documentation" means any documentation, instructions, Lansweeper's Knowledge Base or other information provided by Lansweeper in relation to the Product regardless of the manner in which it has been made available to the Customer (including via e-mail or Lansweeper's website) and as may be updated from time to time;

"DPA" means the data processing agreement available at <https://www.lansweeper.com/terms-of-use/> (or any other hyperlink Lansweeper may provide);

"Effective Date" means either (i) the date of online acceptance of the Agreement or (ii) the Effective Date as identified otherwise in the Agreement;

"End Users" means the ultimate end users (natural person) of the Product;

"Error" means any material, verifiable and reproducible failure of the Product to conform in all material respects to features and functions as described in the Documentation (excluding any nonconformity resulting from a use that is not in compliance with the Agreement and/or the Documentation);

"Feedback" means comments, information, questions, data, ideas, description of processes, or other information related to the Product and/or Beta Releases provided by Customer to Lansweeper. Feedback does not constitute Confidential Information of Customer;

"Foss Components" has the meaning given to it in clause 9.11 of these Terms;

"Force Majeure" means any event which is beyond the reasonable control of a Party and which impacts the execution of its obligations under the Agreement, including, but not limited to, natural disasters, epidemics, pandemics, extreme weather conditions, fire, riots, war and military operations, national or local emergency situations, acts or negligence of the government, economic disputes of any nature whatsoever, strikes, unannounced labour actions, fire, flooding, lightning, explosions, collapses, disruptions in traffic, the reduced or non-functioning of networks, systems or equipment of third parties as well as any act of negligence of a person or entity which is outside of the reasonable control of a Party. For the avoidance of doubt, failure by Customer to correctly or timely pay the Charges shall not be excused by a Force Majeure event;

"Free Trial" means a free plan of the Product offered to the Customer for testing purposes at no charge for a limited period of time, with limited features and functionalities, and subject to the license metrics as determined in Lansweeper's sole discretion;

"Freeware" means a free plan of the Product offered to the Customer at no charge for an undetermined period of time, with limited features and functionalities, and subject to the license metrics as determined in Lansweeper's sole discretion;

"Help Desk" a feature of the Product that allows Customer to organize a limited first line help desk using the Lansweeper knowledge database within its organization through *inter alia* a ticketing system;

"Help Desk Agents" means those of Customer's End-Users with a Help Desk-agent subscription;

"Installation Metadata" means data retrieved by Lansweeper from Customer's Lansweeper Installation, such as but without limitation the license details, software version, IP address, email address, Install-ID, installation status, Asset count, database server type and web server type;

"Intellectual Property Rights" means (i) copyright (including software rights), patents, database rights and rights in trademarks, designs, know-how and confidential information (whether registered or unregistered); (ii) applications for registration, and the right to apply for registration, for any of these rights; and (iii) all other intellectual property rights and equivalent or similar forms of protection existing anywhere in the world;

"Invalid Support Request" means a support request from Customer which does not comply with the conditions for a Valid Support Request provided for in clause 7.4 of the Terms;

"IP Claim" has the meaning given to it in clause 15.1 of these Terms;

"IT Asset Discovery Software" means (i) the machine-readable object code of Lansweeper's software (including database software) to run on Customer's systems, developed and owned by Lansweeper and licensed to Customer under the provisions of this Agreement; (ii) the related Documentation; and (iii) any updates, supplements, modifications, enhancements, corrections, fixes and revisions thereof, as made available to Customer at Lansweeper's discretion;

"Lansweeper Account" means a unique identity tied to an email address that is used by an individual to log into the Cloud Platform. A Lansweeper Account can have access to multiple Sites, for which it is authorized through a linking process;

"Lansweeper Data" means the data and other information created, stored, processed and used by or on behalf of Lansweeper, and which may be accessible through the Product;

"Lansweeper Installation" means a single deployment of the IT Asset Discovery Software consisting out of i) a single Local Scanning Database installed on Customer's systems, (ii) a single Local Web Console installed on Customer's systems, and (iii) unless restricted by Customer's subscription plan, multiple Scanning Engines installed on the Customers and/or Customer's Affiliates

systems, all connected to the same and sole Local Database;

"Lansweeper's Knowledge Base" means Lansweeper's knowledge base available at <https://www.lansweeper.com/kb/> (or any other hyperlink Lansweeper may provide);

"Lansweeper's Support Page" means Lansweeper's support page available at <https://www.lansweeper.com/contact-support/> (or any other hyperlink Lansweeper may provide);

"License Key" means a unique key-code issued to Customer by Lansweeper to activate and use the Product. For Paid Subscriptions, Lansweeper will first issue a temporary license key with a duration equal to the payment term as described in clause 3.6 of these Terms, followed by a full license key covering the remainder of the Paid Subscription Term sent upon Lansweeper's receipt of payment from Customer;

"Local Scanning Database" means either a SQL local database or a full SQL server which serves as the on-premises repository where all Customer Content is federated. Multiple Scanning Engines should connect to a single Local Scanning Database;

"Local Web Console" means a website hosted on-premises with the Customer which is used to interface with the local deployment of the Product;

"Means of Access" has the meaning given to it in clause 9.5 of these Terms;

"Order" means any purchase order or other electronic or paper ordering document accepted by Lansweeper that identifies (among others) the following order by Customer: Product, Customer's selected Paid Subscription with the features and functionalities described therein, quantity based on Lansweeper's applicable license metrics (e.g., number of Assets, number of Help Desks Agents, number of Lansweeper Installations, number of Scanning Engines, ...), Charges, and subscription Term;

"Paid Subscription" means a plan of the Product offered to the Customer for purchase against payment of Charges and as further described in an Order;

"Party" and **"Parties"** mean Lansweeper and/or Customer, as applicable;

"Preview Feature" means a feature that is not part of Customer's subscription plan but made available on a "preview" basis;

"Privacy Policy" means the privacy policy available at <https://www.lansweeper.com/privacy-policy/> (or any other hyperlink Lansweeper may provide);

"Product" means IT Asset Discovery Software, the Cloud Platform, any Applications that interface with the Product developed and provided by Lansweeper through the Cloud Platform (excluding third-party applications developed and/or provided by third parties), and any other Lansweeper proprietary software, software-as-a-service or tool which the Customer has subscribed to in accordance with the Agreement;

"Reseller" means a party authorized by Lansweeper to resell Paid Subscriptions to the Lansweeper Product;

"Scanning Engine" means an application that performs the agentless scanning of the Assets in Customer's network in a one-to-many fashion. Such Scanning Engines may be installed on different systems of Customer or its Affiliates, unless restricted by Customer's subscription plan;

"Second Line Support" means monitored email support services whereby Lansweeper undertakes reasonable efforts to resolving Customer's Valid Support Requests;

"Site" means a unique tenant created in the Cloud Platform which can collect Customer Content from Customer's Lansweeper instance(s), through a linking process or manually entered via the Cloud Platform;

"Support Hours" means the hours during which second and third line Support Services will be made available to Customer in accordance with the conditions set forth in clause 7 of these Terms. For hours noted in CET, Central European Summer Time (CEST) will be used during spring to summer months;

"Support Services" means reasonable advice and guidance concerning the use of the Product, and troubleshooting of the Product allowing Lansweeper to resolve issues, either by providing Customer with the possible steps to resolve the Error, or undertaking the necessary measures on Lansweeper's end and informing Customer thereupon;

"Term" has the meaning given to it in clause 17 of these Terms;

"Terms" means these Terms of Use Lansweeper; and

"Valid Support Request" means a support request from Customer in accordance with the conditions set forth in clause 7.4 of these Terms.

The terms and expressions written with a capital letter used in this Agreement but not defined above, are defined throughout this Agreement.

3. SUBSCRIPTION, AFFILIATES' USE, ORDERS, CHARGES, PAYMENT TERMS AND EXTENSION OF PAID SUBSCRIPTION

3.1. The Product can be subscribed to, based on the following different subscription plans: (i) Free Trial, (ii) Freeware, and (iii) Paid Subscription. Free Trial and Freeware subscriptions are made available for download. Paid Subscriptions are offered for purchase and can be ordered through Lansweeper's website or a Lansweeper or Reseller sales representative. The Customer's selected Paid Subscription shall be identified in the Order (for purchases through a Lansweeper sales representative) or the online order confirmation page (for purchases through Lansweeper's website).

3.2. Subject to the applicable usage limitations, Customer will be entitled to have the Product used by its Affiliates (and their End-Users). Customer undertakes that any Affiliate using or accessing any Product hereunder, or benefitting from the Customer's use of a Product, will comply with all terms and conditions of this Agreement. The Customer will remain responsible for Customer's Affiliates' acts and omissions unless Customer's Affiliate has entered into its own agreement with Lansweeper.

3.3. The Customer's Affiliate use of the Product needs be based upon the same number Lansweeper Installations as permitted under this Agreement which have been installed at Customer. Use by the Customer's Affiliate shall not entitle the Affiliate to a separate Lansweeper Installation. It is thus understood that use by an Affiliate of the Product will be subject to the procedure set forth in clause 3.16 of these Terms, where use of the Affiliate would imply usage of the Product beyond the license metrics agreed upon with Customer.

3.4. Only the Agreement (and for the avoidance of doubt, specifically excluding any pre-printed terms on a Customer or Reseller purchase order) will have any force or effect unless a particular Order is executed by an authorized signer of Lansweeper and returned to Customer (or the applicable Reseller). If any such Order is so executed and delivered, then only those specific terms on such Order that expressly identify those portions of this Agreement that are to be superseded will prevail over any conflicting terms herein but only with respect to those Products ordered on such Order. Orders are non-cancellable. Any Order through a

Reseller is subject to, and Lansweeper obligations and liabilities to Customer are governed by, this Agreement.

3.5. Lansweeper quotes are only valid when issued by a Lansweeper sales representative and are noncommittal and do not create any agreement between Customer and Lansweeper, until the quote and these Terms (which are incorporated by reference into the quote) are acknowledged and accepted by Customer. quotes are valid for thirty (30) days as of the date of the quote, unless otherwise indicated.

3.6. The Charges for the Product are published on the Lansweeper website and exclude VAT and other applicable taxes. Charges are payable within thirty (30) calendar days of the invoice date, unless otherwise specified on the Order. The available payment methods are specified on the Order (for purchases through a Lansweeper sales representative) or the online order confirmation page (for purchases through Lansweeper's website). Invoices may be sent through electronic means, via the Billing Contact Email.

3.7. All payment obligations are non-cancellable and non-creditable and all Charges paid are non-refundable except as otherwise set forth in the Agreement.

3.8. Lansweeper reserves the right to increase the Charges at the start of each Contract Year up to Lansweeper's then-current list price set out on Lansweeper's website.

3.9. In the event as described in clause 3.8 of these Terms, Lansweeper will inform Customer thereof by email at the latest forty-five (45) days before the expiry of the then-current Contract Year. In the event Customer refuses to accept such Charges, Customer should terminate the Agreement in accordance with clause 17.3 of these Terms. In the event this was not timely done, the updated Charges shall apply as from the start of the next Contract Year.

3.10. From the due date, the invoice shall automatically and without notice accrue an interest of 1% for every month commenced of the due invoiced amount. Additionally, a flat-rate indemnity of 10% of the invoice amount is due, with a minimum of 250 EUR, which shall be payable automatically and without notice, notwithstanding Lansweeper's right to claim for a higher indemnity, subject to reasonable proof provided by Lansweeper of higher incurred damages.

3.11. In the case of non-payment of an invoice on the due date, all unexpired claims on the Customer resulting from any agreement between Lansweeper and Customer become due, automatically and without

notice. If instalments of payment are made or bills of exchange are signed, either subject to the Agreement or in another agreement between Lansweeper and Customer, then all amounts owed by Customer become due, automatically and without notice.

3.12. Customer must pay any applicable taxes and third-party fees (including, for example, telephone toll charges, mobile carrier fees, ISP charges, data plan charges, credit card fees, foreign exchange fees, foreign transaction fees, and bank charges). Lansweeper is not responsible for these fees. If Customer is located in a different country than Lansweeper or Lansweeper's e-commerce partner, Customer's payments will be made to a foreign entity. In the event any withholding tax (meaning any income, sales, use, gross receipts, business, occupation and other taxes and similar charges imposed by any government or other authority on Lansweeper in which Customer is required by law to withhold or deduct on the Charges payment to Lansweeper) is levied on the Charges, then Customer shall increase the sums paid to Lansweeper so the amount received by Lansweeper after the withholding tax is deducted is the full amount Lansweeper would have received if no withholding or deduction had been made. Lansweeper may apply and charge these withholding taxes back to Customer, after Customer has made the payment (*gross-up*) where withholding taxes were withheld by Customer. Notwithstanding the foregoing, Customer and Lansweeper will cooperate to avoid any withholding tax if exemptions, or a reduced treaty withholding rate, are available. If Lansweeper qualifies for a tax exemption, or a reduced treaty withholding rate, Lansweeper will provide Customer with reasonable documentary proof. However, in the event the Charges are charged via Lansweeper's e-commerce partner, their tax provisions apply and prevail.

3.13. Customer is not allowed to set off invoices unless expressly agreed otherwise in writing by Lansweeper.

3.14. Unless explicitly otherwise agreed upon, Lansweeper shall apply the currency for the Charges as provided in the Order (for purchases through a Lansweeper sales representative) or the online order confirmation page (for purchases through Lansweeper's website).

3.15. Any costs or losses incurred by Lansweeper due to Customer's payment in another currency as agreed upon, shall be borne by Customer and, as the case may be, refunded by Customer to Lansweeper.

3.16. During the Term, a Paid Subscription Customer may increase the agreed upon license metrics. In such case, Customer can request a quote through the Lansweeper website or a Lansweeper or Reseller sales representative.

3.17. At the start of the next Renewal Period, a Paid Subscription Customer may change the agreed upon license metrics. In such case, Customer should request a quote through the Lansweeper website or a Lansweeper or Reseller sales representative at least thirty (30) days before the expiry date of the current Term of Customer's subscription.

4. USE OF THE PRODUCT

4.1. The Product and the limitations associated with the Product are described in the Documentation.

4.2. Subject to full compliance with the Agreement (including timely payment of all applicable Charges to Lansweeper or where applicable, the Reseller), Lansweeper hereby grants Customer a limited, worldwide, revocable, non-transferable, non-sublicensable, non-exclusive right during the Term to (i) access and use the Product for Customer's internal business purposes on compatible devices in accordance with the agreed upon license metrics, (ii) deploy one single Lansweeper Installation, except if Customer's Paid Subscription allows for multiple Lansweeper Installations and upon the condition that those are linked to one single Site; (iii) deploy an additional Lansweeper Installation for testing purposes and to evaluate new releases, and (iv) update the Product to the latest updated version made available by Lansweeper under Customer's subscription plan. For the avoidance of doubt, Customer is not allowed to distribute or commercialize the Product. Lansweeper has the right to take all steps required in order to monitor the use of the Product and to verify whether the use is in compliance with the Terms.

4.3. Customer may solely use the Product as and in a way as expressly allowed under the Agreement and in accordance with Lansweeper's instructions. For example, but without limitation, Customer shall not (nor will allow or facilitate a third party to): (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party (except to the End Users as permitted under the Agreement) the Product or access to the Product in any way; (ii) modify, alter, translate, tamper with or make derivative works based upon the Product; (iii) unless to the extent allowed under applicable law, reverse

engineer, decompile, disassemble or otherwise attempt to discover the source code or underlying ideas or algorithms of the Product or access the Product in order to: (a) build a competitive product or service; (b) build a product using similar ideas, features, functions or graphics of the Product; or (c) copy any ideas, features, functions or graphics of the Product; (iv) access or use the Product in a way intended to avoid incurring Charges, exceeding license metrics, or avoiding any restrictions imposed under the Agreement; or (v) remove any titles or trademarks, copyrights or restricted rights notices in the Product.

4.4. Customer may use certain Cloud Services based on its Product configuration preferences. By using such Cloud Services, Customer acknowledges and agrees that Customer Content and/or Device Fingerprints are transmitted to Lansweeper in order to enable Lansweeper to provide such Cloud Services.

4.5. If Lansweeper provides a Beta Release of the Product, Customer acknowledges and agrees that the Beta Release is for evaluation purposes only and may contain Errors, fail, return inaccurate results, and/or be subject to other malfunctions. A Beta Release will be subject to the same license metrics as provided for in the Agreement. Lansweeper does not guarantee that a Beta Release will be commercially released and Lansweeper may change the Beta Release or terminate the Customer's use thereof at any time without prior notice. Use of the Beta Release is at Customer's own risk and Lansweeper shall not be liable for any damages resulting from Customer's use of the Beta Release.

4.6. If Lansweeper provides a Preview Feature, Customer acknowledges and agrees that the Preview Feature is for evaluation purposes only and that Lansweeper does not guarantee that the Preview Feature will remain available throughout Customer's subscription plan Term. Lansweeper may change the Preview Feature or terminate the Customer's use thereof at any time without prior notice.

4.7. In addition to any remedies Lansweeper may have by law or as specified in the Agreement, Lansweeper may exercise the following remedies, at Lansweeper's option and in Lansweeper's discretion, in case Customer does not comply with the Agreement: (i) suspend Customer's access to the Product; (ii) remove Customer's Customer Content from the Product; and/or (iii) report the concerned breach to the relevant authorities when such is required by law.

5. CLOUD PLATFORM, SIGN-UP AND ACCESS THERETO

5.1. In the Agreement, Parties may agree that Customer will be provided with access to the Cloud Platform, which constitutes a specific feature of the Product containing a set of functionalities. In addition to the other terms of the Agreement, this clause 5 shall apply to the extent Customer enjoys such access under the Agreement.

5.2. Customer's End-Users can sign up and access the Cloud Platform by creating a Lansweeper Account via app.lansweeper.com (or any other hyperlink as provided by Lansweeper).

5.3. It is Customer's sole responsibility to manage the creation of Sites by its End-Users and which End-Users can therefore become Administrator of such Site. In the event Customer deletes a Site, Customer acknowledges that it will not be able to recover the Customer Content that was available in such deleted Site.

5.4. Customer should successfully perform a linking process before being able to use the functionalities of the Cloud Platform. Specifically, to enable the proper functioning of the Cloud Platform, a minimum version of the IT Asset Discovery Software may be required. Based upon Customer's configuration preferences, certain updates to the IT Asset Discovery Software may be automatically downloaded and installed without further notice to Customer. Such automatic updates are without prejudice to the need for performing manual updates from time to time.

5.5. Lansweeper undertakes commercially reasonable efforts to make the Cloud Platform available at a monthly uptime percentage as applicable under Customer's Paid Subscription ("**Uptime Service Level**"). The uptime percentage is calculated on a monthly basis ("**Monthly Period**"), according to the following formula:
$$\text{Uptime Service Level} = ((\text{total hours in Monthly Period} - \text{Downtime in Monthly Period}) / \text{total hours in Monthly Period}) * 100\%$$
, where 'Downtime in Monthly Period' means the total number of hours outside of Scheduled Downtime (as defined below) during the Monthly Period that the Cloud Platform was unavailable and Customer was unable to access its Lansweeper Account.

5.6. In the event the Cloud Platform was unavailable due to unscheduled downtime, Customer is entitled to request a report via outagereport@lansweeper.com (or any other communication medium chosen by Lansweeper), showing how Lansweeper is performing

against the Uptime Service Level in the then-current Monthly Period.

5.7. The Uptime Service Level will exclude unavailability of the Cloud Platform due to or resulting out of: (i) Customer or Customer's End-User's use in a way that is not compliant with the Agreement (including the Documentation); (ii) Customer's failure to follow the instructions resulting out of Lansweeper's Support Services (if applicable); (iii) modifications or customizations to Customer's Lansweeper Installation; (iv) incorrect use of Lansweeper's API; (v) integrations with third party software or hardware (vi) Force Majeure events; (vii) Lansweeper's cloud hosting provider failure to comply with their own applicable service levels; and (viii) routine scheduled maintenance or reasonably emergency maintenance to provide Customer with new features or fixes ("**Scheduled Downtime**").

5.8. The Uptime Service Level does not apply to: (i) Beta Releases of the Cloud Platform's functionalities; (ii) any non-public available features, whether or not in a beta free-release, within the Cloud Platform that may be made available to Customer in Lansweeper's sole discretion; and (iii) Free Trial and Freeware subscriptions.

6. CLOUD API

6.1. Subject to Customer being provided with access to the Cloud Platform per clause 5 of these Terms and Customer's full compliance with the Agreement (including timely payment of all applicable Charges to Lansweeper or where applicable, the Reseller), Lansweeper hereby grants Customer a limited, worldwide, revocable, non-transferable, non-sublicensable, non-exclusive right during the Term to access, make calls to and use the Cloud API for developing Applications that may interoperate with the Product.

6.2. To access, make calls to or use the Cloud API, through a specific Application, Customer must obtain a Cloud API Key through the process as presented in the Cloud Platform and further documented in the Documentation. Customer will be fully responsible for keeping its Cloud API Key(s) for each Application safe and secure and will not share such Cloud API Key with any third parties. Customer may replace a Cloud API Key for a specific Application at any time, with a newly generated Cloud API Key, which will irreversibly replace the original Cloud API Key. Customer will not access or otherwise use the Cloud API than through the respective Cloud API Key(s) for each Application.

6.3. Lansweeper may from time to time at its own discretion provide for rate-limitations on the use of the Cloud API, as provided in the API Documentation.

6.4. Customer may use Lansweeper developed Applications provided in Lansweeper's discretion subject to Customer's compliance with these Terms. Customer further may use Applications developed by third parties, whether or not provided through the Cloud Platform or third parties directly, provided that: (i) such use may be dependent on the acceptance of terms provided by such third parties related to the use of such third-party Applications (in which case the present Terms will prevail over the third-party terms in the event of any conflict or inconsistency), (ii) such third-party Application developers may have access to the Customer Content, (iii) Lansweeper disclaims any warranty related to such third-party Applications and their usability, whether or not 'authorized' or 'certified' by Lansweeper, (iv) Lansweeper shall not be liable for any damages Customer may incur related to its use of such third-party Applications. Customer shall not rely on the future availability of any Applications.

6.5. Customer may provide its developed Applications to third parties, whether provided directly to third parties or through the Cloud Platform, subject to Lansweeper's prior approval (as applicable). Lansweeper may disable or revoke Customer's provisioned Applications or revoke any Cloud API Key for any Application when Customer breaches its obligations under these Terms. Customer will be solely liable for the third parties' compliance with the Agreement and the applicable legislation. Customer acknowledges that it may have access to such third parties' Asset data through providing its Applications. Customer will provide and adhere to: (i) relevant terms regulating the use of its Applications by the third parties, and (ii) relevant privacy policies to inform the third parties about which Asset data is used and in what manner.

6.6. Lansweeper hereby grants Customer a royalty-free, non-exclusive, non-transferable license to display the Lansweeper Trademarks only for attribution of Customer's use of the Cloud API and Customer's Applications. Customer acknowledges and agrees that Customer's use of the Lansweeper Trademarks will not create any right, title or interest in or to the Lansweeper Trademarks in Customer's favour and all goodwill associated with it will inure to the benefit of Lansweeper.

7. SUPPORT SERVICES

7.1. Except as expressly stated otherwise herein, all subscription plans are eligible for software support according to the following support lines:

- (a) First line support: is made available to Customer via the Documentation (available via the Lansweeper website);
- (b) Second line support: subject to the below-mentioned requirements and exclusions, second line Support Services are provided via support@lansweeper.com (or any other communication medium chosen by Lansweeper) except for Freeware Customers;
- (c) Third line support: subject to the below-mentioned requirements and exclusions third line Support Services are provided by Lansweeper via an online meeting only for (i) Paid Subscriptions if made available under Customer's selected Paid Subscription plan and (ii) Valid Support Request qualifying for the highest severity level as described on Lansweeper's Support Page.

7.2. Lansweeper only provides Support Services in relation to the Product. For the avoidance of doubt, Lansweeper does not provide Support Services in relation to (i) Customer's "custom actions" and "automated software deployment" as defined and described in Lansweeper's Knowledge Base (part of the Documentation), (ii) the Cloud API, and (iii) any Applications. Lansweeper further only provides Support Services to Free Trial Customers who provided a business email address as Billing Contact Email.

7.3. To the extent Support Services are available to the Customer under the Agreement, they will be available during the Support Hours as described on Lansweeper's Support Page.

7.4. Lansweeper will only provide the Support Services for support requests meeting all of the following conditions ("**Valid Support Request**"):

- (a) Customer uses the Product according to the Agreement (including the Documentation);
- (b) Customer has updated the Product to the latest and most current version;
- (c) Customer has not modified the Product contrary to the Agreement, the Documentation or the Product's configuration settings; and
- (d) Lansweeper received the support request in English from valid End-Users who have identified themselves by providing their Order reference number;

7.5. Subject to prior notification to Customer, Lansweeper reserves the right to invoice Customer any fees for Support Services provided by Lansweeper to Customer which, after examination of the support request by Lansweeper within a reasonable period upon provision of the Support Services to Customer, proves to be an Invalid Support Request.

7.6. Upon receipt of a Valid Support Request, Lansweeper shall determine in good faith the severity level of the request in accordance with the severity levels as described on Lansweeper's Support Page. Without prejudice to the foregoing, Customer is allowed to give an indication of the severity level Customer deems applicable to Customer's Valid Support Request, which may be taken into account by Customer when Lansweeper determines the severity level of Customer's Valid Support Request.

7.7. Lansweeper undertakes reasonable efforts to meet the initial response times as described on Lansweeper's Support Page to respond to Valid Support Requests, according to the severity levels as described on Lansweeper's Support Page and as applicable under Customer's Paid Subscription.

7.8. For clarity, support requests related to Beta Releases or coming from Free Trial Customers are handled by Lansweeper, but any initial response times provided for in the Agreement will not apply in that regard.

7.9. The initial response time starts to run, during the Support Hours, as from the moment that Customer receives an automated confirmation of receipt email from Lansweeper. Said automated email will entail: (i) first guidance on how to possibly resolve the issue; and (ii) an overview of the additional information Customer may submit to Lansweeper to facilitate the resolution of Customer's Valid Support Request.

7.10. The initial response to the concerned Valid Support Request will entail, at Lansweeper's discretion: (i) possible solutions which should allow Customer to resolve the issue; and/or (ii) a request for more information, if no possible solutions can be provided based on the information available at that point.

8. SERVICE DELIVERY

8.1. All obligations of Lansweeper under the Agreement constitute obligations of means. Lansweeper will use commercially reasonable efforts to provide the Product in material conformity to what has been set out in the Agreement and the Documentation.

8.2. Lansweeper does not guarantee that the Product shall be without Errors and/or any other defects and shall function without interruption. Lansweeper has an obligation of means to repair Errors in the Product within a reasonable time. Lansweeper is entitled to apply problem avoiding restrictions and/or workarounds. Lansweeper does not carry any responsibility for repairing defects in software or other items that are not developed by Lansweeper or not part of the Product.

8.3. Lansweeper has the right to suspend access to the Product for security and maintenance purposes (including to issue updates to the Product).

8.4. In its own full discretion and according to its own timetable, Lansweeper may change the form and nature of the Product, including through the issuing of updates to the Product. Lansweeper reserves the right, when issuing an update to the Product, to remove existing feature or functionality from the Product and Customer has no right to demand those features or functionalities to be supported. Where such removal would have a material impact on Customer's subscription plan to the Product, Lansweeper will inform Customer thereof reasonably in advance but no later than forty-five (45) days prior to implementing the update unless where such notice would be impossible or impractical due in particular but not exclusively to legal or security requirements or performance related issues. In case Customer has reported an Error, Lansweeper can postpone repair until an update is issued. All costs associated with the implementation of updates on Customer's side, will be borne by Customer.

8.5. Lansweeper is not responsible for checking the accuracy and completeness of the (i) Customer Content and (ii) decisions made by Customer on the basis of the use of the Product.

9. CUSTOMER'S OBLIGATIONS

9.1. Customer shall be solely responsible for (i) Customer (and its Affiliate's) actions and the actions of Customer's (and its Affiliate's) End Users while using the Product; (ii) any End User's breach of the Agreement or any applicable laws; and (iii) any data, content, or resources that Customer (or its Affiliates) or its End Users create transmit, or display.

9.2. Customer ensures that, to the extent applicable and necessary, all of its (and its Affiliate's) End Users are provided with full information of and comply with the obligations under the Agreement (including but not limited to clause 4 of these Terms). Customer agrees, and, to the extent applicable, agrees to have its End

Users agree: (i) to abide by all laws applicable to the use of the Product, including but not limited to all national and international export laws and regulations that apply to the Product and the restrictions on destinations and end use set forth therein; (ii) not to upload (knowingly or by negligence) or distribute content that contains malware, viruses, malicious files or other harmful code or any other similar software or programs that may access or damage the operation of the Product, the related systems and networks or any other computer or device, including a third party's computer or device; (iii) not to interfere with or disrupt the Product; (iv) not to attempt to gain unauthorized access to the Product; (v) not to work around any technical limitations in the Product; (vi) not to use the Product to provide any type of product to third parties, including or incorporating the Product into another product or service; (vii) not to provide Product credentials or other log-in information to any third party; (viii) not to share with any third party non-public features or content of the Product, inaccurate information about the Product, or vulnerabilities found in the Product; (ix) not to engage in web scraping or data scraping on or related to the Product, including without limitation collection of information through any software that simulates human activity or any bot or web crawler; (x) upload, in part or on full, the machine-readable object code of Lansweeper's software and/or non-public facing Documentation to artificial intelligence based products; or (xi) not to use the Product, even if not prohibited by law, for gambling, prostitution, alcohol, drug, pharmaceutical or healthcare businesses or services. In case of a breach of this clause, Customer will fully assist Lansweeper, at its own cost and expense, in mitigating the effects and restoring incidental losses, without prejudice to Lansweeper's other rights and remedies in accordance with applicable law and/or this Agreement.

9.3. Customer shall duly cooperate with Lansweeper in order to enable Lansweeper to provide the Product according to the Agreement. Customer shall in particular supply Lansweeper with all information and materials required by Lansweeper to enable Lansweeper to provide the Product according to the Agreement.

9.4. Customer shall be responsible for the installation of the Product and acknowledges that Lansweeper has no further obligation with respect to the installation of the Product after delivery of the License Key.

9.5. Access to and use of the Cloud Platform requires the creation of an account, by entering the requested information and choosing a login and a password

(referred to hereinafter as "**Means of Access**"). Customer is responsible for the safeguarding, confidentiality, security and appropriate use of the Means of Access and Customer undertakes to take all steps to prevent any unauthorized third party from gaining knowledge and making use thereof. Customer will notify Lansweeper immediately by email of the loss, theft, breach of confidentiality or any risk of misuse of the Means of Access. Customer undertakes to comply strictly with and to ensure the compliance by Customer's End Users with the appropriate procedures regarding access to the Product. The latter is without prejudice to the fact that Customer is responsible for all actions taken using Means of Access as well as the consequences of such actions, including any unauthorized use of the Cloud Platform or security breach. Lansweeper will not assume any liability in this respect.

9.6. Customer, and not Lansweeper, is responsible for taking all appropriate steps to back-up or otherwise secure or protect the Customer Content. For the avoidance of doubt, Customer acknowledges and agrees that Lansweeper does not endorse any third party websites, resources, and/or content.

9.7. Customer warrants that the Customer Content, and Lansweeper's access to and processing of the Customer Content in the framework of the Agreement, do not violate any laws and/or any third party rights.

9.8. Customer will be solely responsible and liable for the accuracy of data it uploads to the Product, including without limitation Customer Content and any other data uploaded by End-Users.

9.9. By using the Cloud Platform, at Customer's discretion, Customer consents to the transmission of the Customer Content to the Cloud Platform for Lansweeper's use to provide Customer with (i) access to the Cloud Platform, (ii) the Cloud Platform functionalities (iii) Support Services for Valid Support Requests related to the Cloud Platform (subject to Customer's prior consent of that of Customer's End Users).

9.10. Customer, and not Lansweeper, is responsible for obtaining, maintaining and paying for all hardware, software and communications equipment necessary to access and use the Product and comply with the requirements as set out in the Documentation. Customer will thus also be responsible for (i) obtaining the third-party hardware and software licenses and any other systems required to run the Product; and (ii) complying with the applicable license terms of such third-party hardware and software. Lansweeper has no

responsibility for issues caused by third-party hardware or software.

9.11. The Product includes free and open-source software developed by third parties (“**FOSS Components**”), of which a list can be found in the Documentation. Notwithstanding the Agreement which governs Customer’s use of the Product, the license terms of the FOSS Components need to be respected by Customer.

9.12. If Customer becomes aware of a vulnerability in the Product, it will not reveal such vulnerability to third parties or the general public. Customer will disclose the discovered vulnerability to Lansweeper by contacting security@lansweeper.com and include a proof of concept, the list of tools used (including versions), and the output of the tools.

9.13. Lansweeper only supports and maintains the latest version of the Product. It is Customer’s obligation to timely implement any update to a new version of the Product, and to maintain any other software and/or hardware to continue their support of the Product. If Customer does not timely update any such update, Lansweeper may no longer be able to provide the Product to Customer, which shall be without prejudice to Customer’s payment obligations under the Agreement.

9.14. Customer will not, and will not permit others to: (i) combine or integrate the Cloud API with any software, technology, services or materials that have been black-listed by Lansweeper; (ii) design or permit Applications to disable, override, or otherwise interfere with any Lansweeper implemented communications to End-Users including, without limitation, consent dialogs, End-User settings, alerts and notifications; (iii) remove, obscure, or alter any Lansweeper Terms or any links to or notices of those Terms; (iii) use the Cloud API or Applications to replicate or attempt to replace the user experience of the Product; (iv) seek to conceal Customer’s or End-User’s identity or the identity of the Applications when connecting with or setting up the Cloud API; (v) use the Cloud API in deviation of any other restrictions imposed by Lansweeper in the API Documentation; (vi) misrepresent the source of the ownership of the Customer Content, the Product and Lansweeper trademarks; or (vii) undertake or permit removal or alteration of any patent numbers, trademarks, (copyright) notices, or other labels of origin related to the Customer Content, the Products and Lansweeper trademarks.

9.15. Customer may choose to use, procure or enable other third party products or services in connection with the Product (including the Cloud Platform and Applications). Customer’s use of any third party products or services (and the third party provider’s access and use of any of the Customer Content) shall be subject to a separate agreement between Customer and the third party provider. Lansweeper disclaims all liability and responsibility for any third party products or services or for the acts or omissions of any third party providers (including the third party provider’s security and privacy practices). Customer is responsible for its decision to allow the third party provider to access and use the Customer Content. Lansweeper is not a legal representative or agent of the third party provider, nor shall the third party provider have the right to create any liability or obligation on the part of Lansweeper.

10. SALES THROUGH RESELLERS

10.1. In case Customer purchases a Paid Subscription for the Product from a Reseller, this section applies and takes priority over any contrary provisions in the Agreement.

10.2. If Customer’s current Reseller is no longer authorized to resell the Product, Customer has the obligation to continue purchasing via another Reseller or purchase directly from Lansweeper.

10.3. Lansweeper can suspend or terminate Customer’s subscription if Customer fails to pay Reseller within the payment term as determined by Reseller.

10.4. The amount paid or payable by Customer’s Reseller to Lansweeper for Customer’s use of the Product, will be deemed the Charges paid or payable to Lansweeper for purposes of interpreting the limits set forth in clause 16 of these Terms.

10.5. The following must be established by Customer’s Reseller: (i) prior notice terms for cancellation of Customer’s Paid Subscription; (ii) delivery of License Key; and (iii) provisions regarding order placement, payment and taxes.

11. INTELLECTUAL PROPERTY RIGHTS

11.1. Lansweeper (and its licensors, where applicable) owns all right, title and interest, including all Intellectual Property Rights in and to the Product.

11.2. The Agreement does not convey any rights of ownership in or related to the Product or the Intellectual Property rights owned by Lansweeper (or its licensors, where applicable) other than the use rights explicitly provided in these Terms. Customer acknowledges that it has no rights whatsoever to access the Product in

source code form. Any trademarks used by Lansweeper or its licensors within or associated with the Product, are trademarks of Lansweeper or third parties, and no right or license is granted to Customer to use them. Customer is not allowed to remove or change any Intellectual Property Rights, including logos and trademarks in the Product and Documentation.

11.3. The Customer (or its licensors in the event applicable) shall be the sole and exclusive owner of all (rights related to the) Customer Content including any modification of such Customer Content.

11.4. During and after the Term, Customer grants to Lansweeper a non-exclusive, worldwide, royalty-free, perpetual right and license to extract and use, adapt, display, process, perform and distribute any Aggregate Data and/or Installation Metadata at Lansweeper's sole discretion, for any purpose, including but not limited to (i) Lansweeper's provision of the Product and granting the Customer access thereto; (ii) verify Customer's compliance with the Agreement; (iii) provide Support Services, where applicable and (iv) improvement, modification and testing of the Product.

11.5. Where Aggregate Data relates to a specific End-User and allows for identification of that End-User, such Aggregate Data shall only be used for internal Lansweeper purposes.

11.6. Customer may choose to submit Feedback to Lansweeper which Lansweeper may, in connection with any of its products or services, freely use, copy, disclose, license, distribute and exploit in any manner without any obligation, royalty or restriction based on intellectual property rights or otherwise. Nothing in this Agreement limits Lansweeper's right to independently use, develop, evaluate, or market products, whether incorporating Feedback or otherwise.

12. CONFIDENTIALITY

12.1. Unless otherwise provided in the Agreement, the receiving Party shall keep the Confidential Information of the disclosing Party confidential and shall in particular (i) use the disclosing Party's Confidential Information only for the purposes of fulfilling its obligations under the Agreement; (ii) protect the confidentiality of the Confidential Information of the disclosing Party by using the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind, but in no event less than reasonable care; (iii) not disclose the disclosing Party's Confidential Information to any other person except as expressly set out in the Agreement or without obtaining the disclosing Party's

prior written consent; and (iv) immediately notify the disclosing Party if it suspects or becomes aware of any unauthorised access, copying use or disclosure in any form or any of the disclosing Party's Confidential Information.

12.2. Notwithstanding clause 12.1, the receiving Party may disclose Confidential Information of the disclosing Party to its employees or third parties who are directly involved in and need to know such Confidential Information for the purpose of the provision or use of the Product. The receiving Party has or agrees to put in place confidentiality terms no less onerous than those set out in the Agreement. The disclosing Party assumes full responsibility for the acts or omissions of such person or entity.

12.3. Notwithstanding clause 12.1, the receiving Party may also disclose Confidential Information to individuals who are subject to professional or statutory obligations of confidentiality for the purpose of the Agreement.

12.4. Neither Party shall be in breach of clause 12.1 where it is required to disclose the other Party's Confidential Information by law or by a court or regulatory authority of competent jurisdiction. Where a Party is so required to make such a disclosure, it shall, where practicable and/or permissible, consult with the disclosing Party as to the terms, content or timing of the disclosure, and shall use reasonable endeavours to limit the scope of the required disclosure.

12.5. This clause 12 shall survive five (5) years after the termination or expiry of the Agreement.

13. PERSONAL DATA

13.1. The Parties agree that to the extent Applicable Data Protection Legislation applies to personal data processed under the Agreement they will comply with their obligations with respect to the processing of personal data as set out in the DPA.

13.2. Lansweeper may process personal data in connection with (the execution of) these Terms. Further, Lansweeper continuously strives to improve and personalise its Product and in order to do so, Lansweeper processes End-User Product usage data by using analytics techniques. Such processing activities are carried out in accordance with Lansweeper's Privacy Policy and where applicable, relevant cookie policy.

14. WARRANTIES

14.1. Other than as provided in the Agreement, the Product (including the Lansweeper Data) are provided "as is" and Lansweeper makes no representations or warranties, express or implied, of any kind whatsoever

(including, without limitation, satisfactory quality, fitness for a particular purpose, accuracy, correctness, security, completeness, non-infringing nature, title, custom or usage in trade). Lansweeper further makes no representations or warranties regarding, without limitation, the security, integrity, efficiency or capabilities of the Product. The Product is not personalized or customized to fit Customer's particular needs and Lansweeper may not be able to respond to or resolve all of Customer's issues, and makes no promises, guarantees or assurances to that extent. There is no warranty that the Product will be free of Error, that access will be continuous or uninterrupted, that any information provided or used with the Product will be secure, accurate, complete or timely, or that any content will be preserved or maintained without loss. Lansweeper's exclusive remedy for damage or loss arising from breach of the warranty as set out in this clause shall be, at Lansweeper's option, (i) the replacement of the Product (or part thereof) concerned at no cost to Customer; (ii) a workaround and/or update to address the Error in a manner that provides Customer with reasonably equivalent functionality as provided in the Documentation, at no cost to Customer or (iii) in the event Lansweeper is unable to replace or correct such failure by exercising commercially reasonable efforts within a reasonable period of time, Lansweeper may terminate the Agreement and Customer's sole additional remedy shall be for Lansweeper to provide a *pro-rata* refund of any pre-paid Charges for periods after the effective date of termination.

14.2. The Product does not qualify as a firewall, antivirus, VPN, 'password manager', a SCAP compliant tool, or other product that may be used to enhance Customer's information security. Customer is solely responsible for maintaining its information security systems, to prevent unauthorized access to its network, computers, and applications.

15. INDEMNITIES

15.1. Lansweeper shall indemnify, defend and hold Customer harmless in accordance with the provisions of this clause 15 from and against any third-party claim asserted against it that the Product (when used in accordance with the Agreement) directly infringes or misappropriates the Intellectual Property Rights of such claimant (an "IP Claim"). Lansweeper will pay those costs and damages finally awarded or settled (upon terms acceptable to Lansweeper) against Customer based on such IP Claim, within the limits set forth in clause 16 and provided that: (i) Customer promptly notifies

Lansweeper in writing of such IP Claim; (ii) Lansweeper has sole control of the IP Claim; (iii) Customer reasonably cooperates in all respects in the defence of each such IP Claim and all related settlement negotiations and Customer does not make any admission or disclosure or otherwise take any action prejudicial to Lansweeper; and (iv) such IP Claim does not relate to any act by Customer, including (without limitation) a change by Customer to the Product, a non-compliance with the Agreement or Lansweeper's instructions (including the Documentation), a combination of the Product (with or the addition of the Product to products or other software which has not been developed and supplied by Lansweeper, or failure to install an update where installation would have removed the cause of the infringement, or any breach of the Agreement by Customer.

15.2. If a final judgment is entered against Customer on any such IP Claim, or if in Lansweeper's reasonable opinion Customer is likely to become subject to a successful IP Claim, then Customer shall permit Lansweeper, at Lansweeper's option and expense, either: (i) to procure the right to continue using the Product; (ii) to replace or modify the same so that it becomes non-infringing, with functionality essentially being equal; or (iii) to terminate the Agreement and provide a *pro-rata* refund of any pre-paid Charges for periods after the effective date of termination of the Agreement.

15.3. The foregoing provisions of this clause 15 set forth the entire and exclusive liability of Lansweeper with respect to any IP Claim.

15.4. Without prejudice to Lansweeper's other rights and remedies under applicable law and the Agreement, Customer will indemnify, defend and hold harmless Lansweeper from any claims, demands, actions and losses arising from or created by (i) any of Customer's acts or omissions and/or Customer's End Users' acts or omissions related to the access or use of the Product; and (ii) any Applications developed by Customer (and third parties' use thereof).

16. RISK ALLOCATION

16.1. Except in case of Lansweeper's fraud or wilful default, Lansweeper is only liable for a breach of its obligations under the Agreement if Customer notifies Lansweeper in writing through a notice of default with observance of a reasonable period for remedy of at least ten (10) Business Days calculated as from the breach and Lansweeper fails to remedy the breach

within a reasonable period. The notice must contain a complete and detailed description of the breach in order to allow Lansweeper to act adequately.

16.2. Without prejudice to clause 16.1, Lansweeper's liability for a failure to comply with an obligation under the Agreement which is imputable to Lansweeper, is limited to compensation of proven direct losses in accordance with the following principles, which apply cumulatively: (i) the cumulative total aggregate liability of Lansweeper per Contract Year is limited to the greater of (a) the Charges paid by Customer in such Contract Year or (b) one (1) hundred euros (EUR 100); and (ii) without prejudice to clause 16.1, Lansweeper is not liable for any indirect damage and/or consequential damage, such as but not limited to loss of profit, loss of income, loss of revenue, loss of anticipated savings, loss of opportunity, loss of customers, claims of third parties, damage as a result of loss and/or corruption of data, loss of goodwill and reputational damage.

16.3. Without prejudice to clause 16.1, Lansweeper shall have no liability or responsibility for problems in the Product caused by misuse, misuse of Means of Access, the alteration or modification of the Product by Customer, for problems arising out of the malfunction of Customer's (internal or external) hardware, firewalls, network services, Errors caused by third party software or hardware or other infrastructure, or the configuration of such items, or for any (management) decisions that Customer or the End Users takes on the basis of the Product or for the consequences of such decisions.

16.4. Lansweeper shall not be liable due to delay or failure to comply with its obligations under the Agreement, if this delay or failure was the result of Force Majeure. In such a case, Lansweeper may suspend or terminate Customer's access to the Product by giving Customer a prior written reasonable notice to the extent possible. In such case, Charges for Product features delivered until the termination date will be due on a pro rata basis.

17. TERM, SUSPENSION AND TERMINATION OF THE PRODUCT SUBSCRIPTION

17.1. Free Trial subscriptions are entered into for a period defined in Lansweeper's sole discretion. The Free Trial will automatically expire and not be renewed upon expiry of that period, in which case Customer's Free Trial subscription shall revert to Freeware.

17.2. Freeware is offered to Customer for an undetermined period and can be terminated by either Party by notifying the other Party at any time and for

any reason without liability to Customer and Lansweeper.

17.3. Paid Subscriptions are subscribed to for an initial term of one (1) Contract Year as of the delivery of the License Key to the Billing Contact Email, which shall be automatically extended for additional Contract Years ("**Renewal Period**") unless a Party has notified the other Party by e-mail at least thirty (30) days before the end of the then-current Contract Year ("**Term**") that it does not wish to extend the subscription to the Product, in which case Customer's Paid Subscription shall revert to Freeware. For each subsequent Renewal Period, a new License Key will be delivered to Customer, starting from the Renewal Period start date.

17.4. Without prejudice to Lansweeper's other rights and remedies under applicable law and under the Agreement, in the event of a breach by Customer of the Agreement, Lansweeper shall have the right, without compensation being due, to (i) immediately suspend without prior notice a part or all of the Customer's use and access to the Product; (ii) terminate the Agreement without court intervention in case such breach has not been cured within ten (10) Business Days following Lansweeper's notice; and/or (iii) subject to a termination notice immediately terminate the Agreement in case of an irremediable breach. Without excluding any other events being considered a breach of the Agreement, the Parties agree that the following examples of events shall be considered as an irremediable material breach by Customer: (i) any form of misuse of the Product; (ii) any non-compliance with limitations on the use of the Product as stated in the Agreement or under applicable laws; (iii) any infringements on Lansweeper's Intellectual Property Rights; (iv) Customer has become insolvent or declared bankrupt, has been dissolved or entered into liquidation, or has filed a voluntary petition for proceedings in temporary relief (or composition) of creditors, provided, however, in the latter case, that Customer has not confirmed within thirty (30) days following a request by Lansweeper to that effect, that it will continue the Agreement and honor all of its obligations hereunder; or (v) Customer's subscription is restricted, suspended or terminated (whether pursuant to applicable law or core dependencies on third parties) and/or (vi) any non-compliance with Customer's payment obligations.

17.5. Subject to a notice period of forty-five (45) days Lansweeper has the right to terminate or suspend, at its sole option, the Agreement without termination compensation in the event Lansweeper ceases or is

unable to offer the Product or the Customer's subscription thereto.

17.6. In the event of expiry or termination of the Agreement, the right of use granted to Customer (and its Affiliates) in respect of the Product hereunder shall immediately cease and Customer shall, upon the effective date of such expiry or termination: (i) cease using the Product; (ii) at Lansweeper's discretion, immediately return to Lansweeper or destroy all copies of the Documentation, the Product features and Confidential Information in Customer's possession, custody or control; and (iii) immediately pay any Charges outstanding at the time of termination. The Customer's License Key will be disabled as of the expiry date of the current Term or termination of this Agreement. Where the Agreement, in case of a Paid Subscription, is terminated under clause 17.5 of these Terms, Customer is entitled to receive a pro-rated refund based on the unused portion of Customer's Paid Subscription, unless such termination happened with a prior notice of forty-five (45) days prior to the expiry date of Customer's Paid Subscription Term.

17.7. Lansweeper shall delete the Customer Content that is stored within the Cloud Platform within sixty (60) days following termination. It is Customer's obligation to export its Customer Content before termination, by making use of the export functionalities available in the Cloud Platform during Customers subscription plan Term.

18. AUDIT

18.1. Lansweeper and/or its appointed third party auditor has the right to audit Customer's compliance with the Agreement. In connection with such verification, Lansweeper shall have access to all requested documents, equipment, information and personnel which are reasonably required in order to verify Customer's compliance.

18.2. Customer shall reasonably maintain the data which provides details on Customer's installation and use of the Product and this for a period of at least one (1) year following Customer's cessation of the use of the Product.

18.3. Without prejudice to Lansweeper's other rights and remedies in accordance with applicable law and/or the Agreement, if such verification or audit would reveal a non-compliance, Lansweeper has the right to invoice Customer for the costs of the audit as well as the (prior) unlicensed use of the Product during the Term of Customer's subscription.

19. MISCELLANEOUS

19.1. Lansweeper reserves the right to subcontract the execution of any part of the Agreement to third parties, without prior notice or information.

19.2. Customer may only transfer its rights and obligations under the Agreement to another entity upon prior written agreement from Lansweeper. Lansweeper is entitled to transfer its rights and obligations under the Agreement to third parties subject to informing Customer.

19.3. Lansweeper may provide complementary third-party products under Customer's subscription plan. Such complementary products may be the subject matter of a separate license agreement between Customer and the third party, detailing the license conditions subject to which the complementary product is licensed.

19.4. If a Party fails to insist that the other Party performs any of its obligations under the Agreement, or if a Party does not enforce its rights against the other Party, or if a Party delays in doing so, that will not mean that this Party has waived its rights against the other Party and will not mean that this Party does not have to comply with those obligations. If a Party does waive a default by the other Party, this Party will only do so in writing, and that will not mean that this Party will automatically waive any other later default by the other Party.

19.5. If the Agreement is concluded with Lansweeper Inc., notices are to be sent by registered mail to 11044 Research Blvd, Suite 500, Austin, TX 78759 or by e-mail to legal@lansweeper.com and if the Agreement is concluded with Lansweeper NV, notices are to be sent by registered mail to 9820 Merelbeke, Fraterstraat 212, Belgium or by email to legal@lansweeper.com. Notices by e-mail will be deemed received after Lansweeper's confirmation of receipt by Lansweeper via email. All communications and notices to be made or given pursuant to the Agreement shall be in the English language.

19.6. The provision of the Product by Lansweeper shall be governed exclusively by the Agreement and the data processing agreement. For the avoidance of doubt, the application of Customer's own terms and conditions is expressly rejected.

19.7. Termination or expiry of the Agreement, however caused, shall not affect any provision of the Agreement which is expressly or by implication intended to come into or remain in effect on or after termination or expiry

including the following clauses: 11.1, 11.4, 11.6, 12, 15.3, 16, 17.6, 18, 19.7, 19.8 and 19.9.

19.8. If the Agreement is concluded with Lansweeper Inc, the Agreement is exclusively governed by the laws of Texas, USA, without regard to its conflicts of laws rules or principles. If the Agreement is concluded with Lansweeper NV, the Agreement is exclusively governed by Belgian law, without regard to its conflicts of laws rules or principles.

19.9. In the event of any dispute, Customer agrees to first try to resolve the dispute informally with Lansweeper. In the event of failure to resolve a dispute: (i) if the Agreement is concluded with Lansweeper Inc., the courts of the State of Texas, Williamson County are competent; (ii) if the Agreement is concluded with Lansweeper NV, the courts of Lansweeper NV's registered seat are competent. The Parties agree that the UN Convention on Contracts for the International Sale of Goods (Vienna, 1980) shall not apply to the Agreement or to any dispute or transaction arising out of the Agreement. The Parties irrevocably waive any and all right to trial by jury in any legal proceeding arising out of or related to this Agreement.

19.10. These Terms are in English language. Other language versions, if provided, shall be for Customer's convenience only and shall not be binding. In case of conflict between any translation of these Terms and the English version of these Terms, the latter shall prevail.

19.11. Except where explicitly provided otherwise herein, Lansweeper may update or modify the Agreement from time to time, for specific reasons, including but not limited to (i) applicable law; (ii) changes to the Product; (iii) technical reasons; (iv) operational requirements; or (v) changes that are advantageous to Customer. If a revision meaningfully reduces Customer's rights, Lansweeper will use reasonable efforts to notify Customer (by, for example sending an email to the Customer, posting on Lansweeper's blog or in the Product itself). Customer must notify Lansweeper within fifteen (15) days of Lansweeper's notice of the modifications that Customer does not agree with such changes, and Lansweeper (at Lansweeper's option and as Customer's exclusive remedy) may either: (i) permit Customer to continue under the prior version of the Agreement until Customer's next Paid Subscription (after which the modified Agreement will apply) or (ii) allow Customer to terminate the Agreement and receive a pro-rated

refund based on the unused portion of the Term of Customer's subscription.

19.12. Lansweeper may identify Customer as Lansweeper user in Lansweeper's promotional materials. Customer may at any time request via legal@lansweeper.com that Lansweeper stops doing so.

19.13. If any provision of the Agreement is or becomes illegal, invalid or unenforceable, in any respect it shall not affect or impair the legality, validity or enforceability of any other provision of the Agreement; and if such provision would be legal, valid or enforceable to the extent some part of it were deleted, such provision shall apply with the minimum modifications necessary to make it legal, valid or enforceable.

LANSWEEPER DATA PROCESSING ADDENDUM

This Data Processing Addendum hereinafter set forth, as amended from time to time, shall form a part of the Terms of Use between Licensee and Lansweeper and are hereby incorporated by reference into the Terms of Use, without the need for further action. In case of conflict between the Provisions of the Terms of Use and this DPA, the provisions of the DPA shall prevail.

1 Definitions and Interpretation

- 1.1 Capitalized terms used, but not defined, in this Data Processing Addendum are defined in the Agreement (as defined below), the other capitalized terms used in this Data Processing Addendum shall have the following meaning:
- 1.1.1 **"Agreement"** means the Lansweeper [Terms of Use](#) and any other specific agreement between the Licensee and Lansweeper and/or its Affiliates relating to the Services.
- 1.1.2 **"Applicable Data Protection Legislation"** means as applicable (i) laws applicable to the processing of personal data in the United States and each State of the United States including, without limitation, the CCPA; (ii) the GDPR, the Swiss Federal Act on Data Protection, and applicable data privacy laws of the United Kingdom, and each member state of the European Union and European Economic Area, and (iii) applicable data privacy laws of other jurisdictions that the parties have expressly identified in the Agreement as applicable to the processing activities of Lansweeper.
- 1.1.3 **"CCPA"** means the California Consumer Privacy Act of 2018, as amended.
- 1.1.4 **"DPA"** means this Lansweeper Data Processing Addendum together with its annexes, which shall be an integral part of the Agreement between the Parties.
- 1.1.5 **"International Data Transfer"** means any transfer of Licensee Personal Data from the EEA, Switzerland or the United Kingdom to an international organization or to a country outside of the EEA, Switzerland and the United Kingdom.
- 1.1.6 **"Personal Data"** means any information about a natural person that is identified or identifiable to the natural person, either alone or in combination with other information, that Lansweeper will process or have access to as part of providing the Services, including any such information that is created by means of the Services. Personal Data includes "personal data" as that term is defined in the GDPR and "personal information" as that term is defined in the CCPA;
- 1.1.7 **"Services"** means the services related to provision of the Product by Lansweeper.
- 1.1.8 **"Standard Contractual Clauses"** means the clauses annexed to the Commission Implementing Decision (EU) 2021/914 of 4 June 2021 on standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council.
- 1.1.9 **"Sub-processor"** means any Processor (including any third party excluding a person working under the authority of Lansweeper) appointed by or on behalf of Lansweeper, or its Sub-processor, to Process Personal Data on behalf of Lansweeper in connection with the Agreement.

2 Object of this DPA

- 2.1 This DPA is added to the Agreement in order to comply with Applicable Data Protection Legislation, and the provisions of the Agreement shall apply to this DPA. The different Schedules to this DPA are applicable to the extent required by relevant Applicable Data Protection Legislation and address compliance therewith.
- 2.2 Parties shall comply with the Applicable Data Protection Legislation, for their own account and sole responsibility, unless otherwise set out herein.
- 2.3 For the purposes of this DPA End-Users, Billing Contacts and Help Desk-Agents as detailed in the Agreement shall be considered to form an integral part of the Licensee and Licensee shall be responsible for their compliance with this DPA.

3 Duration and Termination

- 3.1 The duration of the Processing is set out in the Agreement.

- 3.2 Upon termination or expiry of this DPA, or at any earlier moment if the Processing of Personal Data is no longer relevant for the delivery of the Services, Lansweeper shall delete the Personal Data unless a law or regulation requires storage of the Personal Data. Notwithstanding the foregoing, we will only store LsAgent data in the Cloud Service relay for a maximum period of one (1) month.
- 3.3 Notwithstanding the foregoing, articles 3 and 5 of this DPA shall survive the termination of this DPA.

4 Measures

- 4.1 Lansweeper will, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, taking into account in particular the risk of accidental or unlawful destruction, loss, alteration or unauthorised disclosure of or access to the Personal Data. A description of the Lansweeper requirements are further detailed on our [Security page](#) (or such other URL as specified by Lansweeper).. Such requirements and measures may be updated by Lansweeper, from time to time. Licensee shall be solely responsible for its own means of accessing the Services (e.g. through proxies) and providing adequate measures to ensure an appropriate level of security.

5 Privacy Statement

- 5.1 Without prejudice to Section 2.1, Lansweeper may Process certain Personal Data for its own purposes (e.g. execution of the Agreement), such Processing shall not be subject to this DPA. In such cases Lansweeper shall be considered a controller, for more information please refer to our privacy policy: <https://www.lansweeper.com/privacy-policy/>.

List of Schedules:

- Schedule 1: GDPR
- Schedule 2: CCPA

List of Annexes:

- *Annex I: Details of Processing*
- *Annex II: Sub-processors*

Schedule 1: GDPR

1 Object of this Schedule 1

- 1.1 This Schedule applies to the extent that (i) GDPR, the Swiss Federal Act on Data Protection, and applicable data privacy laws of the United Kingdom, and each member state of the European Union and European Economic Area applies to the Processing, and (ii) Lansweeper Processes Personal Data, on behalf of the Licensee through providing the Product.
- 1.2 This Schedule sets out the subject-matter and duration of the Processing, the nature and purpose(s) of the Processing, the types of Personal Data and categories of Data Subjects and the obligations and rights of the Licensee and Lansweeper in relation to the Services as further detailed in **Annex I** (*Details of Processing*).

2 Data Protection

- 2.1 Where Personal Data is Processed by Lansweeper in relation to the performance of this Schedule, the Agreement and the Services, Lansweeper shall:

- 2.1.1 **Instructions** - process the Personal Data only on documented instructions from Licensee as solely provided herein, unless required to do so by applicable laws and regulations to which Lansweeper is subject. In such a case, Lansweeper shall inform Licensee of that legal requirement before Processing, unless that law prohibits such information on important grounds of public interest. Parties agree that this DPA makes up the entire instruction of Licensee to Lansweeper, any other instructions have to be agreed to in writing by Lansweeper, reserving its rights to charge additional costs for compliance with such instructions;

- 2.1.2 **Need-to-know** - provide Personal Data only to authorised persons (which shall include employees, agents, resellers, distributors, partners, Sub-processors and subcontractors) on a need-to-know basis and ensure that persons authorised to Process the Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;

- 2.1.3 **Sub-processors** - based on the general authorisation to use Sub-processors hereby provided by Licensee, inform Licensee of any addition or replacement of Sub-processors, thereby giving Licensee the opportunity to object to such changes on reasonable grounds during a period of thirty (30) calendar days, after which such Sub-processors shall be deemed to have been accepted. A description of the Lansweeper Sub-Processors is further detailed in **Annex II** (*Sub-processors*). Sub-processors engaged by Lansweeper prior to entering into this DPA are accepted by Licensee. In case Licensee objects to a new Sub-processor and such objection is based on reasonable grounds, Lansweeper shall employ reasonable efforts to resolve the issue.

Where Lansweeper engages a Sub-processor for carrying out specific Processing activities on its behalf, reasonably equivalent data protection obligations as set out in this DPA shall be imposed on that Sub-processor. Where that Sub-processor fails to fulfil its obligations under the Applicable Data Protection Legislation, Lansweeper shall remain fully liable to Licensee in accordance with the terms set out in this DPA;

- 2.1.4 **Assistance** - taking into account the nature of the processing, reasonably assist Licensee by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of Licensee's obligation to respond to requests for exercising Data Subject's rights, without prejudice to Lansweeper's right to charge Licensee any reasonable costs for such assistance. Lansweeper shall promptly notify Licensee about any legally binding request by a Data Subject;

- 2.1.5 **Cooperation** – reasonably assist Licensee in ensuring compliance with its obligations relating to the: security of the Processing, notification of Personal Data Breaches and data protection impact assessments and prior consultations taking into account the nature of Processing and the information available to Lansweeper and without prejudice to Lansweeper's right to charge Licensee any reasonable costs for such assistance;

- 2.1.6 **Personal Data Breach** – Lansweeper shall notify the Licensee without undue delay after becoming aware of a Personal Data Breach. Such notification shall contain following information: (i) the nature of the Personal Data Breach including where possible, the categories and approximate number of Data Subjects concerned and the categories and approximate number of Personal Data records concerned; (ii) the name and contact details of the data protection officer or other contact point where more

information can be obtained; (iii) the likely consequences of the Personal Data Breach; (iv) the measures taken or proposed to be taken by Lansweeper to address the Personal Data Breach, including, where appropriate, measures to mitigate its possible adverse effects. Where, and in so far as, it is not possible to provide the information at the same time, the information may be provided in phases without undue further delay.

- 2.1.6.1 The obligation to report or respond to a Personal Data Breach is not and will not be construed as an acknowledgement by Lansweeper of any fault or liability with respect to the Personal Data Breach;
- 2.1.6.2 The Licensee shall promptly notify Lansweeper with information regarding any non-compliance discovered during the course of an audit or review of provided information. The Licensee agrees to provide Lansweeper with a draft of the audit report for review. Lansweeper is entitled to propose any amendments and add management comments to this draft before Licensee establishes the final version.
- 2.1.7 **Infringement** - reasonably inform Licensee if, in its opinion, an instruction infringes Applicable Data Protection Legislation.
- 2.1.8 **Information & Audit** - make available to Licensee all information reasonably necessary to demonstrate compliance with the obligations laid down in this DPA and allow for and contribute to audits, including inspections subject to following conditions. Licensee must request an audit in writing and with prior notice of thirty (30) calendar days and may instruct acknowledged audit professionals at its own expense to execute such audit in following cases:
 - once every twelve (12) months provided that such additional audit inquiries shall not unreasonably impact in an adverse manner Lansweeper' regular operations and do not prove to be incompatible with applicable legislation or with the instructions of a competent authority;
 - Where an audit is reasonably considered necessary because of genuine concerns as to Lansweeper' compliance with this DPA;
 - Where a competent data protection authority requires this under applicable Applicable Data Protection Legislation;
 - Following a Personal Data Breach.

3 International Data Transfer

- 3.1 Personal Data Processed in the context of this Schedule may be subject to an International Data Transfer without the prior written consent of Licensee, where Lansweeper ensures that appropriate safeguards are in place for such transfer or an adequate level of protection is guaranteed.
- 3.2 Licensee and Lansweeper, on behalf of itself and relevant affiliates outside of the EEA, UK or Switzerland, shall conclude, either one or both of relevant modules Module Two: Controller to Processor of the Standard Contractual Clauses ("**Module Two**") and Module Three: Processor to Processor of the Standard Contractual Clauses ("**Module Three**"), which shall apply to such International Data Transfer.
- 3.3 As specified in the Standard Contractual Clauses, for both Module Two and Module Three, the following optional provisions are selected:
 - 3.3.1 Clause 7: Docking Clause
 - 3.3.2 Clause 9(a) Use of Sub-processors: Option 2 - General Written Authorization, with a notice period of 30 days has been selected.
 - 3.3.3 Clause 11 Redress: The optional clause is not included.
 - 3.3.4 Clause 17 Governing Law: Option 1, the governing law of Belgium.
 - 3.3.5 Clause 18(b) Choice of Forum and Jurisdiction, the courts of Belgium.
- 3.4 If Lansweeper's compliance with Applicable Data Protection Law to International Data Transfers is affected by circumstances outside of Lansweeper's control, including if a legal instrument for International Data Transfer invalidated, amended, or replaced, then Parties will work together in good faith to reasonably resolve such non-compliance.

Annex I: Details of Processing

1. The duration of the Processing

The duration of the Processing is set out in this DPA.

2. The subject-matter of the Processing

The subject-matter of the Processing is set out in this DPA and relates to the Services.

3. The types of Personal Data to be Processed

All data collected by the Product, which may include without limitation: electronic identification data (such as IP-addresses), Asset data, ...

4. The categories of Data Subjects to whom the Personal Data relates

The Personal Data may relate to Licensee, End-Users and/or any other Data Subject to whom the collected data may relate.

5. The nature and purpose of the Processing

Lansweeper may Process Personal Data on behalf of Licensee through *i.a.* recording, storage, adaption, transmission & dissemination, in provision of the Services.

Annex II: Sub-processors

Sub-processor	Service Description	Incorporation Location	Storage / Transfer Location	Transfer Justification
Microsoft, Inc. (Azure)	Cloud storage for LsAgent Cloud Relay Service	United States	United States	SCC's
Amazon Web Services EMEA SARL (AWS)	- Cloud storage for Lansweeper Cloud Platform - Cloud storage for Device Fingerprints	Luxembourg	Storage: Ireland & Germany Transfer: possibly to outside the EEA	SCC's
MongoDB Limited (MongoDB)	Cloud storage services for Lansweeper Cloud Platform	United States	Storage: Europe Transfer: possibly to outside the EEA	SCC's

Schedule 2: CCPA

1 Object of this Schedule 2

- 1.1 This Schedule 2 applies to the extent that (i) CCPA applies to the Processing, and (ii) Lansweeper receives, as a 'service provider' under CCPA, Personal Data, on behalf of the Licensee as a 'business' under CCPA, through providing the Product.

2 Service Provider obligations

- 2.1 Lansweeper will comply with the requirements stated in this Schedule 2, and any additional or more stringent requirements or restrictions applicable to service providers under CCPA.
- 2.2 Lansweeper will not "sell", as defined under CCPA, the Personal Data which is received pursuant to this Agreement.
- 2.3 Lansweeper will retain, use or disclose such Personal Data only for the specific purpose of performing the Services and within the direct business relationship with the Licensee.
- 2.4 Lansweeper shall provide reasonable assistance to Licensee in facilitating compliance with consumer rights requests, without prejudice to Lansweeper' right to charge Licensee any reasonable costs for such assistance.

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

November 15, 2023

Subject: Proposed Quote 00005079 with Fujifilm Healthcare Americas Corporation for the purchase of urology supplies

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical requests your Board approve the proposed Quote 00005079 with Fujifilm Healthcare Americas for the purchase of urology supplies.

Kern Medical has increased the size of the urology clinic, which has increased the number of procedures completed within the clinic. The Kern Medical BioMed department does maintain and repair the urology probes but due to increase in procedures, additional probes are required. This quote is before the Board due to Counsel being unable to approve as to form.

Counsel is unable to approve as to form due to non-standard terms which include the limitation of liability, no indemnification, and waiver of jury trial. Efforts were made to negotiate with the vendor, but to no avail.

Even with these issues, Kern Medical recommends that your Board approve the proposed Quote 00005079 with Fujifilm Healthcare Americas Corporation for the purchase of urology supplies, with a total cost of \$10,775, containing nonstandard terms and conditions, and authorize the Chairman to sign.

Service Quotation

KERN MEDICAL CENTER

HCUS Quotation for:

Bill To Address

This quotation constitutes FUJIFILM Healthcare Americas Corporation's offer to provide products and services described herein. By signing below, the Customer unconditionally accepts FUJIFILM Healthcare Americas Corporation's offer, including all of the terms and conditions of the offer contained herein.

This agreement shall not bind FUJIFILM Healthcare Americas Corporation until it has been countersigned by an authorized representative in its corporate offices in Twinsburg, Ohio.

Ship To Address:

KERN MEDICAL CENTER
1700 MOUNT VERNON AVENUE
BAKERSFIELD, CA 93306
US

Melanie Houlahan
shm-na-hcus-serviceaccountswest@fujifilm.com



Approvals and Signature

Customer Acceptance:

Signature:

FUJIFILM Healthcare Americas Corporation:

Submitted by (and Date):

Signed By:

Russell Bigler, Chairman, Board of Governors

Accepted by (and Date):

Date:

November 15, 2023

REVIEWED ONLY
NOT APPROVED AS TO FORM

By *Shannon Hochstein*
Kern County Hospital Authority

This is an estimate to complete the work requested. Actual charges may vary.



FUJIFILM Healthcare Americas Corporation
 1959 Summit Commerce Park
 Twinsburg, OH 44087 USA
 330-425-1313

Quote Number 00005079
 Created Date 6/30/2023
 Expiration Date 7/30/2023

Equipment Detail

Product Name SYS/US/NOBLUS-BASE Case CS000346098
 Asset UN0126

Included Items

Product	Product Code	Line Item Description	Quantity	Sales Price	Discount	Total Price
PROBE/BPL/C-C/8-4 MHZ/CC41R-SRV	H3520248	25% Exchange Discount: The core must be returned within 30 days of receiving the new probe or the list price will apply and this difference will be billed: Serial#	1.00	USD 14,300.00	25.00%	USD 10,725.00
SERVICE FREIGHT	800020740	Priority Overnight Shipping	1.00	USD 50.00		USD 50.00

Payment Terms and Total Amount

Net 30 days with signed Quotation and Hard Copy Purchase Order (PO) Total Price USD 10,775.00

NON-DISCLOSURE STATEMENT: THE CONTENTS OF THIS QUOTATION SHALL NOT BE DISCLOSED TO ANYONE EXCEPT TO EMPLOYEES OF CUSTOMER WITH A LEGITIMATE NEED TO KNOW SUCH INFORMATION WITHOUT FIRST OBTAINING THE EXPRESS WRITTEN CONSENT OF HCA.

Quote Terms and Conditions

- Customer's acceptance of the Parts shipped pursuant to this Quote shall constitute Customer's acceptance of these Terms and Conditions. The Customer will be deemed to have accepted the goods if the Customer fails to give written notice of rejection of the items shipped with a statement as to the deficiencies with the item within ten (10) days of receipt of goods. FUJIFILM warrants that the goods, at the time of delivery to the Customer, shall be free from defects in material and workmanship. This warranty is conditioned upon the Customer giving FUJIFILM written notice of any defect within thirty (30) days of delivery. A restocking charge in the amount of 25% shall be made on any product returned by the Buyer and accepted by FUJIFILM Healthcare Americas.
- ~~For full Terms and Conditions, see <https://hca.fujifilm.com/hca-terms-and-conditions-sale-parts>~~

This is an estimate to complete the work requested. Actual charges may vary.

FUJIFILM HEALTHCARE AMERICAS TERMS AND CONDITIONS FOR THE SALE OF PARTS

1. **TERMS AND CONDITIONS OF CONTRACT.** This contract for sale of goods by FUJIFILM Healthcare Americas Corporation ("Fujifilm") shall only be upon the terms stated herein. Any additional or different terms proposed by the Customer (whether in any purchase order, acknowledgement or other document now or hereafter submitted by the Customer) are hereby rejected and will be of no effect upon Fujifilm unless expressly agreed to in writing by an authorized representative at Fujifilm offices in Twinsburg, Ohio.
2. **TAXES.** Prices do not include applicable sales, excise, use or other taxes, duties or fees now in effect or hereinafter levied which Fujifilm may be required to pay or collect in connection with the sale of goods to the customer, whether or not expressly set forth herein or in any quotation furnished with respect to the goods. All such taxes, duties and fees shall be the obligation of the Customer who shall promptly pay the same to Fujifilm upon request.
3. **PAYMENT.** Each invoice for goods shipped shall be paid upon receipt of invoice, unless otherwise specified. Fujifilm reserves the right to change the terms of payment or to require payment prior to delivery if, in Fujifilm's opinion, the Customer's financial condition, the Customer's failure to pay Fujifilm for other orders, or other circumstances so warrant. ~~Overdue payments shall be charged interest at the rate of 18% per annum or the maximum amount permitted by applicable law, whichever is less.~~ All collection costs, including attorney's fees, shall be payable by the Customer should it be necessary for Fujifilm to retain a collection agency or attorney to recover overdue payments. Customer's failure to pay Fujifilm for goods sold hereunder shall entitle Fujifilm without prior notice to the Customer, to withhold service on such goods.
4. **SECURITY INTEREST.** The customer hereby grants to Fujifilm a purchase money security interest in and the right to possession of the goods upon the Customer's default in payment thereof until all payments hereunder have been made in full. Customer authorizes Fujifilm to execute and/or file any documents necessary for Fujifilm to perfect such security interest. If the Customer fails to pay any amount when due hereunder, Fujifilm may, without limitation, and without prior notice to the Customer, peaceably enter any premises in which the goods may be found and render inoperable or remove the same. Neither the

foregoing nor any provision of this paragraph 4 shall constitute an election of remedies on the part of Fujifilm

5. DELIVERY. Unless otherwise specified, goods shall be delivered to the Customer F.O.B. **Destination. Title to and risk of loss of any goods shall pass to the Customer on such delivery.** All shipping cost including insurance shall be for the account of and paid by the Customer. Fujifilm shall select, at its discretion the types and amount of packaging and the carrier of any insurance. ~~In the event of loss or damage of any of the goods during shipment the Customer should make claim against the carrier.~~ Fujifilm shall have the right to make shipments and/or deliveries in separate lots and each such shipment or delivery shall constitute a distinct and separate contract.

6. INSPECTION. The Customer shall promptly inspect the goods upon receipt. The Customer will be deemed to have accepted the goods if the Customer fails to give written notice of rejection of the items shipped with a statement as to the deficiencies with the item within ten (10) days of receipt of goods.

7. DELAY. Fujifilm shall be excused from any delay or failure in performance of this contract due to fire, flood, epidemic, or other acts of God, perils of the sea, war, civil disorder, government acts or restrictions, accidents, plant conditions, strikes, labor difficulties, failure or delay in transportation, shortages of fuel, energy, labor or materials, failure of Fujifilm's supplier(s) to perform, or any other causes beyond Fujifilm's reasonable control.

8. WARRANTY; LIMITATION OF CONTRACT REMEDIES. Fujifilm warrants that the goods, at the time of delivery to the Customer, shall be free from defects in material and workmanship. This warranty is conditioned upon the Customer giving Fujifilm written notice of any defect within thirty (30) days of delivery. **EXCEPT AS EXPRESSLY STATED HEREIN Fujifilm MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY; FITNESS FOR A PARTICULAR PURPOSE; OR CONFORMANCE WITH TRADE, OR SAMPLES PREVIOUSLY SUPPLIED.** Fujifilm's obligation and liability under this warranty are limited solely, at Fujifilm's option, to repair or replacement of defective goods. Fujifilm shall not be liable to the Customer for any special, indirect, incidental or

consequential damages, or for any lost profits resulting from any breach of warranty or any other provision of this contract, or for any liability of the customer to any third party. In no event will any claim against or recovery from Fujifilm be greater in amount than the purchase price of the goods with respect to which such claim or recovery is made. Fujifilm's warranties and obligations hereunder shall terminate without notice to the Customer if the goods are subject to misuse, improper application or alteration, or are repaired by other than a Fujifilm authorized service representative. ~~Notwithstanding anything to the contrary, Fujifilm's limitations of liability shall not apply to, affect, or limit: (i) any of Fujifilm's duties to indemnify Customer in accordance with this agreement and/or (ii) any third party claims. The liabilities or obligations of Customer with respect to its activities pursuant to this Agreement shall be the liabilities or obligations solely of Customer and shall not be or become the liabilities or obligations of the County of Kern or any other entity, including the state of California. California Health and Safety Code Section 101853(g)~~

9. RETURN. No goods purchased are to be returned to Fujifilm unless prior written authorization has been obtained from Fujifilm in Twinsburg, Ohio. All returned goods are subject to a restocking fee. Customer is responsible for all shipping changes and the goods returned shall be shipped F.O B. **Destination.**

10. ASSIGNMENT. No assignment of rights or delegation of duties under this contract shall be binding upon Fujifilm without its prior written consent obtained by Fujifilm in Twinsburg, Ohio.

11. CHANGES IN GOODS. Fujifilm may change the construction or design of the goods without notice to the Customer so long as the function and performance of the goods are not thereby substantially altered.

12. RETURN OF REPLACED GOODS. The price of all goods assumes the immediate return of replaced goods to Fujifilm in exchange for the goods supplied by Fujifilm.

13. APPLICABLE LAW. **INTENTIONALLY OMITTED**

14. WAIVER OF TRIAL BY JURY. Fujifilm and Customer expressly waive trial by jury in any matter arising out of, or connected with, the goods or this contract. With respect to any claim for which a jury trial cannot be waived, the parties agree not to assert any such claim as a counterclaim in, or move to consolidate such claim with, any action or proceeding in which a jury trial is waived. ~~INDEMNIFICATION. Fujifilm agrees to defend, protect, indemnify and hold harmless Customer and each of its officers, directors, employees and agents from and against any and all product liability and regulatory liability, including, without limitation, environmental liabilities and infringement, and if purchasing services, any and all act and omissions, and any and all 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 Customer).~~

15. HEADINGS; SEVERABILITY. Headings used throughout these Terms and Conditions are used for the convenient reference of the parties and are not intended to limit or modify the express terms and conditions. If any provision in these Terms and Conditions shall be found to be void or unenforceable, that provision only shall be deemed stricken to the extent of its invalidity or unenforceability, and all other Terms and Conditions shall remain in full force and effect. These Terms and Conditions are subject to change by HMSA upon prior written notice.

16. Fujifilm 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.



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

November 15, 2023

Subject: Proposed Master Services Agreement and Proposal with inforgant, LLC

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical requests your Board approve the proposed Master Services Agreement and Proposal with inforgant, LLC for Chief Information Security Officer (CISO) and Information Security Program development services. These services are necessary for the organization to meet industry and regulatory requirements regarding the security of information systems and data for the organization. The majority of healthcare data, including protected health information, is found in digital forms which requires a CISO in order to support a robust privacy and compliance program at Kern Medical. This initial proposal is an opportunity to see if using a third-party contractor to fulfil the CISO role is the most efficient and cost-effective method for Kern Medical, which although a smaller healthcare entity, is still held to rigorous and strict compliance and privacy standards.

Therefore, in order to continue to support Kern Medical's compliance and privacy practices, it is recommended that your Board approve the proposed Master Services Agreement and Proposal with inforgant, LLC for Chief Information Security Officer (CISO) and Information Security Program development services from 11/15/2023 through 11/14/2024, in an amount not to exceed \$310,000, and authorize the Chairman to sign.

MASTER SERVICES AGREEMENT INDEPENDENT CONTRACTOR

Terms

This Independent Contractor / Master Services Agreement (the "Agreement") is made and entered into as of November 15, 2023, (the "Effective Date") by and between inforqant, LLC a(n) California LLC ("Contractor"), and Kern County Hospital Authority, a local unit of government, which owns and operates Kern Medical Center ("Client").

- 1. Engagement of Services.** Client hereby engages and retains Contractor to provide certain services, and Contractor agrees to render such services to Client, from time to time as mutually agreed to by Client and Contractor (the "Services") and that are described in one or more statements of work ("SOWs") which include specific Deliverables, Descriptions, Timelines, and Fees.
- 2. Compensation.** Client will pay Contractor the fees set forth in the SOW in consideration for rendering the Services pursuant to this Agreement and such SOW. In addition, Contractor reserves the right to pass through applicable processing fees when Client provides payment of invoices with a credit card. Client agrees to pay invoices within 30 days of receiving the invoice. Contractor will be reimbursed for expenses that relate to the Services and that are approved by Client in advance. Upon termination of this Agreement for any reason, Client will pay Contractor any unpaid fees for Services that have been completed prior to such termination.
- 3. Ownership of Work Product.** Client is and will be the owner of all interests in the product of all work performed under this Agreement (the "Work Product"). Contractor hereby irrevocably sells, transfers and assigns to Client all right, title and interest that Contractor has or will have in and to the Work Product, and Contractor acknowledges that Client owns and will own all such existing and future right, title and interest in and to the Work Product. Notwithstanding the foregoing, Contractor shall be entitled to display Work Product in their portfolio, on their website, or for any other business marketing purposes.
- 4. Intellectual Property.** Neither the Client nor Contractor shall acquire any right, title or interest in any intellectual property owned, licensed or controlled by the other party as of the Effective Date.
- 5. Confidential Information.** Contractor shall not disclose any of the Client's confidential information to anyone other than its affiliates, employees, contractors or authorized representatives who have a need to know the information in connection with Contractor's rendering of the Services. Contractor shall exercise the same degree of care to prevent disclosure of any Confidential Information as it takes to preserve and safeguard its own confidential information but, in any event, no less than a reasonable degree of care. Contractor 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. Independent Contractor Relationship.** Contractor's relationship with Client is that of an independent contractor, and nothing in this Agreement is intended to, or should be construed to, create a partnership, agency, joint venture or employment relationship. No part of Contractor's compensation will be subject to withholding by Client for the payment of any social security, federal, state or any other employee payroll taxes. Client will regularly report amounts paid to Contractor by filing Form 1099 with the Internal Revenue Service as required by law. CONTRACTOR IS ACTING AS AN INDEPENDENT CONTRACTOR TO CLIENT; CONTRACTOR IS NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS, WORKERS' COMPENSATION BENEFITS, PENSION, BONUS OR OTHER FRINGE BENEFITS FROM CLIENT. CONTRACTOR WILL PAY ALL NATIONAL, FEDERAL AND STATE INCOME TAX, SOCIAL SECURITY TAX AND OTHER AMOUNTS DUE UNDER APPLICABLE PAYROLL AND SIMILAR LAWS WITH RESPECT TO ALL AMOUNTS PAID IN CONNECTION WITH THIS AGREEMENT.

7. Term. The term of this Agreement will commence on the Effective Date and will continue until terminated by either party as provided herein. The Services shall commence as set forth in the SOW and will continue as provided therein or until terminated pursuant to the terms of such SOW or this Agreement.

8. Termination. Either party may terminate this Agreement at any time by giving 30 days prior written notice to the other party. Either party may terminate this Agreement immediately upon a material violation of this Agreement by the other party.

9. Limitation of Liability. IN NO EVENT WILL EITHER PARTY BE LIABLE FOR DIRECT DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY SOW IN EXCESS OF THE TOTAL FEES PAID TO CONTRACTOR UNDER THE SOW GIVING RISE TO SUCH LIABILITY. IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES (INCLUDING WITHOUT LIMITATION LOST PROFITS OR REVENUE) EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. The liabilities or obligations of Client with respect to its activities pursuant to this Agreement shall be the liabilities or obligations solely of Client and shall not be or become the liabilities or obligations of the County of Kern or any other entity, including the state of California. California Health and Safety Code Section 101853(g)

10. Governing Law. This Agreement will be governed in all respects by the laws of US as well as the laws of California, excluding conflicts of law principles.

11. Severability. Should any provisions of this Agreement be held by a court of law to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining provisions of this Agreement will not be affected or impaired thereby.

12. Waiver. The waiver by either party of a breach of any provision of this Agreement by the other party will not operate or be construed as a waiver of any other or subsequent breach by such party.

13. Assignment. Neither party shall assign or transfer this Agreement, or any rights or portion thereof, to any related or unrelated third party without the other party's consent.

14. Entire Agreement. This Agreement and all outstanding SOWs constitute the entire agreement between the parties relating to this subject matter and supersede all prior or contemporaneous oral or written agreements concerning such subject matter. The terms of this Agreement and all outstanding SOWs will govern all Services undertaken by Contractor for Client. This Agreement and any SOW may only be changed by mutual agreement of authorized representatives of the parties in writing.



J. Miguel C. San Mateo

Miguel San Mateo, inforgant LLC

10/18/2023

Date

Acknowledgment:

This Independent Contractor/Master Services Agreement meets with our approval, and you are authorized to proceed with the work as described in individual Statements of Work.

Kern County Hospital Authority

Russell Bigler, Chairman
Board of Governors

Date

APPROVED AS TO FORM:
Legal Services Department

By *Shannon Hochstein*
Kern County Hospital Authority



Proposal For:

Kern County Hospital Authority

CISO and Information Security
Program Development Advisory
Services

October 18, 2023

October 18, 2023

Rey Lopez

*Chief Information Officer
Kern County Hospital Authority
1700 Mount Vernon Avenue
Bakersfield, CA 93306*

Dear Rey,

Thank you for the opportunity to work with you and your team on developing a HIPAA compliant information security program. This letter sets forth the agreement between Kern County Hospital Authority (“KCHA”) and inforgant, LLC(“inforgant”) for CISO and Information Security Program Development Advisory Services. This proposal is divided into the following sections:

- Background
- Objectives and Scope
- Subscription
- Staffing and Scheduling
- Dispute Resolution

Background

KCHA has previously undergone a significant digital transformation with the implementation of the Cerner EHR (Electronic Health Records). With the Cerner system, KCHA has been able to consolidate multiple systems to gain efficiencies in their workflow to deliver better care for their patients.

Recently, KCHA has been the subject of a security assessment by Synoptek, as part of the underwriting process by its cyber insurance provider. As a result, KCHA has been provided with a gap assessment report of its information security posture with observations and findings from Synoptek for consideration and remediation, which will then be taken into account in the upcoming cyber insurance underwriting process.

As a result, KCHA is seeking to update its information security posture, to better secure its computing environment, and to comply with the Federal Standards for Privacy of Individually Identifiable Health Information and/or the Security Standards for the Protection of Electronic Protected Health Information (45 Code of Federal Regulations (C.F.R.) Parts 160 and 164, Subparts A, C, and E, the Privacy and Security Rules).

The following phased approach is a proposed multi-year effort, dependent upon resources that KCHA will be able to commit. The timing and milestones will be co-developed and approved by the internal KCHA Team.

KCHA is seeking consulting services to assess the current information technology (IT) environment from a HIPAA – Hi-TECH perspective, and to draft a proposed remediation plan of identified gaps in the IT environment from an information security perspective, per the above regulations (Phase I).



Phases II-IV will be the design, implementation, and monitoring and reporting phases of the HIPAA Compliant Information Security Program development engagement.

Phase V is the optimization of the HIPAA Compliant Information Security Program to a more mature, functional, and operational information security program based upon an agreed upon industry best practice framework.



Objective and Scope

In the execution of this project, inforgant proposes the following scope of services.

The phased approach is delineated below.

I. Discovery and Planning

Objective

Review and Analyze the Synoptek security gap assessment. Collaborate with team to rationalize and prioritize identified gaps.

Analyze and understand KCHA's current information technology and information security posture to understand the current state environment and create a proposed 12-18 month information security road map.

HIPAA Risk Assessment – In conjunction with internal KCHA Privacy, Compliance, Legal, and other internal teams, as well as external Privacy experts to be engaged by KCHA as needed.

Activities Overview

1. Assume the role of the Chief Information Security Officer for KCHA, per HIPAA's "Security official" requirement (§ 164.308(a)(2)).
2. Review and analyze the security gap assessment report from Synoptek that identified security vulnerabilities in the KCHA environment.
3. Review current state documentation of KCHA's IT environment, and any associated information security policies and procedures, to identify potential policy and procedure gaps.
4. Collaboratively create baseline gap assessment and HIPAA Risk Analysis with the Chief Privacy and Compliance Officer, and external experts, as needed.

Deliverables

1. Baseline HIPAA Risk Analysis and gap assessment of information security requirements.

Assumptions

1. inforgant will be provided with timely access to the requested documentation, as well as any additional substantiating documentation.
2. inforgant will be provided timely access to KCHA personnel and facilities, as needed.
3. To be cost conscious, inforgant will perform as much of the work remotely, but may need to perform site visits and/or interviews in person, as needed. Travel will be approved by the KCHA before expenses are incurred and billed separately from the monthly fee, but in compliance with the US General Services per diems.



II. Information Security Program Design

Objective

Design a HIPAA compliant Security Program per the **Administrative** (45 CFR 164.308), **Physical** (45 CFR 164.310), and **Technical** (45 CFR 164.312) **Safeguards**, as required by the HIPAA Security Rule.

Activities Overview

1. Continue in the role of Chief Information Security Officer (CISO) for KCHA.
2. Execute the Risk Analysis, and define policies, procedures and plan, per the Objective section of Phase II.
3. Daily operational duties of the CISO.

Deliverables

1. Security Risk Analysis, with prioritized remediation plan, incorporating findings from the Synoptek assessment.
2. Defined policies and procedures, for the Security Rule, per the Objective section.

Assumptions

1. InforGant will be provided with timely access to the requested documentation, as well as any additional substantiating documentation.
2. InforGant will be provided timely access to KCHA personnel and facilities, as needed.
3. To be cost conscious, InforGant will perform as much of the work remotely, but may need to perform site visits and/or interviews in person, as needed. Travel will be approved by the KCHA before expenses are incurred and billed separately from the monthly fee but in compliance with the US General Services per diems.



III. Information Security Program Implementation

Objective

Implement Safeguards defined in Phase II.

Activities Overview

1. Continue in the role of Chief Information Security Officer (CISO) for KCHA.
2. Information Security Program Advisory - Strategic and Operational oversight of the Information Security Program Implementation.
3. Deliver Security Awareness Training.
4. Daily operational duties of the CISO.

Deliverables

1. Security Awareness Training and Compliance Tracking.
2. Periodic status reporting of the implementation.

Assumptions

1. Inforçant will be provided with timely access to the requested documentation, as well as any additional substantiating documentation.
2. Inforçant will be provided timely access to KCHA personnel and facilities, as needed.
3. To be cost conscious, inforçant will perform as much of the work remotely, but may need to perform site visits and/or interviews in person, as needed. Travel will be approved by the KCHA before expenses are incurred and billed separately from the monthly fee but in compliance with the US General Services per diems.



IV. Information Security Program Monitoring and Reporting

Objective

Design and implement a monitoring process to ensure that safeguards and controls implemented in Phase III are operating effectively. Provide for periodic (annual) monitoring and reporting of the status of the program.

Activities Overview

1. Continue in the role of Chief Information Security Officer (CISO) for KCHA.
2. Information Security Program Advisory - Strategic and Operational oversight of the Information Security Program Implementation.
3. Develop and Implement a Monitoring and Reporting Program for the Information Security Function.
4. Daily operational duties of the CISO.

Deliverables

1. Monitoring and Reporting Program for the Information Security Program.

Assumptions

1. inforgant will be provided with timely access to the requested documentation, as well as any additional substantiating documentation.
2. inforgant will be provided timely access to KCHA personnel and facilities, as needed.
3. To be cost conscious, inforgant will perform as much of the work remotely, but may need to perform site visits and/or interviews in person, as needed. Travel will be approved by the KCHA before expenses are incurred and billed separately from the monthly fee but in compliance with the US General Services per diems.



V. Information Security Program Optimization

Objective

Advancing the Information Security Program from compliance to a more mature, functional, and operational information security program. This would entail assessing the HIPAA compliant Information Security Program against an agreed upon industry best practice framework such as the Center for Information Security (CIS) Critical Security Controls (commonly known as the [CIS Critical Security Controls v8](#)), which have been heralded to help mitigate 80%+-90%+ of cyber attacks,¹ or any other agreed upon framework.

Activities Overview

1. Continue in the role of Chief Information Security Officer (CISO) for KCHA.
2. Perform gap assessment of the current state Information Security Program against the agreed upon framework.
3. Daily operational duties of the CISO.

Deliverables

1. Gap Assessment of the current state Information Security Program against the agreed upon framework, and recommendations for implementation.
2. Information Security Roadmap.

Assumptions

1. InforGant will be provided timely access to the requested documentation, as well as any additional substantiating documentation.
2. InforGant will be provided timely access to KCHA personnel and facilities, as needed.
3. To be cost conscious, InforGant will perform as much of the work remotely, but may need to perform site visits and/or interviews in person, as needed. Travel will be approved by the KCHA before expenses are incurred and billed separately from the monthly fee but in compliance with the US General Services per diems.

Footnote:

¹ InfoSec “The Center for Internet Security (CIS): Top 20 Critical Security Controls” (<https://resources.infosecinstitute.com/the-center-for-internet-security-cis-top-20-critical-security-controls/>) October 29, 2018



Estimated Fee Range

PHASE	PROJECT	FEE
I	Discovery and Planning	\$25,000 / month
II	Information Security Program Design	\$25,000 / month
III	Information Security Program Implementation	\$25,000 / month
IV	Information Security Program Monitoring and Reporting	\$25,000 / month
V	Information Security Program Optimization	\$25,000 / month

We are confident that inforgant has the skill and experience to deliver this engagement. When the projects are complete, we will ask your permission to write a case study that can be used as collateral material in our Firm's marketing efforts. The case study would explain your Company's situation and needs and how we were able to meet those needs and provide benefits to you. Other clients have readily agreed to participate in this process and have been pleased with what we have written.

Subscription

inforgant will bill KCHA a monthly subscription fee of \$25,000 monthly, for a 12 month subscription period, renewable at expiration. Fees are due on the last business day of the month; no invoices will be issued for the monthly fee. However, inforgant will send KCHA an invoice at the beginning of the month, for any expenses from the prior month, with the amount due by the last business day of the month. Any travel or other expenses will be billed to KCHA as described in the attached Statement of Standard Business Practices.

Staffing and Scheduling

Miguel San Mateo will personally serve as the Engagement Principal on this engagement on behalf of inforgant. Other inforgant team members will be assigned as needed.

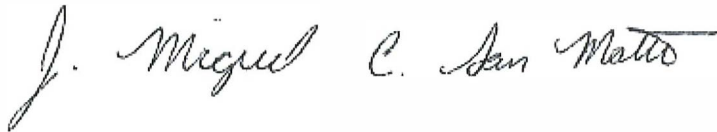
We are confident that inforgant has the skill and experience to deliver a solid project for KCHA. When the project is finished, we will ask your permission to write a case study that can be used as collateral material in our firm's marketing efforts. The case study would explain your Company's situation and needs and how we were able to meet those needs and provide benefits to you. Other clients have readily agreed to participate in this process and have been pleased with what we've written.



If you have any questions about this proposal, please call me at (415) 830-4080. Once again, thank you for the opportunity to present you with this proposal. We look forward to working with you and your team on this project.

Sincerely,

inforgant LLC



Miguel San Mateo
Managing Principal

Acknowledgment:

This proposal meets with our approval, and you are authorized to proceed with the work as described above, per our Independent Contractor / Master Services Agreement

Kern County Hospital Authority

Russell Bigler, Chairman
Board of Governors

Date

APPROVED AS TO FORM:
Legal Services Department

By Shannon Hochstein
Kern County Hospital Authority





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

November 15, 2023

Subject: Proposed Agreement #2009920408.16 with GE Healthcare for the one-time purchase of anesthesia machines and vaporizers for the Anesthesia Department in an amount not to exceed \$586,718

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical is requesting your Board approve the proposed Agreement with GE Healthcare for the purchase of eight anesthesia machines and vaporizers. Kern Medical is trading in old machines, taking advantage of GE's trade-in program and thereby reducing the overall cost of this contract. Included in this agreement is technical training for our BioMed staff for preventative maintenance and support along with clinical education for our patient care staff. GE Healthcare products and services are currently utilized throughout the hospital and clinics.

Therefore, it is recommended that your Board approve the Agreement with GE Healthcare for the one-time purchase of anesthesia machines and vaporizers, effective November 15, 2023, in an amount not to exceed \$586,718 and authorize the Chairman to sign.

Kern Medical
 1700 Mount Vernon Ave
 Bakersfield, CA 93306-4018

This Agreement (as defined below) is by and between the Customer and the GE HealthCare business (“GE HealthCare”), each as identified below for the sale and purchase of the Products and/or Services identified in this Quotation, together with any applicable schedules referred to herein (“Quotation”). “Agreement” is this Quotation (including line/catalog details included herein and either: (i) the Governing Agreement identified below; or (ii) if no Governing Agreement is identified, the GE HealthCare Terms and Conditions and Warranties that apply to the Products and/or Services identified in this Quotation.

GE HealthCare can withdraw this Quotation at any time before Customer: (i) signs and returns this Quotation or (ii) provides evidence of Quotation acceptance satisfactory to GE HealthCare (“Quotation Acceptance”). On Quotation Acceptance, this Agreement is the complete and final agreement of the parties relating to the Products and/or Services identified in this Quotation. There is no reliance on any terms other than those expressly stated or incorporated by reference in this Agreement and, except as permitted in this Agreement, no attempt to modify will be binding unless agreed to in writing by the parties. Modifications may result in additional fees and cannot be made without GE HealthCare’s prior written consent.

Handwritten or electronic modifications on this Agreement (except an indication of the form of payment, Customer purchase order number and signatures on the signature blocks below) are void.

Governing Agreement:	HPG - LCS
Discount Tier	
Terms of Delivery	FOB Destination
Billing Terms	80% delivery / 20% Installation
Payment Terms	NET 30
Sales and Use Tax Exemption	No Certificate on File
Total Quote Net Selling Price	\$586,717.97

IMPORTANT CUSTOMER ACTIONS:

Please select your planned source of funds. Source of funds is assumed to be cash unless you choose another option. Once equipment has been shipped, source of funds changes cannot be allowed.

- Cash
 GE HFS Loan GE HFS Lease
 Other Financing Loan Other Financing Lease Provide Finance Company Name _____

The parties have caused this Agreement to be executed by their authorized representative as of the last signature date below.

Kern Medical

Signature: _____

Print Name: _____

Title: _____

Date: _____

Purchase Order Number, if applicable _____

Datex-Ohmeda, Inc.

Signature: Daniel Donchev

Title: Product Sales Specialist, Anesthesia & Respiratory Care, Patient Care Solutions

Date: October 17, 2023

APPROVED AS TO FORM:
 Legal Services Department

By Phillip Jenkins
 Kern County Hospital Authority

Document Instructions

Please sign and return this quotation together with any Purchase Order(s) to:

Name: Daniel Donchev
Email: daniel.donchev@ge.com
Phone: 2623497258
Fax:

Payment Instructions

Please **remit** payment for invoices associated with this quotation to:

Datex-Ohmeda, Inc.
PO Box 641936
Pittsburgh, PA 15264-193

FEIN: 22-3029570

Kern Medical**Addresses:**

Bill To:	KERN COUNTY HOSPITAL AUTHORITY	1700 MT VERNON AVE BAKERSFIELD CA 93306
Ship To:	KERN COUNTY HOSPITAL AUTHORITY	1700 MT VERNON AVE BAKERSFIELDCA 93306

To Accept This Quotation

- Please sign the quote and any included attachments (where requested).
- Source of Funds (choice of Cash/Third Party Load or GE HFS Lease Loan or Third Party Lease through _____), must be indicated, which may be done on the Quote Signature Page (for signed quotes), or the Purchase Order (where quotes are not signed) or via a separate written source of funds statement (if provided by GE HealthCare).
- If your purchasing process requires a purchase order, please make sure it includes:
 - The correct Quote number and Version number above
 - The correct Remit To information as indicated in **“Payment Instructions”** above
 - Your correct SHIP TO and BILL TO site name and address
 - The correct Total Price as indicated above

Evidence of the agreement to contract terms. Either: (a) the quotation signature filled out with signature and P.O. number; or (b) Verbiage on the purchase order stating one of the following:

- (i) “Per the terms of Quotation # _____”;
- (ii) “Per the terms of GPO # _____”;
- (iii) “Per the terms of MPA# _____”; or
- (iv) “Per the terms of SAA # _____”.

Quote Summary

Line	Qty	Description	Contract List Price(USD)	Discount	Net Price(USD)
1.	8	Aisys CS2 WITHOUT End-tidal Control	\$699,622.65	36.03%	\$447,540.74
2.	1	Vaporizers for Aisys CS2: 8 Sevoflurane, 8 Desflurane, 2 Isoflurane	\$67,580.00	36.50%	\$42,914.16
3.	9	Gas Modules + Spare	\$100,044.00	40.60%	\$59,426.14
4.	8	Gas Hoses	\$12,536.00	36.50%	\$7,960.36
5.	1	Spare Accessories	\$4,649.22	37.48%	\$2,906.56
6.	1	Technical Training for Biomed	\$30,970.00	0.00%	\$30,970.00
7.	1	5-Days of Clinical Education	\$9,000.00	0.00%	\$9,000.00
8.	1	Anesthesia Trade-In	\$0.00	0.00%	\$-2,000.00
9.	1	Anesthesia Trade-In	\$0.00	0.00%	\$-2,000.00
10.	1	Anesthesia Trade-In	\$0.00	0.00%	\$-2,000.00
11.	1	Anesthesia Trade-In	\$0.00	0.00%	\$-2,000.00
12.	1	Anesthesia Trade-In	\$0.00	0.00%	\$-2,000.00
13.	1	Anesthesia Trade-In	\$0.00	0.00%	\$-2,000.00

14.	1	Anesthesia Trade-In	\$0.00	0.00%	\$-2,000.00
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Total Quote List Price:	\$924,401.87
Total Quote Discount:	35.02%
Total Quote Subtotal:	\$600,717.97
Total Quote Net Selling Price:	\$586,717.97

DETAILED CONFIGURATION

Aisys CS2 WITHOUT End-tidal Control

Line	Catalog number	Qty	Description	ListPrice(USD)	Discount	Extended Net Selling Price(USD)
1	1011-9050-000	8	AISYS CS2	\$83,310.88	34.70%	\$435,216.04

AISYS CS2

2	2065401-001	8	Frame Trolley, 4 Drawer, No Monitor Rack, Single-width Gas Module Slot
3	5829035-USA	8	Manuals and Software Aisys CS2 12.X English for USA

Manuals and Software Aisys CS2 12.X English for USA

4	2065381-001	8	DISS Pipeline Fittings, ANSI Colors O2 Right, O2 Drive
5	2065359-001	8	N2O Pipeline DISS Fitting
6	2064584-001	8	Pressure Control Modes Suite
7	2064585-001	8	Spontaneous Breathing Modes Suite
8	2064586-001	8	VCV Cardiac Bypass Mode
9	2064587-001	8	CPAP PSV Ventilation Mode

10	2064588-001	8	ecoFLOW Software Option
11	2065379-001	8	Patient Monitor Mount, Horizontal, B650/B450
12	1009-8159-000	8	Bag support arm
13	5814440	8	Active Adjustable Flow AGSS. High Vacuum, variable flow with bag indicator (includes scavenging bag)
14	1011-8289-000	8	100-120v NEMA 4 socket, individual circuit breakers
15	1011-8070-000	8	ACGO (Auxiliary Common Gas Outlet)
16	1011-8040-000	8	O2 cylinder connection, pin indexed yoke, Inboard
17	1011-8050-000	8	Air cylinder connection, pin indexed yoke, Inboard
18	1011-8058-000	8	N2O Cylinder Connection, PIN Indexed Yoke, Outboard
19	1011-8074-000	8	O2 gas power outlet DISS

20	1011-8320-000	8	Folding Side Shelf
21	M1229719	8	Short cable management arm
22	2065395-001	8	Suction Regulator, 3 Mode, DISS Pipeline Fitting
23	1009-8164-000	8	Suction bottle mounting arm - accommodates Drager suction bottle holders

Suction bottle mounting arm - accommodates Drager suction bottle holders

24	1009-5935-000	8	Serial Port Extension Cable			
25	2099043-001	8	Sample Gas Return for Spectrolite Configuration			
26	2106803-001	8	Network Connectivity Supported			
27	M1135098	8	Cassette Filler Guard	\$106.00	36.50%	\$538.48
28	1006-4192-000	8	Dovetail Hook (1 ea)	\$8.16	44.80%	\$36.03
29	M1074608	8	Worksurface Cover Kit, Aisys	\$150.00	36.50%	\$762.00

30	1407-7021-000	8	EZ Change Module	\$530.00	36.50%	\$2,692.40
31	1503-3857-000	8	Plug O2 Port Kit	\$22.47	36.50%	\$114.15
32	1407-7022-000	8	Flow sensor module	\$239.00	36.50%	\$1,214.12
33	2089610-001-S	16	Anesthesia Flow Sensor, ABS	\$200.00	36.50%	\$2,032.00
34	2105489-003	8	AMSORB PLUS® Prefilled G-CAN® Absorber Canister 1.0L, 8/BX	\$175.00	36.50%	\$889.00
35	2096534-003	8	Patient Tube, Adult Reusable Hytrel 0.9M	\$28.22	36.50%	\$143.36
36	2105488-025	8	ABS Bag Arm Connector, Reusable, 1 Each	\$21.00	36.50%	\$106.68
37	1006-8082-000	8	Suction Mounting Post	\$516.00	36.50%	\$2,621.28
38	1001-3269-000	8	CASTrGARDs, 12.7 cm/5 in grey, 4/BX	\$231.34	36.50%	\$1,175.21
39	2083083-002	8	ARC INSTALLATION CHARGE	\$1,714.76	100.00%	

ARC INSTALLATION CHARGE

Vaporizers for Aisys CS2: 8 Sevoflurane, 8 Desflurane, 2 Isoflurane

Line	Catalog number	Qty	Description	ListPrice(USD)	Discount	Extended Net Selling Price(USD)
40	1100-9030-000	8	Aladin 2 Cassette for Sevoflurane	\$3,400.00	36.50%	\$17,272.00
41	1100-9025-000	8	Aladin2 Cassette Desflurane SAF-T-FIL	\$4,200.00	36.50%	\$21,336.00
42	1100-9029-000	2	Aladin 2 Cassette for Isoflurane	\$3,100.00	36.50%	\$3,937.00
43	2106572-001	8	EASY-FIL Bottle Adapter, Isoflurane	\$36.00	36.20%	\$183.74
44	2106572-003	8	EASY-FIL Bottle Adapter, Sevoflurane	\$36.50	36.50%	\$185.42

Gas Modules + Spare

Line	Catalog number	Qty	Description	ListPrice(USD)	Discount	Extended Net Selling Price(USD)
45	RespiratoryModulesBundle	9	CARESCAPE Respiratory Modules - The modules & accessories are compliant with Gas Standard ISO 80601-2-55:2018			
CARESCAPE Respiratory Modules - The modules & accessories are compliant with Gas Standard ISO 80601-2-55:2018						
46	5697127	9	E-SCAIOE-00, Respiratory Module, English USA	\$11,000.00	40.60%	\$58,806.00
E-SCAIOE-00, Respiratory Module, English USA						
47	5514183	9	Gas exhaust line, white conical and Colder, disposable, 0.18m/7in	\$21.00	40.60%	\$112.27

48	M1182629	9	D-fend Pro Water Trap, Dark Steel Blue, box of 10 pcs	\$95.00	40.60%	\$507.87
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Gas Hoses

Line	Catalog number	Qty	Description	ListPrice(USD)	Discount	Extended Net Selling Price(USD)
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49	LCS ARC Hose Assemblies	8	All Gas Hoses			
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All Gas Hoses

50	0231-1518-810	8	DISS H-I-T, NCG, O2 Hose Assembly, 4.6 m/15 ft	\$225.00	36.50%	\$1,143.00
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51	0231-1518-811	8	DISS H-I-T, NCG, N2O Hose Assembly, 4.6 m/15 ft	\$225.00	36.50%	\$1,143.00
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52	0231-1518-812	8	DISS H-I-T, NCG, Vac Hose Assembly, 4.6 m/15 ft	\$239.00	36.50%	\$1,214.12
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53	0231-1518-813	8	DISS H-I-T, NCG, Air Hose Assembly, 4.6 m/15 ft	\$255.00	36.50%	\$1,295.40
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54	8502569-S	8	Gas Hose Zipper 2.5 meter	\$400.00	36.50%	\$2,032.00
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55	1009-8204-000	8	Evac hose assemblies NCG EVAC, 5 m/16.4 ft	\$223.00	36.50%	\$1,132.84
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Spare Accessories

Line	Catalog number	Qty	Description	ListPrice(USD)	Discount	Extended Net Selling Price(USD)
56	2096534-003	1	Patient Tube, Adult Reusable Hytrel 0.9M	\$28.22	36.50%	\$17.92
57	2105488-005	1	ABS Bag Arm Connector, Reusable, 10/BX	\$196.00	30.00%	\$137.20
58	1001-3626-000	8	7' Dovetail Adapter to GCX Rail Mount	\$88.00	44.80%	\$388.61
59	2105489-003	8	AMSORB PLUS® Prefilled G-CAN® Absorber Canister 1.0L, 8/BX	\$175.00	36.50%	\$889.00
60	1407-7022-000	1	Flow sensor module	\$239.00	36.50%	\$151.77
61	2089610-001-S	2	Anesthesia Flow Sensor, ABS	\$200.00	36.50%	\$254.00
62	2063823-001-S	1	Replacement ABS Aisys CS2 (Green)	\$1,682.00	36.50%	\$1,068.07

Technical Training for Biomed

Line	Catalog number	Qty	Description	ListPrice(USD)	Discount	Extended Net Selling Price(USD)
63	2020786-327	2	Aisys CS2 Technical Service Training with Lodging and Airfare	\$15,485.00	Incl.	\$30,970.00

5-Days of Clinical Education

Line	Catalog number	Qty	Description	ListPrice(USD)	Discount	Extended Net Selling Price(USD)
64	M1109160	5	User Training (onsite) - training of clinical non-clinical staff on equipment	\$1,800.00	Incl.	\$9,000.00

Total Quote List Price: \$924,401.87
Total Quote Discount: 35.02%

Qty	Credits and Adjustments
1	\$-2,000.00
1	\$-2,000.00
1	\$-2,000.00
1	\$-2,000.00
1	\$-2,000.00
1	\$-2,000.00
1	\$-2,000.00

Total Quote Net Selling Price: \$586,717.97

If applicable, for more information on this devices' operating system, please visit GE HealthCare's product security portal at: <https://securityupdate.gehealthcare.com/en/products>

Trade-in Addendum to GE HealthCare Quotation

This Trade-In Addendum (“Addendum”), effective on October 17, 2023, between the GE HealthCare business identified on the Quotation and Kern Medical (“Customer”), is made a part of Quotation # **2009920408.16** ^ dated **October 17, 2023** (“Quotation”) and modifies it as follows:

A. Customer: (i) certifies that it has full legal title to the equipment and/or mobile vehicle (“mobile vehicles” are defined as any systems requiring a vehicle title) listed in Section E (“Trade-In Equipment”), free and clear of all liens and encumbrances; (ii) conveys title and, if applicable, registration and license documents to GE HealthCare effective on the date of removal or receipt of the Trade-In Equipment (mobile vehicles will not be removed from Customer site until GE HealthCare has received a clean title signed over to GE HealthCare); and (iii) affirms that the Trade-In Equipment has never been used on or to provide care to animals. If GE HealthCare removes the Trade-In Equipment, it will do so at its expense at a mutually agreed time. Trade-In Equipment shall be removed no later than thirty days following installation of Customer’s new system, unless explicitly otherwise agreed to by the parties in writing.

Mobile vehicles must include the VIN# on this trade-in addendum: VIN# [insert Vin #]. Mobile vehicles must have a valid DOT sticker and be road worthy at the time GE HealthCare is to take possession of them in order for GE HealthCare to accept a mobile vehicle on trade-in. Any and all logos or hospital affiliation stickers must be removed (outside and inside) by Customer and Customer shall clean the mobile vehicle of all debris and medical supplies prior to removal of the mobile vehicle by GE HealthCare.

B. Customer is responsible for: (i) providing timely, unrestricted access to the Trade-In Equipment in a manner that affords GE HealthCare, or third-party purchaser of the Equipment through GE HealthCare, the ability to complete Equipment inspection and testing, and the ability to complete an operating system back-up prior to de-installation within the timeframe required by GE HealthCare or said third-party purchaser, failure of which to provide may result in termination of this Trade-in Addendum and related credits and/or payments; (ii) ensuring that the Trade-In Equipment and the site where it is located are clean and free of bodily fluids; (iii) informing GE HealthCare of site-related safety risks; (iv) properly managing, transporting and disposing of hazardous materials located on site in accordance with applicable legal requirements; (v) rigging, construction, demolition or facility reconditioning expenses, unless expressly stated otherwise in the Quotation; (vi) risk of loss and damage to the Trade-In Equipment until safety risks are remediated and the Trade-In Equipment is removed or returned; and (vii) for Trade-In Equipment that utilizes helium, ensuring sufficient helium for appropriate ramp down of the Trade-In Equipment.

C. Prior to removal or return to GE HealthCare, Customer must: (i) remove all Protected Health Information as such term is defined in 45 C.F.R. § 160.103 (“PHI”) from the Trade-In Equipment; and (ii) indemnify GE HealthCare for any loss resulting from PHI not removed. GE HealthCare has no obligation in connection with PHI not properly removed.

D. GE HealthCare may in its sole discretion reduce the trade-in amount or decline to purchase the Trade-In Equipment and adjust the total purchase price of the Quotation accordingly if: (i) the terms of this Addendum are not met; (ii) Customer fails to provide access to the Trade-In Equipment as required herein; or (ii) the Trade-In Equipment is missing components or is inoperable and/or non-functioning when removed or returned, which includes situations where helium levels at ramp down are insufficient and cause the Trade-In Equipment to quench – Customer is required to confirm for GE HealthCare the operability of the Trade-In Equipment prior to the deinstallation of the Equipment; or (iii) as a result of Customer’s actions, deinstallation of the Trade-In Equipment does not occur within one year of the execution of this Trade-In Addendum or related Quotation. All other terms and conditions of the Quotation remain in full force and effect.

E. Trade-In Equipment:

Trade-In Equipment Mfr.	<u>Model & Description</u>	<u>Quantity</u>	System ID*	Trade-In Amount (\$)
		1	AMRJ02052	\$-2,000.00
		1	AMRJ02053	\$-2,000.00
		1	AMRJ02054	\$-2,000.00
		1	AMRM01300	\$-2,000.00
		1	AMRM01301	\$-2,000.00
		1	AMRM01302	\$-2,000.00
		1	AMRQ00356	\$-2,000.00

This Addendum is executed when: (i) signed by the parties below; (ii) Customer receives this Addendum and signs the Quotation that references the Trade-In Equipment; or (iii) Customer receives this Addendum and issues a purchase order identifying either the Trade-in Addendum to GE HealthCare Quotation (Rev. 08.22)

terms of the Quotation (which includes a reference to the Trade-In Equipment) or the Governing Agreement identified on the Quotation as governing the order (PO# _____)†.

Kern Medical

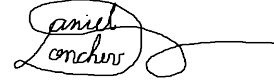
Signature: _____

Print Name: _____

Title: _____

Date: _____

GE HealthCare



Signature: _____

Print Name: Daniel Bonchev

Title: Anesthesia Sales Specialist

Date: 11/08/2023

^ A Quotation number must be provided on this document.

* In the event the Trade-In Equipment does not have a System ID, please record the serial number of each component that comprises the Trade-In Equipment.

† If you are relying upon the purchase order to reflect acceptance of the terms contained herein, please update this document with the applicable PO number upon receipt of the PO. Failure to do so may result in delays surrounding deinstallation of the System(s).

& The Trade-In Amount is based on expected trade-in within one (1) year of execution of this Trade-In Addendum. If the Trade-In does not occur within such year, GE HealthCare may adjust the Trade-In Amount or decline to purchase the Trade-In Equipment as set forth in Section (D) herein.

GPO Agreement Reference Information

Customer:	Kern Medical
Contract Number:	HPG - LCS
Billing Terms:	80% delivery / 20% Installation
Payment Terms:	NET 30
Shipping Terms	FOB DESTINATION

Offer subject to the Terms and Conditions of the applicable Group Purchasing Agreements currently in effect between GE HealthCare and HPG - LCS

If applicable, for more information on this devices' operating system, please visit GE HealthCare's product security portal at: <https://securityupdate.gehealthcare.com/en/products>

For a copy of the GPO contract or summary, please go to your GPO Membership login page scrubs.healthtrustpg.com. If a copy of the contract is not available on your membership page, please contact your GPO client manager.

This product offering is made per the terms and conditions of HeathTrust/GE HealthCare GPO Agreements as follows:

Patient Care Solutions: 69353 (Maternal Fetal monitoring), 500072 (Microenvironments – warmers, incubators), 40268 (Phototherapy), 500151 (GE Patient Monitors), 500277 (Anesthesia Machines and Medisorb), 70088 (Diagnostic Cardiology, Stress Testing), 70085 (Patient Monitoring, Vital Signs, and Low Acuity), 70086 (Diagnostic Cardiology, Holter Monitors), 70087 (Diagnostic Cardiology, EKG Machines) 70088 (Stress Test) and 70089 (Patient Monitoring, Hemo MacLab/Altix

Please consult the following to access the applicable Agreements and Contract Summaries for the following Group Purchasing Organizations. For a copy of the GPO contract or summary, please go to your GPO Membership login page scrubs.healthtrustpg.com. If a copy of the contract is not available on your membership page, please contact your GPO client manager



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

November 15, 2023

Subject: Proposed Amendment No. 7 to Agreement 1048-2010 with Total Renal Care, Inc., a subsidiary of DaVita Inc., for the provision of acute dialysis services

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical requests that your Board approve the proposed Amendment No. 7 to Agreement 1048-2010 with Total Renal Care, Inc., a subsidiary of DaVita Inc., to extend the current agreement by ninety (90) days, while the parties complete their negotiations to enter into a new agreement.

This Amendment extends services from December 1, 2023 to February 29, 2024 to complete a new agreement, which makes the current term of the Agreement from December 1, 2010 to February 29, 2024. The services provided by Total Renal Care, Inc., a subsidiary of DaVita Inc., are essential for our patients and Kern Medical does not have the resources to provide such services.

Therefore, it is recommended that your Board approve the proposed Amendment No. 7 to 1048-2010 with Total Renal Care, Inc., a subsidiary of DaVita Inc. for a ninety (90) day extension, from December 1, 2023 to February 29, 2024, to continue negotiations for a new agreement and continue to provide renal therapy services for patients, and authorize the Chairman to sign.

**AMENDMENT NO. 7 TO
AGREEMENT FOR PROFESSIONAL SERVICES
INDEPENDENT CONTRACTOR**

THIS AMENDMENT NO. 7 TO THE AGREEMENT FOR PROFESSIONAL SERVICES INDEPENDENT CONTRACTOR ("**Amendment No. 7**") is entered into and effective as of December 1, 2023 ("**Amendment No. 7 Effective Date**"), by and between **Total Renal Care, Inc.**, ("**Contractor**"), a subsidiary of DaVita Inc., "**DaVita**"), and the **Kern County Hospital Authority** ("**KCHA**"), a local unit of government, which owns and operates Kern Medical Center ("**KMC**").

WITNESSETH:

WHEREAS, on November 30, 2010, the parties hereto entered into an Agreement for Professional Services, (Kern County Agt, #1048-2010), Amendment No. 1 (Kern County Agt. #157-2014, dated March 25, 2014), Assignment of Agreement (dated July 1, 2016), Amendment No. 2 (KCHA#14616PA, dated August 23, 2016), Amendment No. 3 (KCHA# 2016-084, dated December 1, 2016), Amendment No. 4 (KCHA# 039-2018, dated June 20, 2018), Amendment No. 5 (KCHA# 079-2021, dated November 30, 2021), Amendment No. 6 (KCHA# 004-2022, dated January 29, 2022) ("Agreement") pursuant to which KMC agreed to engage the services of Contractor to provide acute dialysis services at KMC; and

WHEREAS, in accordance with Section 24 of the Agreement, as amended by Amendment 1-6, the parties wish to further amend the Agreement to extend the term of the Agreement, and to make other necessary modifications to the Agreement as set forth herein.

NOW, THEREFORE, for and in consideration of the premises contained in this Amendment No.76, the parties do hereby agree as follows:

1. As of the Amendment No.7 Effective Date, Section 1.2, This Agreement., of the Agreement is hereby deleted in its entirety and replaced with the following:

"1.2 This Agreement. Performance by Contractor and KCHA shall commence on December 1, 2010 (the "Effective Date"), and shall end February 29, 2024 (the "Term"), unless earlier terminated pursuant to other provisions of this Agreement."

2. Except as otherwise amended herein, all other terms and conditions remain in full force and effect.

[Signature to Follow]

IN WITNESS WHEREOF, the parties have executed this Amendment No. 7 by their duly authorized representatives:

KCHA:
Kern County Hospital Authority

CONTRACTOR:
Total Renal Care, Inc.

By: _____

By: _____

Name: Russell Bigler

Name: Michael Unton

Title: Chairman, Board of Governors

Title: Division Vice President

Date: _____

Date: _____

APPROVED AS TO CONTENT:
Kern Medical Center

APPROVED AS TO FORM ONLY:
DaVita Inc.

By: _____

By: _____

Name: Tonya Barraza, RN

Name: Thor Paulson

Title: Interim Chief Nursing Officer

Title: Group General Counsel

Date: _____

APPROVED AS TO FORM ONLY:
Kern County Hospital Authority, Legal Services Department

By: _____

Name: Shannon Hochstein

Title: Hospital Counsel



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

November 15, 2023

SUBJECT: Proposed Customer Order 1000253922 with Carefusion Solutions, LLC (“BD”) to lease and provide support for Secure Medication Dispensing Units (“Pyxis”) in an amount not to exceed \$3,000,000 plus applicable taxes and fees, over the five (5) year term of the agreement

Requested Action: Approve; Authorize Chairman to Sign

Summary:

Kern Medical is requesting that your Board approve the proposed customer order with BD to lease and provide support for Pyxis units throughout the hospital. Pyxis machines allow for medications to be stored and dispensed directly from the medical floors and within the clinics, reducing the need for medication transport, increasing the timeliness and efficiency of delivery, ensuring accuracy of medication delivery and providing for a secure storage site and tracking methodology for controlled substances and other medications. Pyxis units are critical to the ongoing efficient operation of the health system.

BD Pyxis have been utilized throughout the hospital and clinics since 2011 and our current lease expires on January 23, 2024. There are two primary vendors in the Secure Medication Dispensing Unit market, BD and Omnicell who supply most healthcare systems. In anticipation of the expiration of the current lease, Kern Medical reviewed both of these vendors and their product offerings. Omnicell and BD both offer comparable products, however, comparative to rates and the resources required to completely change out the systems, Kern Medical recommends continuing the relationship with BD.

Kern Medical has secured pricing through the HPG GPO, which allows the Hospital to access reduced pricing for the pyxis units. The pricing consists of one-time fees of \$11,000, monthly support fees of \$12,635 and \$36,549 for the monthly rental fee over a 5-year term.

Therefore, it is recommended that your Board approve the Customer Order 1000253922 with BD to lease and provide support for Pyxis in an amount not to exceed \$3,000,000 plus applicable taxes and fees, over the five (5) year term of the agreement and authorize the Chairman to sign.



Customer Order

Customer Order Date: 10/25/2023
Customer Order : 1000253922

Customer Information

Sold To:		Ship To:	Bill To		
Legal Name:	KERN COUNTY HOSPITAL AUTHORITY		Same as (Circle)	Sold To:	Ship To:
DBA:	KERN MEDICAL CENTER	KERN MEDICAL CENTER			
Street Address:	1700 MOUNT VERNON AVE	1700 MOUNT VERNON AVE			
City,St.,Zip:	BAKERSFIELD, CA 93306-4018	BAKERSFIELD, CA 93306-4018			
Customer No.	10043609	10043609			

1. **Customer Orders.** Effective as of the date of both signatures below ("**Effective Date**"), this Customer Order is entered by and between CareFusion and Customer as separate and distinct agreements (combined for administrative convenience) for: (i) Rental Equipment and/or Software listed in the Product Schedule attached hereto and incorporated by this reference (each, a "**Product**" and, collectively, the "**Products**"); and (ii) Services applicable to the Products (collectively, the "**Customer Orders**"). The Customer Orders will be governed by the latest Master Agreement, dated November 15, 2017, and Schedule(s) in effect between the Parties and applicable to the Products and Services ("**Master Agreement**"). Any reference to a "**Rental Term(s)**" or "**Rental Fee (s)**" in relation to Software will alternately refer to "**Subscription Term(s)**" or "**Subscription Fee(s)**", respectively. Notwithstanding the foregoing, if applicable to the Products hereunder, any reference to (a) "**Master Agreement**" will alternately refer to the Master Rental Terms and Conditions or Master Support Terms and Conditions and (ii) "**Customer Order**" will alternately refer to "**Rental Agreement**" or "**Support Agreement.**"

2. **Configurations.** Pricing set forth on the product schedules attached to these Customer Orders is based on the specific configuration, including type and quantities of drawers in the Products, as applicable. Any changes to the products or configurations may result in a change in pricing, subject to the applicable Group Purchasing Organization Agreement or other related pricing agreements between the Parties. Customer's execution of the Equipment Confirmation form shall be confirmation of the Customer's intended final configuration of the Products as Accepted.

Any one-time shipping, implementation or service fees listed on the Product Schedule attached hereto ("**One-Time Fees**") will be invoiced on the first day of the month following the date the Agreement is signed by both Parties and shall be due and payable net 30 days from the date of the invoice.

Please countersign the provided documents and return to BD (or CareFusion Solutions, LLC) within 30- days from the date of BD's signature. If countersigned documents are not returned timely, BD's signature will expire and be of no force or effect after such 30-days period.

Will a Purchase Order be required for payment of the financial obligation proposed under this Customer Order?(Please Circle)

Yes	No	Rental PO#:
		Support PO#:

Copies of this Customer Order will be sent to Ship To signer listed above. When complete, additional copies will be sent to the following address:

Name: _____
Street Address: _____
City,St.,Zip: _____

Each person signing this document represents that he/she intends to and has the authority to bind his/her respective Party to the Rental Customer Order and the separate Support Customer Order.

KERN COUNTY HOSPITAL AUTHORITY

Sign: _____
Print: _____
Title: _____ Date: _____

CAREFUSION SOLUTIONS, LLC

ATTN: CONTRACTS, 3750 TORREY VIEW CT, SAN DIEGO, CA 92130 888.876.4287

Sign: _____
Print: Matthew Geis
Title: Contract Manager Date: 11/9/2023

This Customer Order is not valid until executed by both Customer and CareFusion Solutions, LLC.

APPROVED AS TO FORM:
Legal Services Department

SALES ASSOCIATE:Richard Blankenship
Email: rick.blankenship@bd.com

By *Phillip Jenkins*



**Customer Order
Product Schedule**

Customer Order : 1000253922

Sold To: KERN MEDICAL CENTER #10043609

Ship To: KERN MEDICAL CENTER #10043609

GPO: HEALTHTRUST PURCHASING GROUP 1345 1345

Product Discounts:
GPO: 44 %

Support Discounts:
GPO: 20 %

Support Level: Enhanced

Rental and Support Term: 60 months

The fees stated in this Customer Order are offered by CareFusion for acceptance by the Customer for a period expiring on: 01/23/2024

Current Products				New Products												
Serial Number	Product Name	Monthly Rental Fee		Proposed Location	Product ID	Rx/ Prs	Product Name	P.Drws	Tr.Type	QTY	Monthly Rental Fee			Monthly Support Fee		
		Current	Support								List	Net	Extended	List	Net	Extended
		\$ 0.00	\$ 0.00		137409-01		Viewer Dispensing Subscription		SWE	1	\$ 0.01	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
		\$ 0.00	\$ 0.00		1115-00		PYXIS ES IT INFRASTRUCTURE		SWE	1	\$ 1,851.00	\$ 1,037.00	\$ 1,037.00	\$ 638.00	\$ 510.00	\$ 510.00
12870958	MED,SRM, FLATOFFSET,25FT,LT	\$ 51.00	\$ 17.00	1A	345		MED,SRM,FLATOFFSET,25FT,LT		UPU	1	\$ 106.00	\$ 59.00	\$ 59.00	\$ 35.00	\$ 28.00	\$ 28.00
15358699	MEDSTATION,ES,MAIN,2-DRAWER	\$ 214.00	\$ 95.00	1A	323		MEDSTATION,ES,MAIN,2DR	1	UPK	1	\$ 479.00	\$ 268.00	\$ 268.00	\$ 210.00	\$ 168.00	\$ 168.00
13819736	MEDSTATION,ES,AUX, TOWER,SC	\$ 116.00	\$ 34.00	2C	343		MEDSTATION,ES,AUX, TOWER,SC		UPU	1	\$ 234.00	\$ 131.00	\$ 131.00	\$ 73.00	\$ 58.00	\$ 58.00
15359785	MEDSTATION,ES,MAIN,6DR	\$ 663.00	\$ 97.00	2C	323	Rx	MEDSTATION,ES,MAIN,6DR	5	UPU	1	\$ 1,301.00	\$ 729.00	\$ 729.00	\$ 215.00	\$ 172.00	\$ 172.00
15358687	MEDSTATION,ES,MAIN,6DR	\$ 587.00	\$ 97.00	3B	323	Rx	MEDSTATION,ES,MAIN,6DR	3	UPK	1	\$ 1,301.00	\$ 729.00	\$ 729.00	\$ 215.00	\$ 172.00	\$ 172.00
15359793	MEDSTATION,ES,AUX,7-DRAWER	\$ 375.00	\$ 42.00	3B	324		MEDSTATION,ES,AUX,7-DRAWER	2	UPN	1	\$ 958.00	\$ 536.00	\$ 536.00	\$ 93.00	\$ 74.00	\$ 74.00
13819735	MEDSTATION,ES,AUX, TOWER,SC	\$ 116.00	\$ 34.00	3C	343		MEDSTATION,ES,AUX, TOWER,SC		UPU	1	\$ 234.00	\$ 131.00	\$ 131.00	\$ 73.00	\$ 58.00	\$ 58.00
12870960	MED,SRM, FLATOFFSET,25FT,LT	\$ 51.00	\$ 17.00	3C	345		MED,SRM,FLATOFFSET,25FT,LT		UPU	1	\$ 106.00	\$ 59.00	\$ 59.00	\$ 35.00	\$ 28.00	\$ 28.00
15358697	MEDSTATION,ES,AUX,7-DRAWER	\$ 433.00	\$ 42.00	3C	324		MEDSTATION,ES,AUX,7-DRAWER	4	UPN	1	\$ 958.00	\$ 536.00	\$ 536.00	\$ 93.00	\$ 74.00	\$ 74.00
15358691	MEDSTATION,ES,MAIN,6DR	\$ 654.00	\$ 97.00	3C	323	Rx	MEDSTATION,ES,MAIN,6DR	5	UPK	1	\$ 1,301.00	\$ 729.00	\$ 729.00	\$ 215.00	\$ 172.00	\$ 172.00
13818341	MEDSTATION,ES,AUX, TOWER,SC	\$ 116.00	\$ 34.00	3C-2	343		MEDSTATION,ES,AUX, TOWER,SC		UPU	1	\$ 234.00	\$ 131.00	\$ 131.00	\$ 73.00	\$ 58.00	\$ 58.00
15359788	MEDSTATION,ES,AUX,7-DRAWER	\$ 433.00	\$ 42.00	3C-2	324		MEDSTATION,ES,AUX,7-DRAWER	4	UPN	1	\$ 958.00	\$ 536.00	\$ 536.00	\$ 93.00	\$ 74.00	\$ 74.00
15359789	MEDSTATION,ES,MAIN,6DR	\$ 654.00	\$ 97.00	3C-2	323	Rx	MEDSTATION,ES,MAIN,6DR	5	UPK	1	\$ 1,301.00	\$ 729.00	\$ 729.00	\$ 215.00	\$ 172.00	\$ 172.00
13819734	MEDSTATION,ES,AUX, TOWER,SC	\$ 116.00	\$ 34.00	3D	343		MEDSTATION,ES,AUX, TOWER,SC		UPU	1	\$ 234.00	\$ 131.00	\$ 131.00	\$ 73.00	\$ 58.00	\$ 58.00
12870953	MED,SRM, FLATOFFSET,25FT,LT	\$ 51.00	\$ 17.00	3D	345		MED,SRM,FLATOFFSET,25FT,LT		UPU	1	\$ 106.00	\$ 59.00	\$ 59.00	\$ 35.00	\$ 28.00	\$ 28.00
15358695	MEDSTATION,ES,AUX,7-DRAWER	\$ 433.00	\$ 42.00	3D	324		MEDSTATION,ES,AUX,7-DRAWER	4	UPN	1	\$ 958.00	\$ 536.00	\$ 536.00	\$ 93.00	\$ 74.00	\$ 74.00
15358688	MEDSTATION,ES,MAIN,6DR	\$ 654.00	\$ 97.00	3D	323	Rx	MEDSTATION,ES,MAIN,6DR	5	UPK	1	\$ 1,301.00	\$ 729.00	\$ 729.00	\$ 215.00	\$ 172.00	\$ 172.00
13818635	MED,SRM, FLATOFFSET,25FT,LT	\$ 51.00	\$ 17.00	3D-2	345		MED,SRM,SLIMLINE,25FT,LT		UPU	1	\$ 106.00	\$ 59.00	\$ 59.00	\$ 35.00	\$ 28.00	\$ 28.00

Customer Initials: _____



**Customer Order
Product Schedule**

Customer Order : 1000253922

Sold To: KERN MEDICAL CENTER #10043609
Ship To: KERN MEDICAL CENTER #10043609

Support Level: Enhanced

Rental and Support Term: 60 months

GPO: HEALTHTRUST PURCHASING GROUP 1345 1345

The fees stated in this Customer Order are offered by CareFusion for acceptance by the Customer for a period expiring on: 01/23/2024

Current Products				New Products												
Serial Number	Product Name	Monthly Rental Fee		Proposed Location	Product ID	Rx/Prs	Product Name	P.Drws	Tr.Type	QTY	Monthly Rental Fee			Monthly Support Fee		
		Current	Support								List	Net	Extended	List	Net	Extended
13818788	MEDSTATION,ES,AUX,TOWER,SC	\$ 116.00	\$ 34.00	3D-2	343		MEDSTATION,ES,AUX,TOWER,SC		UPU	1	\$ 234.00	\$ 131.00	\$ 131.00	\$ 73.00	\$ 58.00	\$ 58.00
13819732	MEDSTATION,ES,AUX,TOWER,SC	\$ 116.00	\$ 34.00	4B	343		MEDSTATION,ES,AUX,TOWER,SC		UPU	1	\$ 234.00	\$ 131.00	\$ 131.00	\$ 73.00	\$ 58.00	\$ 58.00
12870955	MED,SRM,FLATOFFSET,25FT,LT	\$ 51.00	\$ 17.00	4B	345		MED,SRM,FLATOFFSET,25FT,LT		UPU	1	\$ 106.00	\$ 59.00	\$ 59.00	\$ 35.00	\$ 28.00	\$ 28.00
15358690	MEDSTATION,ES,MAIN,6DR	\$ 625.00	\$ 97.00	4B	323	Rx	MEDSTATION,ES,MAIN,6DR	4	UPK	1	\$ 1,301.00	\$ 729.00	\$ 729.00	\$ 215.00	\$ 172.00	\$ 172.00
12891065	MED,SRM,FLATOFFSET,25FT,LT	\$ 51.00	\$ 17.00	4C	345		MED,SRM,FLATOFFSET,25FT,LT		UPU	1	\$ 106.00	\$ 59.00	\$ 59.00	\$ 35.00	\$ 28.00	\$ 28.00
13570816	MED,SRM,FLATOFFSET,25FT,LT	\$ 51.00	\$ 17.00	4C	345		MED,SRM,SLIMLINE,25FT,LT		UPU	1	\$ 106.00	\$ 59.00	\$ 59.00	\$ 35.00	\$ 28.00	\$ 28.00
15358717	MEDSTATION,ES,MAIN,5-DRW,BIN	\$ 585.00	\$ 97.00	4C	323	Rx	MEDSTATION,ES,MAIN,5DR,BIN	3	UPK	1	\$ 1,301.00	\$ 729.00	\$ 729.00	\$ 215.00	\$ 172.00	\$ 172.00
15359790	MEDSTATION,ES,MAIN,6DR	\$ 596.00	\$ 97.00	4C2	323	Rx	MEDSTATION,ES,MAIN,6DR	3	UPK	1	\$ 1,301.00	\$ 729.00	\$ 729.00	\$ 215.00	\$ 172.00	\$ 172.00
12860431	MED,SRM,FLATOFFSET,25FT,LT	\$ 51.00	\$ 17.00	4CA	345		MED,SRM,FLATOFFSET,25FT,LT		UPU	1	\$ 106.00	\$ 59.00	\$ 59.00	\$ 35.00	\$ 28.00	\$ 28.00
15359781	MEDSTATION,ES,MAIN,6DR	\$ 446.00	\$ 95.00	4CA	323	Rx	MEDSTATION,ES,MAIN,6DR	2	UPK	1	\$ 1,301.00	\$ 729.00	\$ 729.00	\$ 215.00	\$ 172.00	\$ 172.00
15359779	MEDSTATION,ES,MAIN,6DR	\$ 596.00	\$ 97.00	4D	323	Rx	MEDSTATION,ES,MAIN,6DR	3	UPK	1	\$ 1,301.00	\$ 729.00	\$ 729.00	\$ 215.00	\$ 172.00	\$ 172.00
15359783	MEDSTATION,ES,MAIN,6DR	\$ 605.00	\$ 97.00	4DOB	323	Rx	MEDSTATION,ES,MAIN,6DR	3	UPK	1	\$ 1,301.00	\$ 729.00	\$ 729.00	\$ 215.00	\$ 172.00	\$ 172.00
15355691	PYXIS ANESTHESIA SYSTEM ES	\$ 388.00	\$ 90.00	AS1	327		PYXIS ANESTHESIA SYSTEM ES	1	UPK	1	\$ 795.00	\$ 445.00	\$ 445.00	\$ 179.00	\$ 143.00	\$ 143.00
13856866	PYXIS ANESTHESIA SYSTEM ES	\$ 388.00	\$ 90.00	AS2	327		PYXIS ANESTHESIA SYSTEM ES	1	UPU	1	\$ 795.00	\$ 445.00	\$ 445.00	\$ 179.00	\$ 143.00	\$ 143.00
13839672	PYXIS ANESTHESIA SYSTEM ES	\$ 388.00	\$ 90.00	AS3	327		PYXIS ANESTHESIA SYSTEM ES	1	UPU	1	\$ 795.00	\$ 445.00	\$ 445.00	\$ 179.00	\$ 143.00	\$ 143.00
13856869	PYXIS ANESTHESIA SYSTEM ES	\$ 388.00	\$ 90.00	AS4	327		PYXIS ANESTHESIA SYSTEM ES	1	UPU	1	\$ 795.00	\$ 445.00	\$ 445.00	\$ 179.00	\$ 143.00	\$ 143.00
13856865	PYXIS ANESTHESIA SYSTEM ES	\$ 388.00	\$ 90.00	AS5	327		PYXIS ANESTHESIA SYSTEM ES	1	UPU	1	\$ 795.00	\$ 445.00	\$ 445.00	\$ 179.00	\$ 143.00	\$ 143.00
13856870	PYXIS ANESTHESIA SYSTEM ES	\$ 388.00	\$ 90.00	AS6	327		PYXIS ANESTHESIA SYSTEM ES	1	UPU	1	\$ 795.00	\$ 445.00	\$ 445.00	\$ 179.00	\$ 143.00	\$ 143.00
13856867	PYXIS ANESTHESIA SYSTEM ES	\$ 388.00	\$ 90.00	AS7	327		PYXIS ANESTHESIA SYSTEM ES	1	UPU	1	\$ 795.00	\$ 445.00	\$ 445.00	\$ 179.00	\$ 143.00	\$ 143.00
15083014	PYXIS ANESTHESIA SYSTEM ES	\$ 379.00	\$ 90.00	AS8	327		PYXIS ANESTHESIA SYSTEM ES	1	UPK	1	\$ 776.00	\$ 435.00	\$ 435.00	\$ 179.00	\$ 143.00	\$ 143.00

Customer Initials: _____



**Customer Order
Product Schedule**

Customer Order : 1000253922

Sold To: KERN MEDICAL CENTER #10043609
Ship To: KERN MEDICAL CENTER #10043609

Support Level: Enhanced
Rental and Support Term: 60 months

GPO: HEALTHTRUST PURCHASING GROUP 1345 1345

The fees stated in this Customer Order are offered by CareFusion for acceptance by the Customer for a period expiring on: 01/23/2024

Current Products				New Products												
Serial Number	Product Name	Monthly Rental Fee		Proposed Location	Product ID	Rx/Prs	Product Name	P.Drws	Tr.Type	QTY	Monthly Rental Fee			Monthly Support Fee		
		Current	Support								List	Net	Extended	List	Net	Extended
15358701	MEDSTATION,ES,MAIN,5-DRW,BIN	\$ 426.00	\$ 95.00	CHEMO	323		MEDSTATION,ES,MAIN,5DR,BIN	2	UPK	1	\$ 1,039.00	\$ 582.00	\$ 582.00	\$ 210.00	\$ 168.00	\$ 168.00
15358702	MEDSTATION,ES,MAIN,6DR	\$ 437.00	\$ 95.00	CL	323		MEDSTATION,ES,MAIN,6DR	2	UPK	1	\$ 1,039.00	\$ 582.00	\$ 582.00	\$ 210.00	\$ 168.00	\$ 168.00
15358703	MEDSTATION,ES,MAIN,5-DRW,BIN	\$ 435.00	\$ 95.00	CT	323		MEDSTATION,ES,MAIN,5DR,BIN	2	UPK	1	\$ 1,039.00	\$ 582.00	\$ 582.00	\$ 210.00	\$ 168.00	\$ 168.00
15359787	MEDSTATION,ES,AUX,7-DRAWER	\$ 375.00	\$ 42.00	DOU	324		MEDSTATION,ES,AUX,7-DRAWER	2	UPN	1	\$ 958.00	\$ 536.00	\$ 536.00	\$ 93.00	\$ 74.00	\$ 74.00
15358692	MEDSTATION,ES,MAIN,5-DRW,BIN	\$ 585.00	\$ 97.00	DOU	323	Rx	MEDSTATION,ES,MAIN,5DR,BIN	3	UPK	1	\$ 1,301.00	\$ 729.00	\$ 729.00	\$ 215.00	\$ 172.00	\$ 172.00
15359791	MEDSTATION,ES,MAIN,2-DRAWER	\$ 214.00	\$ 95.00	ECHO	323		MEDSTATION,ES,MAIN,2DR	1	UPK	1	\$ 479.00	\$ 268.00	\$ 268.00	\$ 210.00	\$ 168.00	\$ 168.00
15358694	MEDSTATION,ES,AUX,7-DRAWER	\$ 472.00	\$ 42.00	ED	324		MEDSTATION,ES,AUX,7-DRAWER	5	UPU	1	\$ 958.00	\$ 536.00	\$ 536.00	\$ 93.00	\$ 74.00	\$ 74.00
12870957	MED,SRM,FLATOFFSET,25FT,LT	\$ 51.00	\$ 17.00	ED	345		MED,SRM,FLATOFFSET,25FT,LT		UPU	1	\$ 106.00	\$ 59.00	\$ 59.00	\$ 35.00	\$ 28.00	\$ 28.00
15358693	MEDSTATION,ES,AUX,7-DRAWER	\$ 442.00	\$ 42.00	ED	324		MEDSTATION,ES,AUX,7-DRAWER	4	UPN	1	\$ 958.00	\$ 536.00	\$ 536.00	\$ 93.00	\$ 74.00	\$ 74.00
15358683	MEDSTATION,ES,MAIN,5-DRW,BIN	\$ 455.00	\$ 95.00	ED	323		MEDSTATION,ES,MAIN,5DR,BIN	3	UPK	1	\$ 1,039.00	\$ 582.00	\$ 582.00	\$ 210.00	\$ 168.00	\$ 168.00
43336371	Profile Upgrade for Medstation ES	\$ 161.00	\$ 0.00	ED			RETURN TO CAREFUSION		CNL							
15358704	MEDSTATION,ES,MAIN,2-DRAWER	\$ 194.00	\$ 95.00	EDU	323		MEDSTATION,ES,MAIN,2DR		UPK	1	\$ 479.00	\$ 268.00	\$ 268.00	\$ 210.00	\$ 168.00	\$ 168.00
15358686	MEDSTATION,ES,MAIN,5-DRW,BIN	\$ 455.00	\$ 95.00	ENDOS	323		MEDSTATION,ES,MAIN,5DR,BIN	3	UPK	1	\$ 1,039.00	\$ 582.00	\$ 582.00	\$ 210.00	\$ 168.00	\$ 168.00
12859764	MED,SRM,FLATOFFSET,25FT,LT	\$ 51.00	\$ 17.00	FAMILY PRACTICE	345		MED,SRM,FLATOFFSET,25FT,LT		UPU	1	\$ 106.00	\$ 59.00	\$ 59.00	\$ 35.00	\$ 28.00	\$ 28.00
15147840	MEDSTATION,ES,MAIN,2DR	\$ 214.00	\$ 95.00	FAMILY PRACTICE	323		MEDSTATION,ES,MAIN,2DR	1	UPK	1	\$ 479.00	\$ 268.00	\$ 268.00	\$ 210.00	\$ 168.00	\$ 168.00
12870954	MED,SRM,FLATOFFSET,25FT,LT	\$ 51.00	\$ 17.00	FSTRK	345		MED,SRM,FLATOFFSET,25FT,LT		UPU	1	\$ 106.00	\$ 59.00	\$ 59.00	\$ 35.00	\$ 28.00	\$ 28.00
15358705	MEDSTATION,ES,MAIN,6DR	\$ 466.00	\$ 95.00	FSTRK	323		MEDSTATION,ES,MAIN,6DR	3	UPK	1	\$ 1,039.00	\$ 582.00	\$ 582.00	\$ 210.00	\$ 168.00	\$ 168.00
43336372	Profile Upgrade for Medstation ES	\$ 161.00	\$ 0.00	FSTRK			RETURN TO CAREFUSION		CNL							
13838745	MED,SRM,SLIMLINE,25FT,LT	\$ 51.00	\$ 17.00	INTRNL MEDICINE	345		MED,SRM,FLATOFFSET,25FT,LT		UPU	1	\$ 106.00	\$ 59.00	\$ 59.00	\$ 35.00	\$ 28.00	\$ 28.00

Customer Initials: _____



**Customer Order
Product Schedule**

Customer Order : 1000253922

Sold To: KERN MEDICAL CENTER #10043609
Ship To: KERN MEDICAL CENTER #10043609

Support Level: Enhanced

Rental and Support Term: 60 months

GPO: HEALTHTRUST PURCHASING GROUP 1345 1345

The fees stated in this Customer Order are offered by CareFusion for acceptance by the Customer for a period expiring on: 01/23/2024

Current Products				New Products												
Serial Number	Product Name	Monthly Rental Fee		Proposed Location	Product ID	Rx/ Prs	Product Name	P.Drws	Tr.Type	QTY	Monthly Rental Fee			Monthly Support Fee		
		Current	Support								List	Net	Extended	List	Net	Extended
15358706	MEDSTATION,ES,MAIN,2-DRAWER	\$ 223.00	\$ 95.00	INTRNL MEDICINE	323		MEDSTATION,ES,MAIN,2DR	1	UPK	1	\$ 479.00	\$ 268.00	\$ 268.00	\$ 210.00	\$ 168.00	\$ 168.00
42815064	CCE Enterprise SW Site license (2 - 5)	\$ 564.00	\$ 1,164.00	IT DEPT	134562-01		CCE Enterprise SW Site license (2 - 5)		SWR	1	\$ 1,808.00	\$ 1,808.00	\$ 1,808.00	\$ 2,764.00	\$ 2,764.00	\$ 2,764.00
42815066	Hosted Data services OPT IN	\$ 0.01	\$ 0.00	KNOWLEDGE PORTAL	136607-01		Hosted Data Services OPT IN		SWR	1	\$ 0.01	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
12870952	MED,SRM,FLATOFFSET,25FT,LT	\$ 51.00	\$ 17.00	MED SPECIALTY	345		MED,SRM,FLATOFFSET,25FT,LT		UPU	1	\$ 106.00	\$ 59.00	\$ 59.00	\$ 35.00	\$ 28.00	\$ 28.00
12860430	MED,SRM,FLATOFFSET,25FT,LT	\$ 51.00	\$ 17.00	NICU	345		MED,SRM,FLATOFFSET,25FT,LT		UPU	1	\$ 106.00	\$ 59.00	\$ 59.00	\$ 35.00	\$ 28.00	\$ 28.00
15359782	MEDSTATION,ES,MAIN,5-DRW,BIN	\$ 536.00	\$ 97.00	NICU	323	Rx	MEDSTATION,ES,MAIN,5DR, BIN	1	UPK	1	\$ 1,301.00	\$ 729.00	\$ 729.00	\$ 215.00	\$ 172.00	\$ 172.00
14508195	PYXIS ANESTHESIA SYSTEM ES	\$ 379.00	\$ 90.00	OB4B1	327		PYXIS ANESTHESIA SYSTEM ES	1	UPU	1	\$ 776.00	\$ 435.00	\$ 435.00	\$ 179.00	\$ 143.00	\$ 143.00
14508198	PYXIS ANESTHESIA SYSTEM ES	\$ 379.00	\$ 90.00	OB4B2	327		PYXIS ANESTHESIA SYSTEM ES	1	UPU	1	\$ 776.00	\$ 435.00	\$ 435.00	\$ 179.00	\$ 143.00	\$ 143.00
13119466	MED,SRM,FLATOFFSET,25FT,LT	\$ 51.00	\$ 17.00	OBGYN	345		MED,SRM,FLATOFFSET,25FT,LT		UPU	1	\$ 106.00	\$ 59.00	\$ 59.00	\$ 35.00	\$ 28.00	\$ 28.00
12864519	MED,SRM,FLATOFFSET,25FT,LT	\$ 51.00	\$ 17.00	OBGYN	345		MED,SRM,FLATOFFSET,25FT,LT		UPU	1	\$ 106.00	\$ 59.00	\$ 59.00	\$ 35.00	\$ 28.00	\$ 28.00
15358707	MEDSTATION,ES,MAIN,2-DRAWER	\$ 194.00	\$ 95.00	OBGYN	323		MEDSTATION,ES,MAIN,2DR		UPK	1	\$ 479.00	\$ 268.00	\$ 268.00	\$ 210.00	\$ 168.00	\$ 168.00
13129326	MED,SRM,FLATOFFSET,25FT,LT	\$ 51.00	\$ 17.00	OR	345		MED,SRM,FLATOFFSET,25FT,LT		UPU	1	\$ 106.00	\$ 59.00	\$ 59.00	\$ 35.00	\$ 28.00	\$ 28.00
15358708	MEDSTATION,ES,MAIN,5-DRW,BIN	\$ 455.00	\$ 95.00	OR	323		MEDSTATION,ES,MAIN,5DR, BIN	3	UPK	1	\$ 1,039.00	\$ 582.00	\$ 582.00	\$ 210.00	\$ 168.00	\$ 168.00
15359786	MEDSTATION,ES,AUX,7-DRAWER	\$ 404.00	\$ 42.00	OR	324		MEDSTATION,ES,AUX,7-DRAWER	3	UPN	1	\$ 958.00	\$ 536.00	\$ 536.00	\$ 93.00	\$ 74.00	\$ 74.00
15358709	MEDSTATION,ES,MAIN,6DR	\$ 567.00	\$ 97.00	PACU	323	Rx	MEDSTATION,ES,MAIN,6DR	2	UPK	1	\$ 1,301.00	\$ 729.00	\$ 729.00	\$ 215.00	\$ 172.00	\$ 172.00
12864518	MED,SRM,FLATOFFSET,25FT,LT	\$ 51.00	\$ 17.00	PEDCL	345		MED,SRM,FLATOFFSET,25FT,LT		UPU	1	\$ 106.00	\$ 59.00	\$ 59.00	\$ 35.00	\$ 28.00	\$ 28.00
8000098226	MED,RM,FLATOFFSET,25FT,LT	\$ 41.00	\$ 17.00	PHARMACY	345		MED,RM,FLATOFFSET,25FT		UPU	1	\$ 83.00	\$ 46.00	\$ 46.00	\$ 35.00	\$ 28.00	\$ 28.00
15356958	CIISAFE,V7.X,DBL INTG MAIN,BIO,SOLID DO	\$ 764.00	\$ 94.00	PHARMACY	1116-00		CII Safe ES,MAIN,DBL,0 CUBIE B		UPU	1	\$ 2,470.00	\$ 1,383.00	\$ 1,383.00	\$ 165.00	\$ 132.00	\$ 132.00
43017985	Flex Matrix Drawer	\$ 0.01	\$ 0.00	PHARMACY			RETURN TO CAREFUSION		CNL							

Customer Initials: _____



**Customer Order
Product Schedule**

Customer Order : 1000253922

Sold To: KERN MEDICAL CENTER #10043609
Ship To: KERN MEDICAL CENTER #10043609

Support Level: Enhanced

Rental and Support Term: 60 months

GPO: HEALTHTRUST PURCHASING GROUP 1345 1345

The fees stated in this Customer Order are offered by CareFusion for acceptance by the Customer for a period expiring on: 01/23/2024

Current Products				New Products												
Serial Number	Product Name	Monthly Rental Fee		Proposed Location	Product ID	Rx/Prs	Product Name	P.Drws	Tr.Type	QTY	Monthly Rental Fee			Monthly Support Fee		
		Current	Support								List	Net	Extended	List	Net	Extended
42815065	Enterprise User/Form Mgmt Lic 41-60Mains	\$ 879.00	\$ 368.00	PHARMACY			RETURN TO CAREFUSION		CNL							
13819729	CIISAFE, TALL DBL AUX, SOLID DOORS	\$ 172.00	\$ 34.00	PHARMACY-CIISAFE	1117-00		CII Safe ES,AUX,DBL,0 CUBIE BA		UPU	1	\$ 480.00	\$ 269.00	\$ 269.00	\$ 61.00	\$ 49.00	\$ 49.00
15358711	MEDSTATION,ES,MAIN,6DR	\$ 466.00	\$ 95.00	PREOP	323		MEDSTATION,ES,MAIN,6DR	3	UPK	1	\$ 1,039.00	\$ 582.00	\$ 582.00	\$ 210.00	\$ 168.00	\$ 168.00
15358698	MEDSTATION,ES,MAIN,6DR	\$ 654.00	\$ 97.00	SERVER	323	Rx	MEDSTATION,ES,MAIN,6DR	5	UPK	1	\$ 1,301.00	\$ 729.00	\$ 729.00	\$ 215.00	\$ 172.00	\$ 172.00
15358696	MEDSTATION,ES,AUX,7-DRAWER	\$ 442.00	\$ 42.00	SICU	324		MEDSTATION,ES,AUX,7-DRAWER	4	UPN	1	\$ 958.00	\$ 536.00	\$ 536.00	\$ 93.00	\$ 74.00	\$ 74.00
15358718	MEDSTATION,ES,MAIN,6DR	\$ 654.00	\$ 97.00	SICU	323	Rx	MEDSTATION,ES,MAIN,6DR	5	UPK	1	\$ 1,301.00	\$ 729.00	\$ 729.00	\$ 215.00	\$ 172.00	\$ 172.00
12860429	MED,SRM,FLATOFFSET,25FT,LT	\$ 51.00	\$ 17.00	SICU	345		MED,SRM,FLATOFFSET,25FT,LT		UPU	1	\$ 106.00	\$ 59.00	\$ 59.00	\$ 35.00	\$ 28.00	\$ 28.00
12870959	MED,SRM,FLATOFFSET,25FT,LT	\$ 51.00	\$ 17.00	SICU	345		MED,SRM,FLATOFFSET,25FT,LT		UPU	1	\$ 106.00	\$ 59.00	\$ 59.00	\$ 35.00	\$ 28.00	\$ 28.00
13819731	MEDSTATION,ES,AUX,TOWER,SC	\$ 116.00	\$ 34.00	SICU	343		MEDSTATION,ES,AUX,TOWER,SC		UPU	1	\$ 234.00	\$ 131.00	\$ 131.00	\$ 73.00	\$ 58.00	\$ 58.00
15358712	MEDSTATION,ES,MAIN,2-DRAWER	\$ 194.00	\$ 95.00	SURCL	323		MEDSTATION,ES,MAIN,2DR		UPK	1	\$ 479.00	\$ 268.00	\$ 268.00	\$ 210.00	\$ 168.00	\$ 168.00
15359784	MEDSTATION,ES,MAIN,2-DRAWER	\$ 353.00	\$ 97.00	TEST	323	Rx	MEDSTATION,ES,MAIN,2DR	1	UPK	1	\$ 741.00	\$ 415.00	\$ 415.00	\$ 215.00	\$ 172.00	\$ 172.00
13838742	MED,SRM,SLIMLINE,25FT,LT	\$ 51.00	\$ 17.00	TRAU1	345		MED,SRM,FLATOFFSET,25FT,LT		UPU	1	\$ 106.00	\$ 59.00	\$ 59.00	\$ 35.00	\$ 28.00	\$ 28.00
12870956	MED,SRM,FLATOFFSET,25FT,LT	\$ 51.00	\$ 17.00	TRAU1	345		MED,SRM,FLATOFFSET,25FT,LT		UPU	1	\$ 106.00	\$ 59.00	\$ 59.00	\$ 35.00	\$ 28.00	\$ 28.00
15358714	MEDSTATION,ES,MAIN,5-DRW,BIN	\$ 426.00	\$ 95.00	TRAU1	323		MEDSTATION,ES,MAIN,5DR,BIN	2	UPK	1	\$ 1,039.00	\$ 582.00	\$ 582.00	\$ 210.00	\$ 168.00	\$ 168.00
12860434	MED,SRM,FLATOFFSET,25FT,LT	\$ 51.00	\$ 17.00	TRAUM	345		MED,SRM,FLATOFFSET,25FT,LT		UPU	1	\$ 106.00	\$ 59.00	\$ 59.00	\$ 35.00	\$ 28.00	\$ 28.00
13819733	MEDSTATION,ES,AUX,TOWER,SC	\$ 116.00	\$ 34.00	TRAUM	343		MEDSTATION,ES,AUX,TOWER,SC		UPU	1	\$ 234.00	\$ 131.00	\$ 131.00	\$ 73.00	\$ 58.00	\$ 58.00
15358715	MEDSTATION,ES,MAIN,5-DRW,BIN	\$ 455.00	\$ 95.00	TRAUM	323		MEDSTATION,ES,MAIN,5DR,BIN	3	UPK	1	\$ 1,039.00	\$ 582.00	\$ 582.00	\$ 210.00	\$ 168.00	\$ 168.00
15358716	MEDSTATION,ES,MAIN,5-DRW,BIN	\$ 435.00	\$ 95.00	X-RAY	323		MEDSTATION,ES,MAIN,5DR,BIN	2	UPK	1	\$ 1,039.00	\$ 582.00	\$ 582.00	\$ 210.00	\$ 168.00	\$ 168.00
		\$ 28,877.02	\$ 6,975.00										\$ 36,549.00			\$ 12,635.00

Customer Initials: _____

Total Monthly Rental & Support Fee:

One-Time Fees:

All fees mentioned are in USD



Sold To: KERN MEDICAL CENTER #10043609
Ship To: KERN MEDICAL CENTER #10043609

Customer Order
Product Schedule
Customer Order : 1000253922

Shipping/Install products		
Product ID	Product Description	Product Net Price
139401-01	Dispensing Freight Fee	\$ 11,000.00
Total:		\$ 11,000.00

Customer Initials: _____



Customer Order Attachment Credit

This Customer Order Attachment (“Attachment”) applies to Customer Order Number 1000253922 (the “Customer Order”). This Attachment does not apply to any other Product under the Master Agreement, dated November 15, 2017, between the Parties or any other customer order.

1. Credit. Within thirty (30) days from the Term Begin Date stated in the Implementation Timeline (“Term Begin Date”), CareFusion will issue a rebate to Customer in the form of a credit (“Credit”) in an amount determined in accordance with Section 1.1, below (the “Credit Amount”), in consideration of and provided that Customer meets the conditions identified in Section 1.2, below (the “Credit Conditions”).

1.1 Credit Amount. The Customer’s Target Credit Amount is two hundred ninety thousand dollars (\$290,000) (the “Target Credit Amount”). The Credit Amount actually earned by Customer is calculated as the Target Credit Amount multiplied by the ratio of the Contract Value of the Products Accepted by Customer as of the Term Begin Date to the total Contract Value of the Customer Order as of the Term Begin Date (such ratio being the “Percent of Installation Complete”). The Credit Amount shall be zero dollars (\$0) if the Percent of Installation Complete is less than seventy percent (70%) as of the Term Begin Date. For purposes of this Section, the “Contract Value” of lease agreements shall mean the net Monthly Rental Fee for each Product multiplied by the total number of months in the Rental Term and, for purchase agreements, shall mean the net purchase price for each Product as stated in the Product Schedule attached hereto. A Product will be considered “Accepted” when Customer has indicated its agreement that the Product was properly installed by executing the Equipment Confirmation Form provided by CareFusion. See the table below for example calculations of a Credit Amount:

Target Credit Amount	Total Contract Value of Customer Order as of Term Begin Date	Contract Value of Products Accepted by Customer as of Term Begin Date	Percent of Installation Complete	Credit Amount Earned
\$100,000	\$1,000,000	\$650,000	65%	\$0
\$100,000	\$1,000,000	\$700,000	70%	\$70,000
\$100,000	\$1,000,000	\$850,000	85%	\$85,000
\$100,000	\$1,000,000	\$1,000,000	100%	\$100,000

1.2 Credit Conditions. For Customer to earn a Credit per this Attachment, Customer must meet the following conditions:

- (a) Customer shall not be subject to a CareFusion credit hold or accounts payable escalation process, or in default or breach under any agreement between the Parties; and
- (b) Customer shall have Accepted at least seventy percent (70%) of the Products on or before the Term Begin Date.

1.3 Use of Credit. The Credit will be used by Customer within twelve (12) months from the date of issuance and shall be applied toward any obligation for CareFusion products and/or associated services rendered to Customer by CareFusion.

1.4 Lease Agreements: Credit Repayment Period. For purposes of this Section 1.4, the Credit Repayment Period for a Customer Order that is a lease agreement (“Lease Agreement”) is thirty-six (36) months from the Term Begin Date. If a Lease Agreement is terminated prior to the one (1) year anniversary of the Term Begin Date, then Customer shall repay the Credit Amount to CareFusion in full. If the Lease Agreement terminates between the first agreement anniversary and the third agreement anniversary, then Customer will repay CareFusion an amount equal to the Credit Amount multiplied by a fraction, the numerator of which is the number of full months remaining in the



Customer Order Attachment Credit

Credit Repayment Period at the time of termination and the denominator of which is the total number of months in the Credit Repayment Period (i.e., Repayment Amount = Remaining Months of Credit Repayment Period/ 36 x Credit Amount). If the Lease Agreement terminates after the end of the Credit Repayment Period, Customer will not be required to repay any portion of the Credit.

1.5 Proper Reporting of Discounts and Pricing. The prices under this Customer Order may reflect “discounts or other reduction in price” as that term is used in the “safe harbor” regulations in the Medicare/Medicaid Anti-Kickback Statute, 42 C.F.R. § 1001.952(h). The parties hereto shall: (i) comply with all applicable laws and regulations relating to the accounting, application, and proper reporting of discounts and pricing under this Customer Order, including but not limited to the requirements of the discount “safe harbor” located at 42 C.F.R. § 1001.952(h); (ii) properly report and appropriately reflect all prices paid under this Customer Order net of all discounts as required by applicable laws and regulations, including but not limited to on Medicare, Medicaid and state agency cost reports; and (iii) retain a copy of this Customer Order and all other documentation regarding this Customer Order, together with the invoices for the products hereunder and shall permit representatives of the U.S. Department of Health & Human Services or any relevant state agency access to such records upon request.

Each person signing below represents that he/she intends, and has the authority, to bind his/her respective Party to this Customer Order Attachment.

**KERN MEDICAL CENTER
#10043609**

CAREFUSION SOLUTIONS, LLC

Notice Address:

1700 Mount Vernon Ave
Bakersfield. CA 93306-4018

Notice Address:

3750 Torrey View Court
San Diego, CA 92130

State of Incorporation: _____

State of Incorporation: Delaware

By: _____

By: _____

Print: _____

Print: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM:
Legal Services Department

By Phillip Jenkins
Kern County Hospital Authority



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

November 15, 2023

Subject: Proposed recommendation to Kern County Board of Supervisors to appoint candidate Candace B. Neal, to the Kern County Hospital Authority Board of Governors to fill the community at large member vacancy created by the resignation of Raji Brar, term to expire June 30, 2024

Recommended Action: Make Recommendation; Refer to Kern County Board of Supervisors to Make Appointment

Summary:

Kern Medical has received one application for a candidate to fill the community at large member vacancy on your Board created by the resignation of Raji Brar, effective July 31, 2023. The candidate is:

Candace B. Neal – Ms. Neal is a resident of Bakersfield. She has extensive community involvement and has been employed with Schools Legal Service - Kern County Superintendent of Schools since 2020. She is a graduate of the and University of California, Berkeley, and holds a Juris Doctor and Bachelor of Arts degree. According to her application, she meets specific qualifications to serve on the Board of Governors including: 1) knowledge of human resources in large organizations, 2) an understanding of budgeting process, revenue cycle, financial reports and basic accounting principles, and 3) experience in advocating for safety net populations including, but not limited to, the pursuit of public funding for the delivery of healthcare services. Her resume and application are attached; result of the background check are pending.

The hospital authority Bylaws for Governance provides that your Board may make a recommendation to the Board of Supervisors from the pool of candidates to fill the vacancy.

Therefore, it is recommended that your Board recommend that Ms. Neal be appointed to fill the vacancy, and refer the recommendation to the Kern County Board of Supervisors to make the appointment.

CANDACE BREANA NEAL

(510) 717-7292 | candaceneal@gmail.com

EDUCATION

University of California, Berkeley, School of Law

Juris Doctor, May 2012

Activities: Editor, *Berkeley Journal of African-American Law & Policy*; Co-President, Boalt Hall Student Association; Law Clerk, Field Placement at Egyptian Initiative for Personal Rights in Cairo, Egypt; Regional Corporate Relations Director, Black Law Student Association (Western Region)

Honors: Recipient, Graduate Diversity Program Fellowship (highest financial award offered at Berkeley Law); Recipient, Charles Houston Bar Association Student Achievement Award

University of California, Berkeley

Bachelor of Arts, Social Welfare, May 2007; Minors: Education & African American Studies

Activities: Chaplain, Alpha Kappa Alpha Sorority, Inc.; Black Pre-Law Society; Counselor, Cal Camp for Disadvantaged Youth; Mentor, National Council of Negro Women; Student Teacher, Cal READS

EXPERIENCE

Schools Legal Service, Kern County Superintendent of Schools

March 2020 - Present

Senior Associate Counsel, Bakersfield, CA

- Serve over 60 client school districts in business and construction law, including public works bidding, acquisition and disposition of surplus property, emergency repairs, CUPCCAA, procurement of goods and services, and prelitigation disputes resolution
- Deliver client education on school business and construction law topics including public bidding, public records, student data privacy, pupil fees, facilities upgrades, surplus personal property and surplus real property

Manatt, Phelps & Phillips LLP

Real Estate Associate, San Francisco, CA

January 2019– March 2020

- Composed, negotiated and reviewed commercial leasing transaction documents for major retail clients
- Drafted purchase and sale documents, conducted due diligence reviews and oversaw acquisitions and dispositions
- Drafted and negotiated loan documents, including counsel opinion letters for developer clients

Wendel, Rosen, Black & Dean LLP

Real Estate Associate, Oakland, CA

September 2017–December 2018

- Drafted purchase and sale agreements, including title review, due diligence and contract assignments
- Prepared financing documents, including promissory notes, loan agreements and deeds of trust
- Drafted letters of intent, leases, licenses, work letters, amendments and extensions, estoppel certificates and SNDAs
- Served as intergroup advisor to Land Use, Estate Planning, Cannabis and Construction practice groups, including drafting leases, development agreements, deeds, and other real estate documents

Reed Smith LLP

Real Estate Associate, San Francisco, CA

October 2015–September 2017

- Represented clients in commercial and residential real estate transactions
- Drafted purchase and sale agreements, leases and subleases, and AIA and other construction documents
- Worked in-house with retail client to draft leases, negotiate settlements and initiate litigation related commercial tenant and owner disputes

Litigation Associate, Los Angeles, CA and San Francisco, CA

January 2013–September 2015

- Practice included consumer litigation and defending financial institutions in the mortgage lending industry
- Litigated complex business disputes including breach of contract, unfair competition, negligence, business torts involving interference with contract, fraud, breach of fiduciary duty, violation of the Real Estate Settlement Procedures Act, and violation of the recently enacted California Homeowner Bill of Rights

PROFESSIONAL AFFILIATIONS

Attorney, California Bar No. 288587
Broker, California BRE, No. 02015351

Commissioner, Bakersfield City Planning
Member, Kern County Bar Association
Member, Pre-Law Advisory Committee, California State University, Bakersfield

Kern County Hospital Authority Board of Governors

APPLICATION

APPLICATION DEADLINE: Open

Applications must be received by this deadline at the address listed below on the application.

Please fill out all information on this form, print clearly using blue ink only. If you have questions, please call (661) 326-2102.

Mail or deliver your completed application to:

Kern County Hospital Authority
ATTN: Chief Executive Officer
1700 Mount Vernon Avenue, Room 1232
Bakersfield, CA 93306

Neal Candace B
Last Name First Name Middle Initial
1905 Village Oak Ct Bakersfield, CA 93311
Home Address City State Zip Code

Home Phone Cell Phone
Commissioner candace@gmail.com (510) 717-7292
Email Address (Required)

Schools Legal Service-KCSOS Senior Associate Counsel
Employer Title Work Phone
1300 17th Street Bakersfield Ca 93301
Employer Address City State Zip Code

BOARD OF GOVERNORS QUALIFICATION CATEGORIES

I meet the following Board of Governors specific qualification categories (mark all that apply):

- Knowledge of healthcare delivery systems
- Knowledge of healthcare policy and regulatory issues as well as current and projected healthcare trends
- Knowledge of human resources in large organizations
- An understanding of budgeting process, revenue cycle, financial reports and basic accounting principles
- Experience with managing hospital services and understanding of the healthcare needs of the Kern County Hospital Authority's patient populations
- Experience in advocating for safety net populations including, but not limited to, the pursuit of public funding for the delivery of healthcare services

APPLICANT RESPONSIBILITIES

I understand that by submitting this application:

1. I am a full-time resident of the County of Kern and at least 18 years of age;
2. I agree to participate as a Member of the Kern County Hospital Authority Board of Governors;
3. I am willing to provide authorization to the Kern County Hospital Authority to conduct necessary background checks;
4. I have submitted with this Application a current resume or curriculum vitae; and
5. I agree to comply with the laws of the state of California as they pertain to conflicts of interest.

Applicant Signature

Date

11/8/23



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

November 15, 2023

Subject: Kern County Hospital Authority Chief Financial Officer Report – September 2023

Recommended Action: Receive and File

Summary:

Kern Medical Operations:

Kern Medical key performance indicators:

- Operating gain of \$96,375 for September is \$84,093 more than the September budget of \$12,282 and \$12,409 less than the \$108,784 average over the last three months
- EBIDA of \$1,746,950 for September is \$631,297 more than the September budget of \$1,115,652 and \$191,057 more than the \$1,555,893 average over the last three months
- Average Daily Census of 163 for September is 1 more than the September budget of 162 and 1 less than the 164 average over the last three months
- Admissions of 703 for September are 102 less than the September budget of 805 and 50 less than the 753 average over the last three months
- Total Surgeries of 501 for September are 3 more than the September budget of 498 and 1 more than the 500 average over the last three months
- Clinic Visits of 17,664 for September are 1,715 more than the September budget of 15,949 and 120 more than the 17,544 average over the last three months. The total includes 12 COVID-19 vaccination visits

The following items have budget variances for the month of September 2023:

Patient Revenue:

For gross patient revenue, there is a 10% favorable budget variance for the month and a 6% favorable variance year-to-date. The large variance is mainly due to a 3.2% charge master price increase that became effective on July 1, 2023. Kern Medical expects strong patient census levels and consistently high gross patient revenue for FY 2024.

Indigent Funding Revenue:

Indigent funding has a favorable budget variance for the month and on a year-to-date basis due to the recognition of additional prior year Quality Improvement Program (QIP) funding. A favorable change in estimate for this program is based on achieving 100% of the designated quality goals per the current performance report for the program.

Other Operating Revenue:

Kern Medical is under budget for other operating revenue for the month and on a year-to-date basis. Items such as medical education funding, grants, and Proposition 56 funding are received quarterly or otherwise periodically. Therefore, actual monthly revenue compared to the budget will fluctuate throughout the year.

Other Non-Operating Revenue:

Other non-operating revenue is reported as expected per budget for the month. On a year-to-date basis, there is a favorable budget variance due to the receipt of \$64 thousand of COVID-19 employee retention funds in July 2023. The COVID-19 retention bonuses were paid out to employees in July and were included in salaries expense.

Salaries Expense:

Salaries expense is \$3.9 million over budget on a year-to-date basis because of several factors including:

- Decrease in nurse registry expense accounts for a corresponding increase in salary expense for nursing.
- Patient census and corresponding patient days are 5% higher than plan, accounting for approximately \$1.5 million of salary increase.
- Management and administrative positions previously filled by Meridian Healthcare Partners and by Cantu Management were hired by Kern Medical and became full-time employees of the hospital. These staff members fill the same administrative and management positions as before, but now as salaried employees of Kern Medical. This shift in personnel accounts for approximately \$870 thousand of the budget variance for salaries expense.

Nurse Registry Expense:

Nurse registry expense is 2% under budget for the month and 13% under budget year-to-date. Kern Medical has substantially decreased its usage of contract nurse services. In addition, the hourly rates charged by the staffing agencies that provide registry nurse services are significantly lower than at various COVID-related peaks. Staffing agencies were charging higher than average costs per hour due to high demand for nursing staff during the pandemic. Kern Medical plans to continue its need for registry services as appropriate to staff for patient needs.

Medical Fees:

Medical fees are 8% over budget for the month and on a year-to-date basis because of higher-than-average monthly fees paid to Regional Anesthesia Associates and to Acute Care Surgery Medical Group.

Other Professional Fees:

Other professional fees have a budget variance of \$871.5 thousand for the month. Prior to September 2023, Kern Medical's administrative and management positions were filled by Meridian Healthcare Partners and Cantu Management Group. These Meridian and Cantu positions were hired by Kern Medical and became full-time employees of the hospital. These staff members fill the same administrative and management positions as before, but now as salaried employees of Kern Medical. On a year-to-date basis, other professional fees are at the budgeted dollar amount. In August 2023, an \$850 thousand termination fee was paid to Meridian Healthcare Partners, Inc. as part of an agreement to end management services, effective August 31, 2023. This offsets the month-to-date variance for September.

Supplies Expense:

For the month of September, Kern Medical operated at the budgeted dollar amount for supplies expense. On a year-to-date basis, supplies expense is under budget due to lower-than-average costs for pharmaceuticals and for general medical supplies.

Purchased Services:

Purchased services are slightly under budget for the month because of an over accrual in the prior month for out-of-network health care services costs from outside providers for Kern Medical patients. On a year-to-date basis, actual expenses for this line item are at the budgeted dollar amount.

Other Expenses:

Kern Medical operated at the budgeted dollar amount for other expenses during the month of September and has operated at budget year-to-date for this line item.

Interest Expense:

Interest expense is over budget month-to-date and year-to-date due to higher than anticipated certificate of participation (COP) bond interest. In addition, a change in the treatment of accounting for leases under GASB 87 was implemented in 2022 and requires leases to be set up as assets at fair market value and amortized over time. Corresponding right-of-use liabilities are also set up for leases with applicable interest expense accrued. The net effect of the implementation of GASB 87 is minimal. The decrease in lease expense under the other expenses section of the income statement is offset by increases in amortization expense and in interest expense.

Depreciation and Amortization Expense:

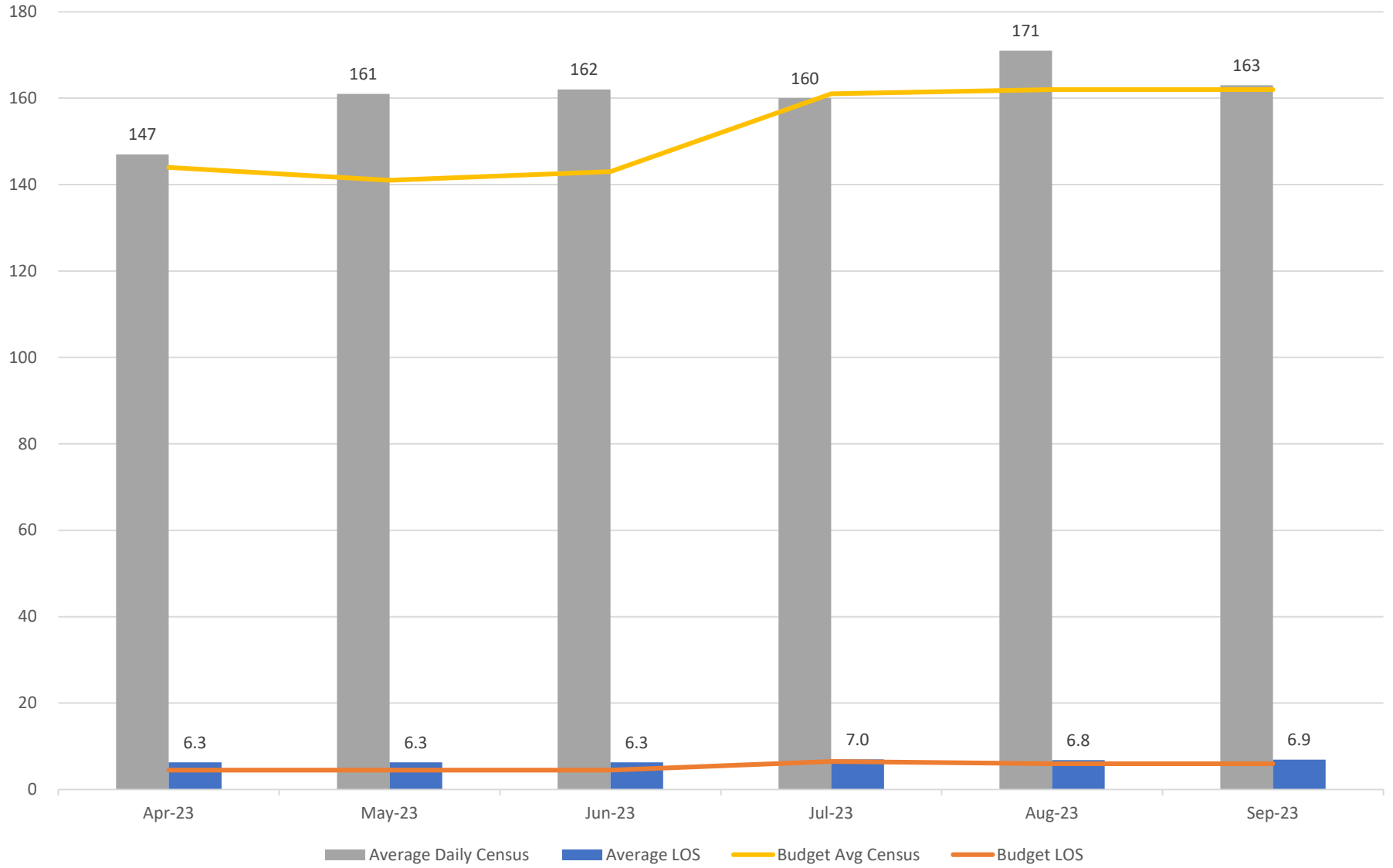
Depreciation and amortization expenses are over budget for the month and on a year-to-date basis because of the implementation of GASB 87. Please see the interest expense section of this memo for an explanation of how leases are accounted for under GASB 87 and how it may affect amortization expense.



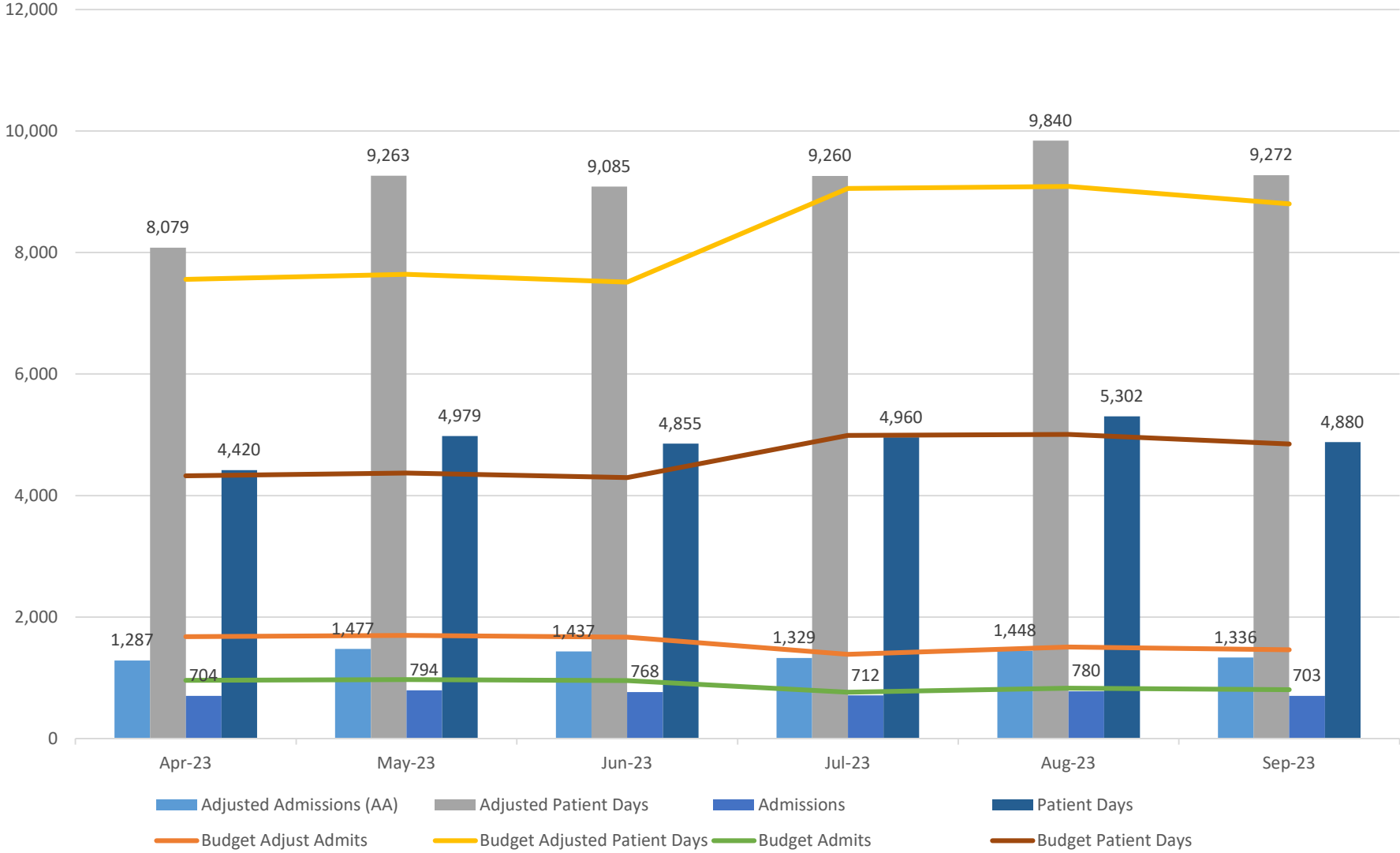
**BOARD OF GOVERNORS' REPORT
KERN MEDICAL – SEPTEMBER 2023**



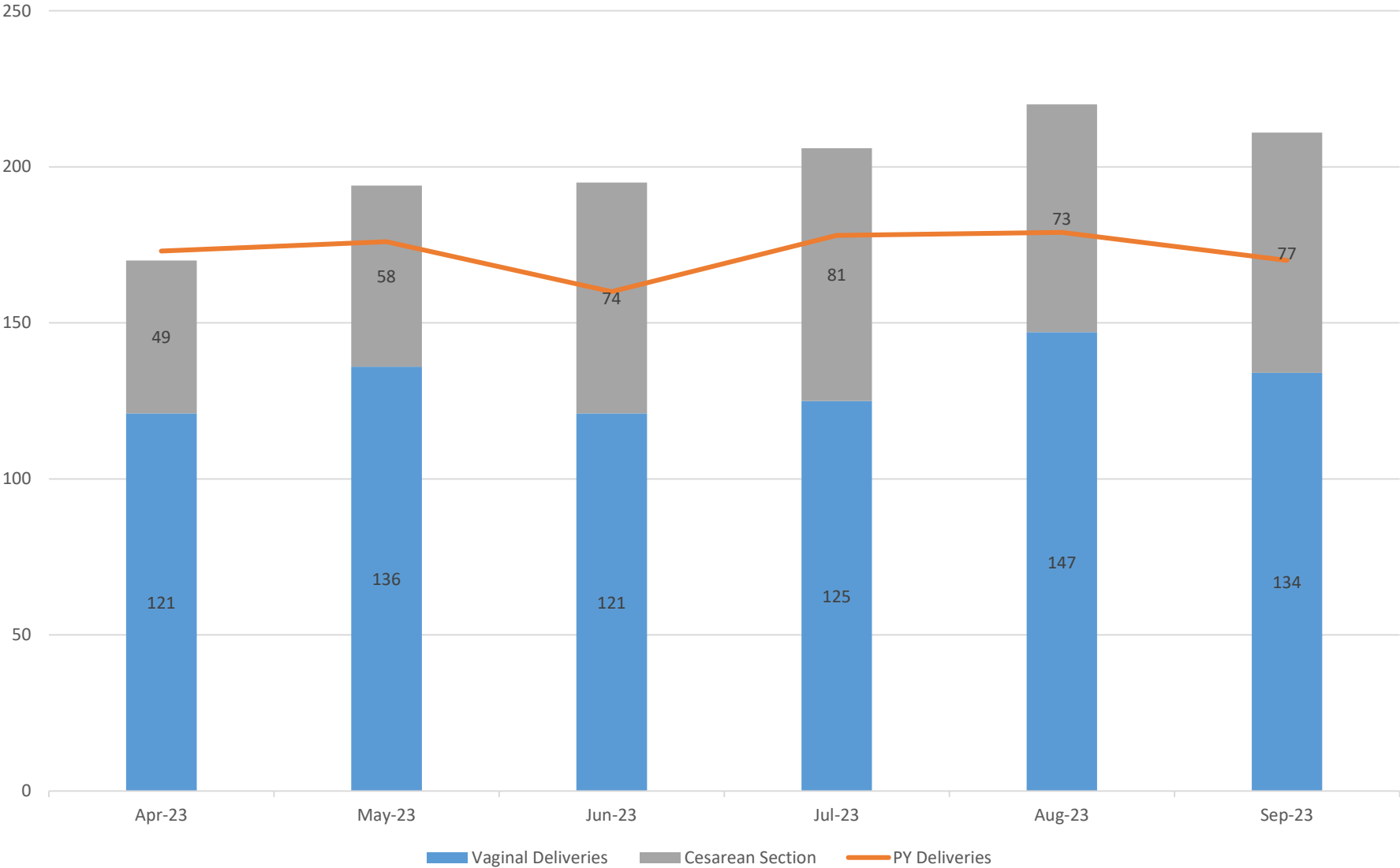
Census & ALOS



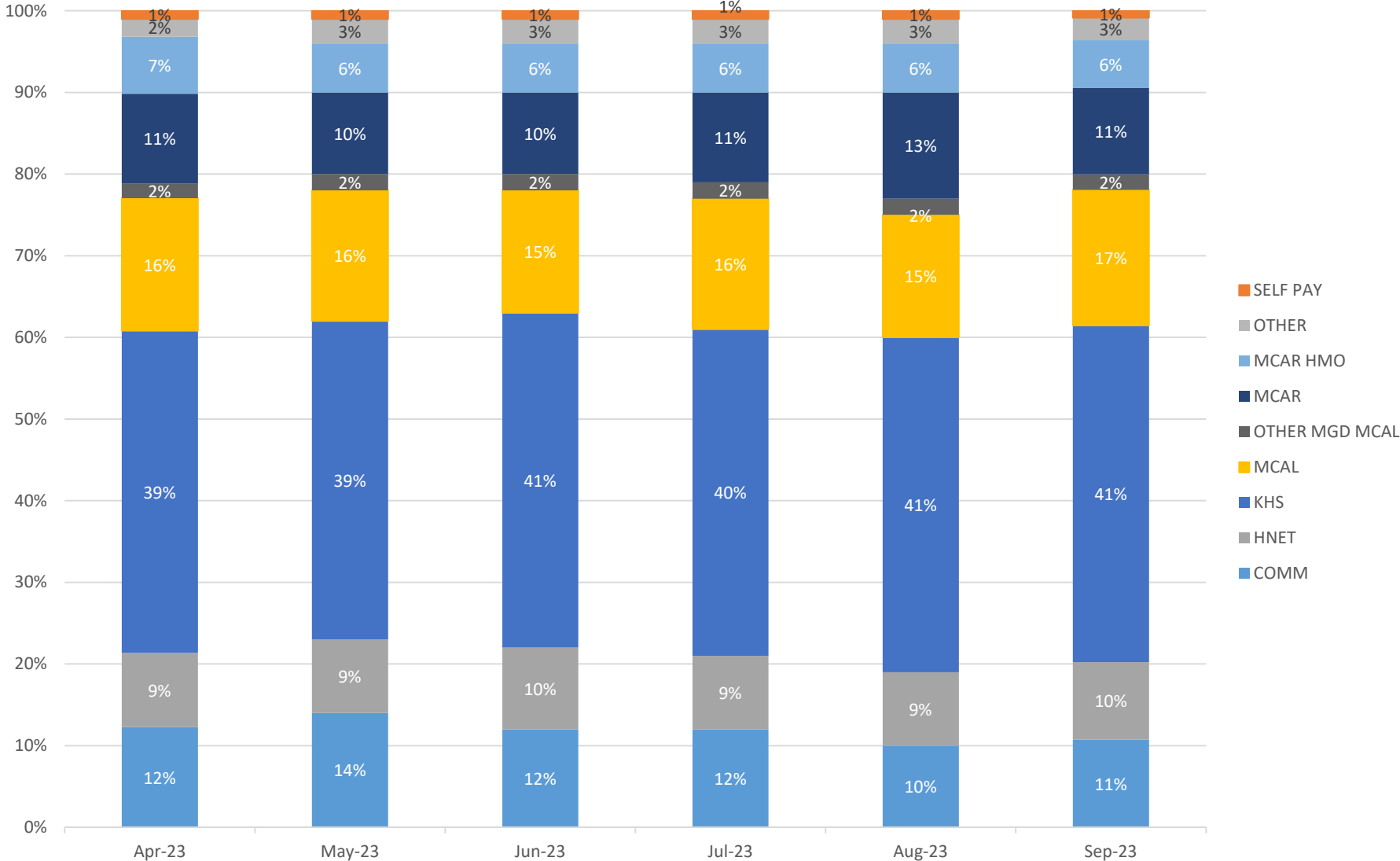
Hospital Volumes



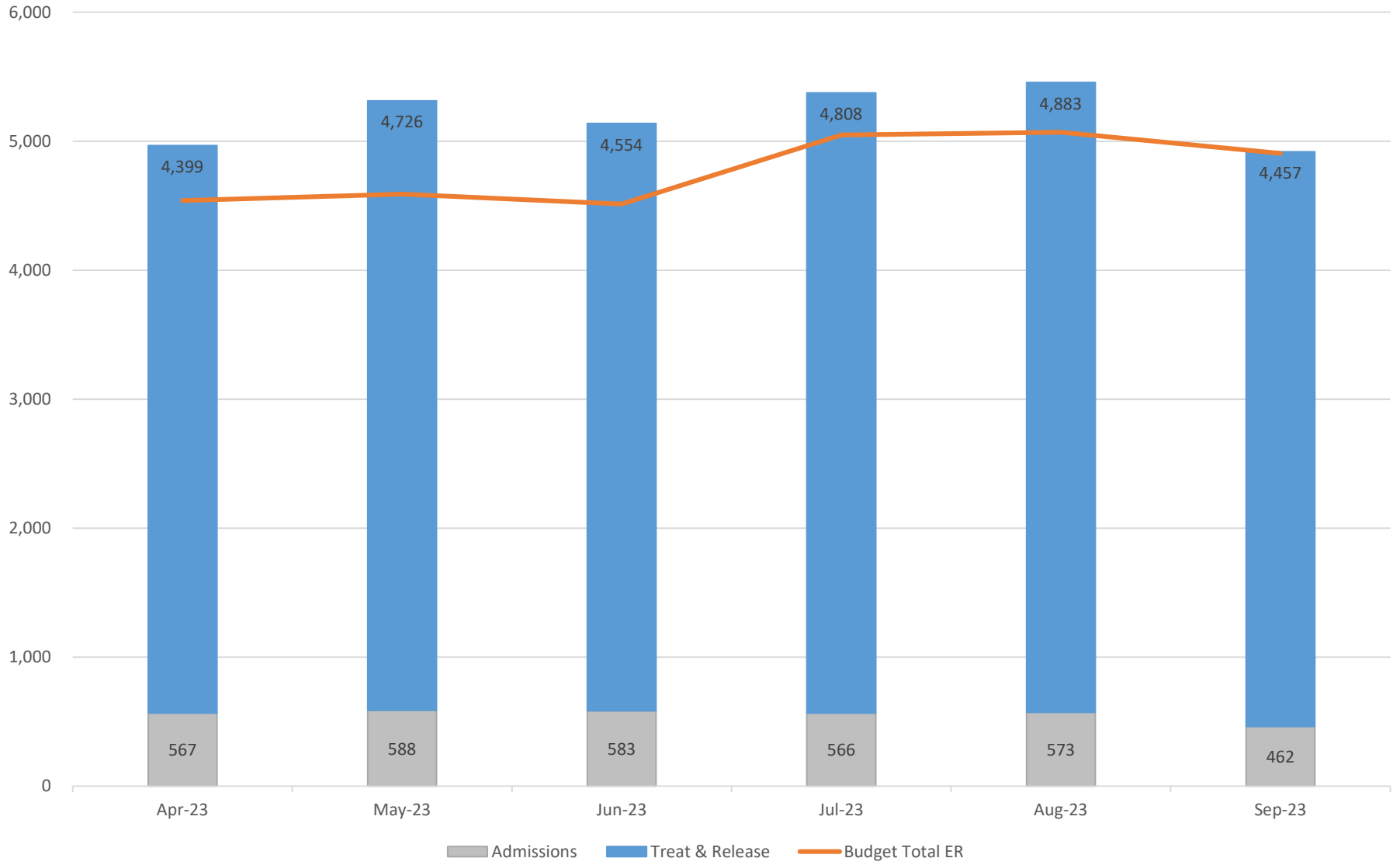
Deliveries



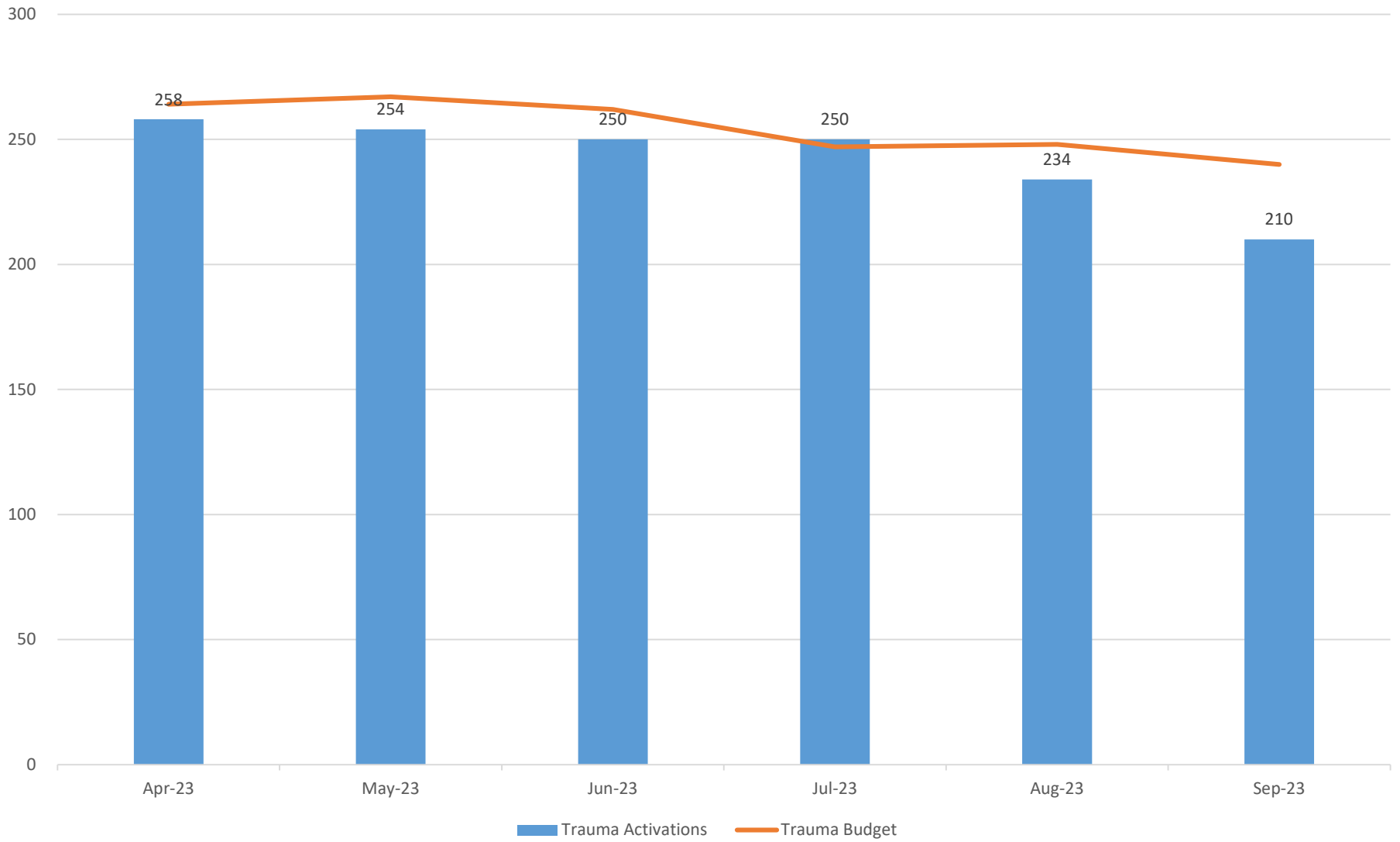
PAYER MIX



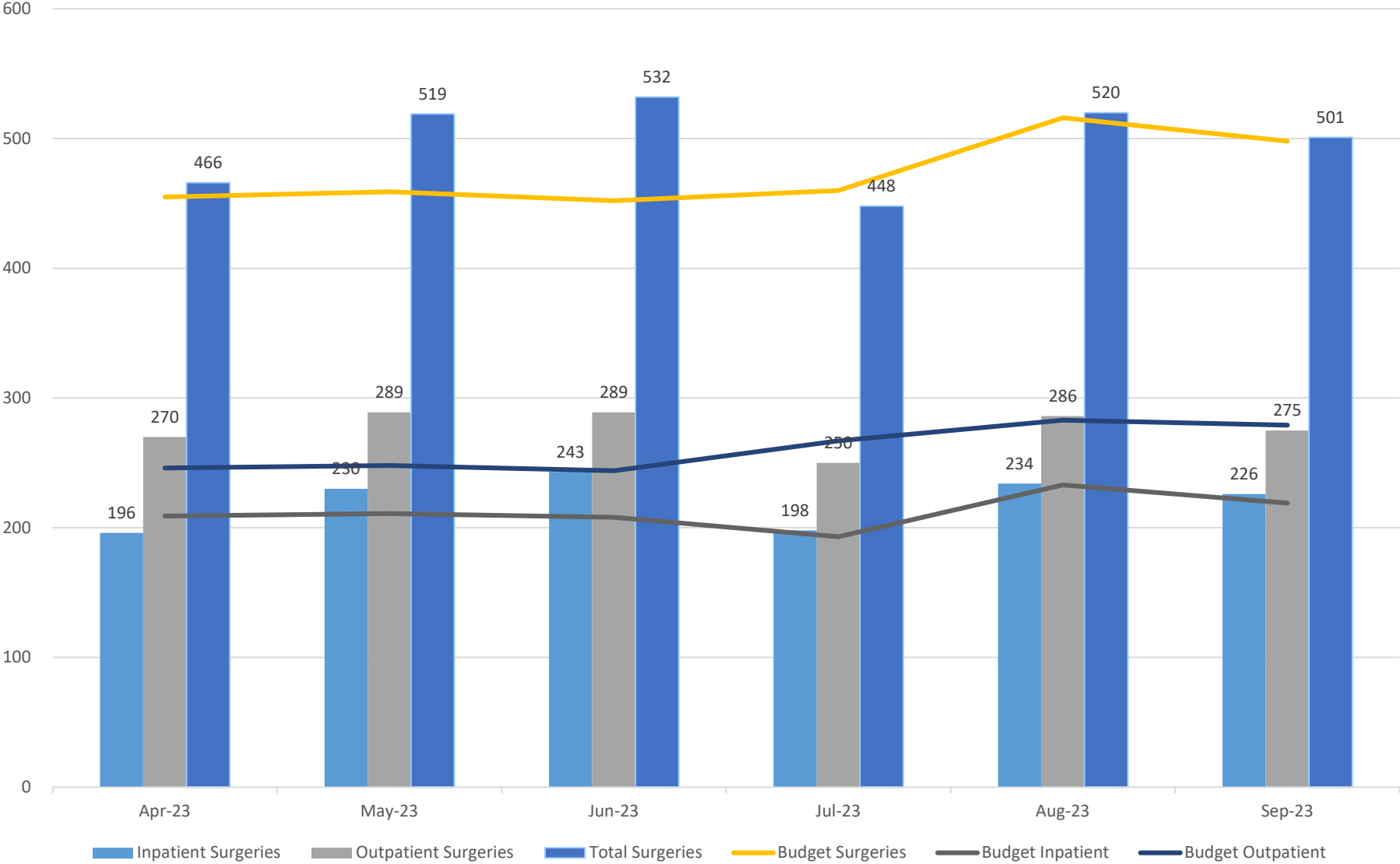
Emergency Room Volume



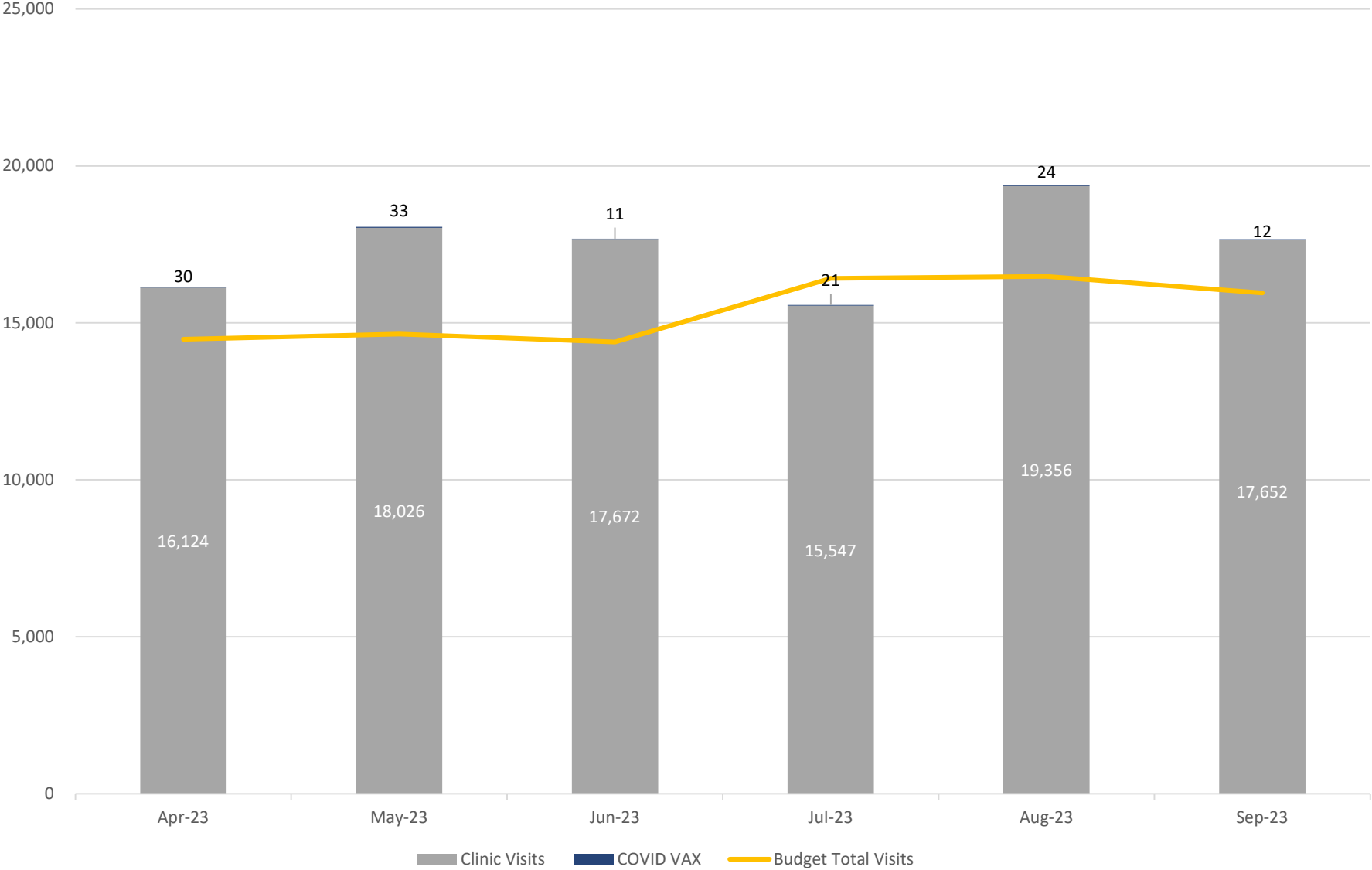
Trauma Activations



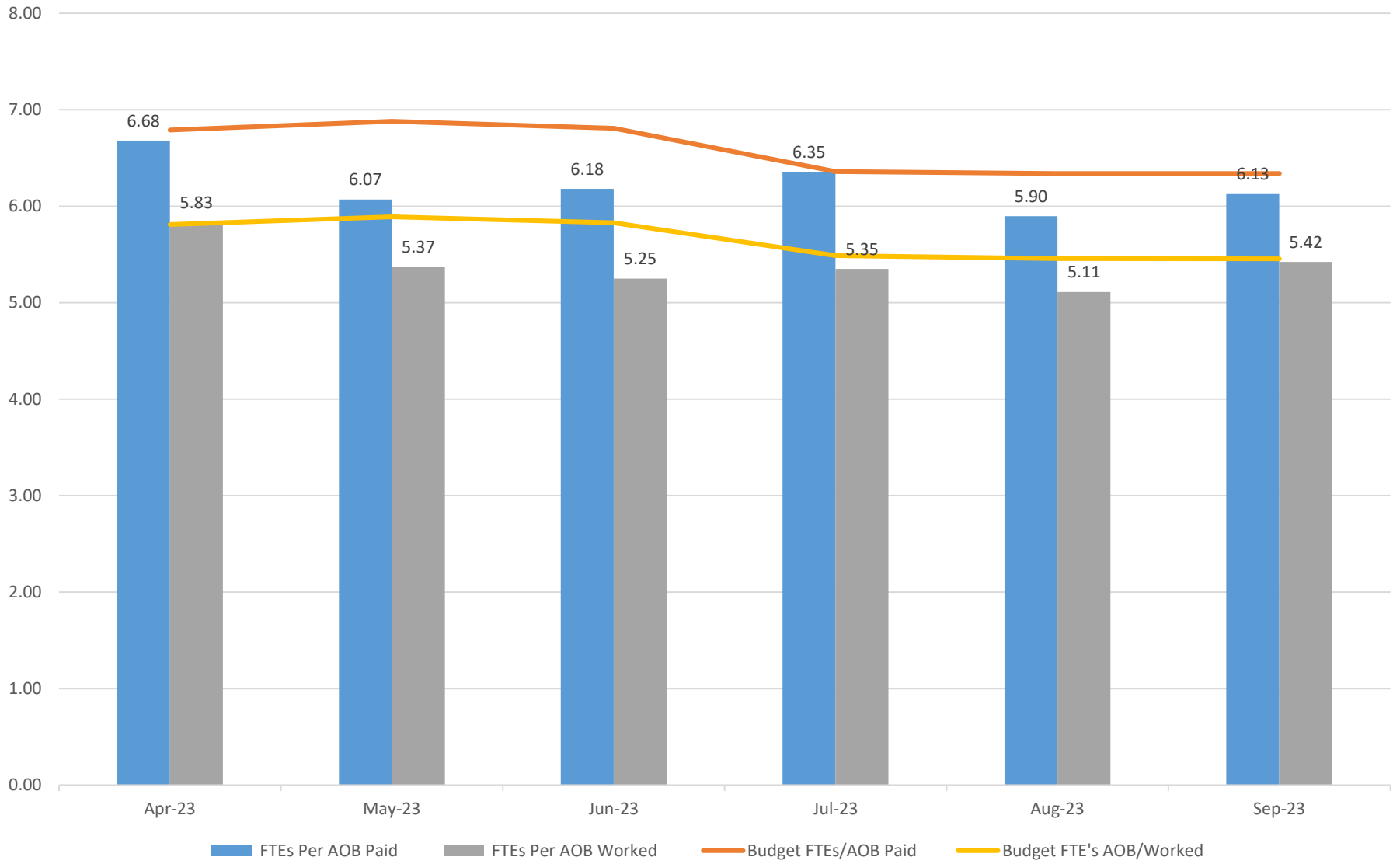
Surgical Volume



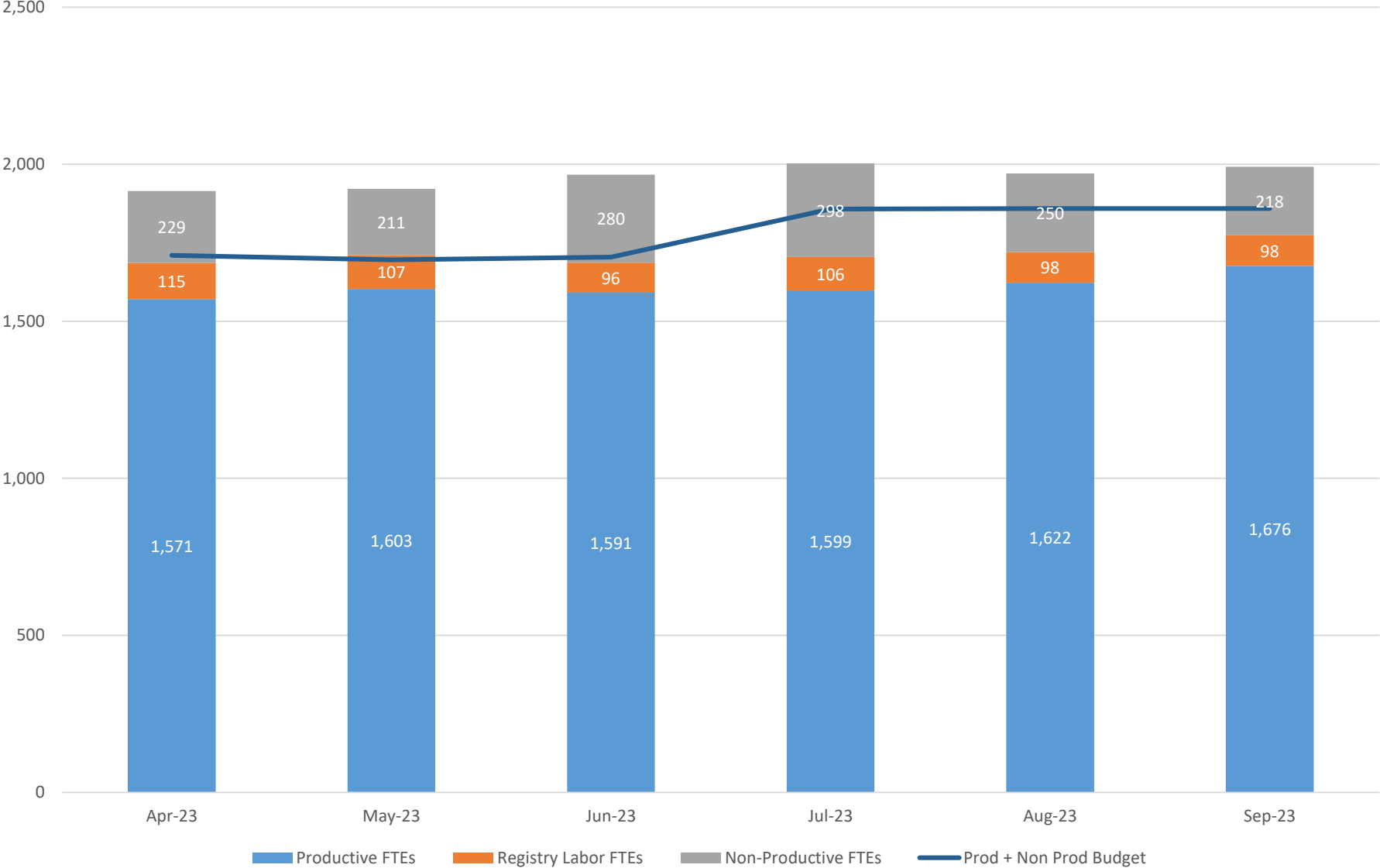
Clinic Visits



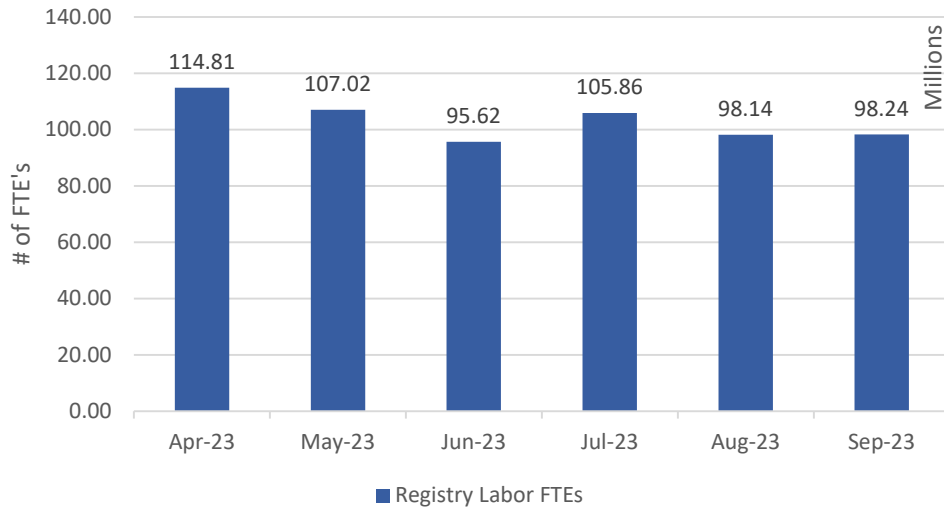
Labor Metrics



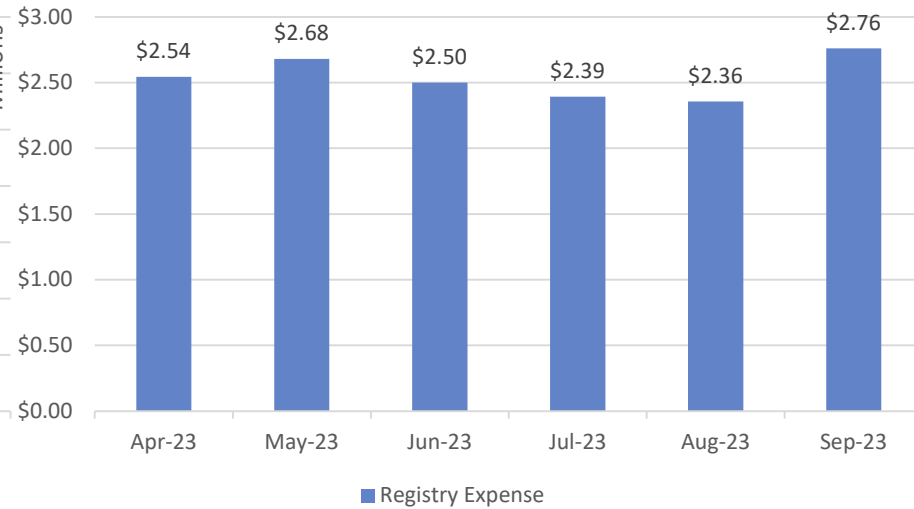
Productivity



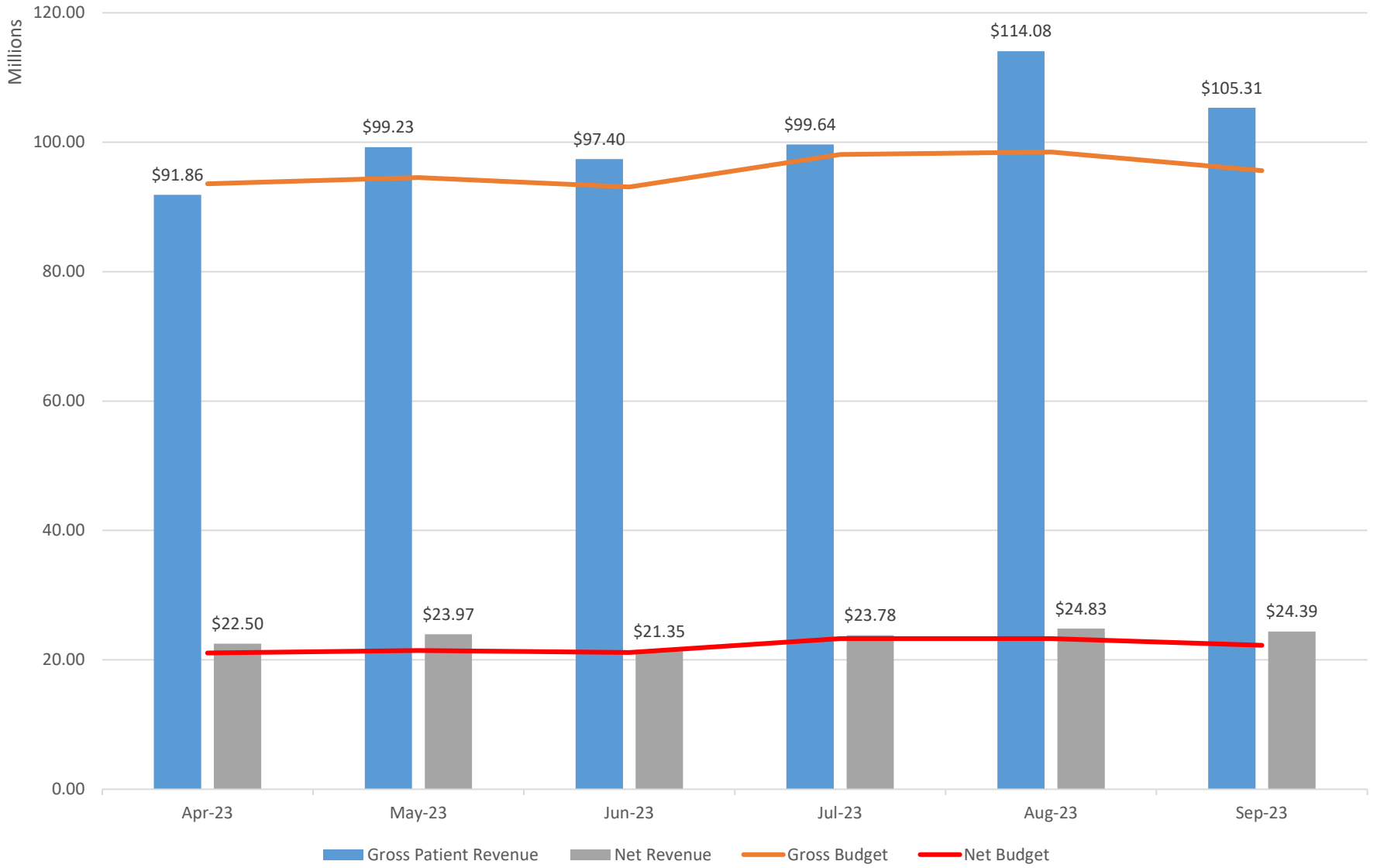
Registry FTE's



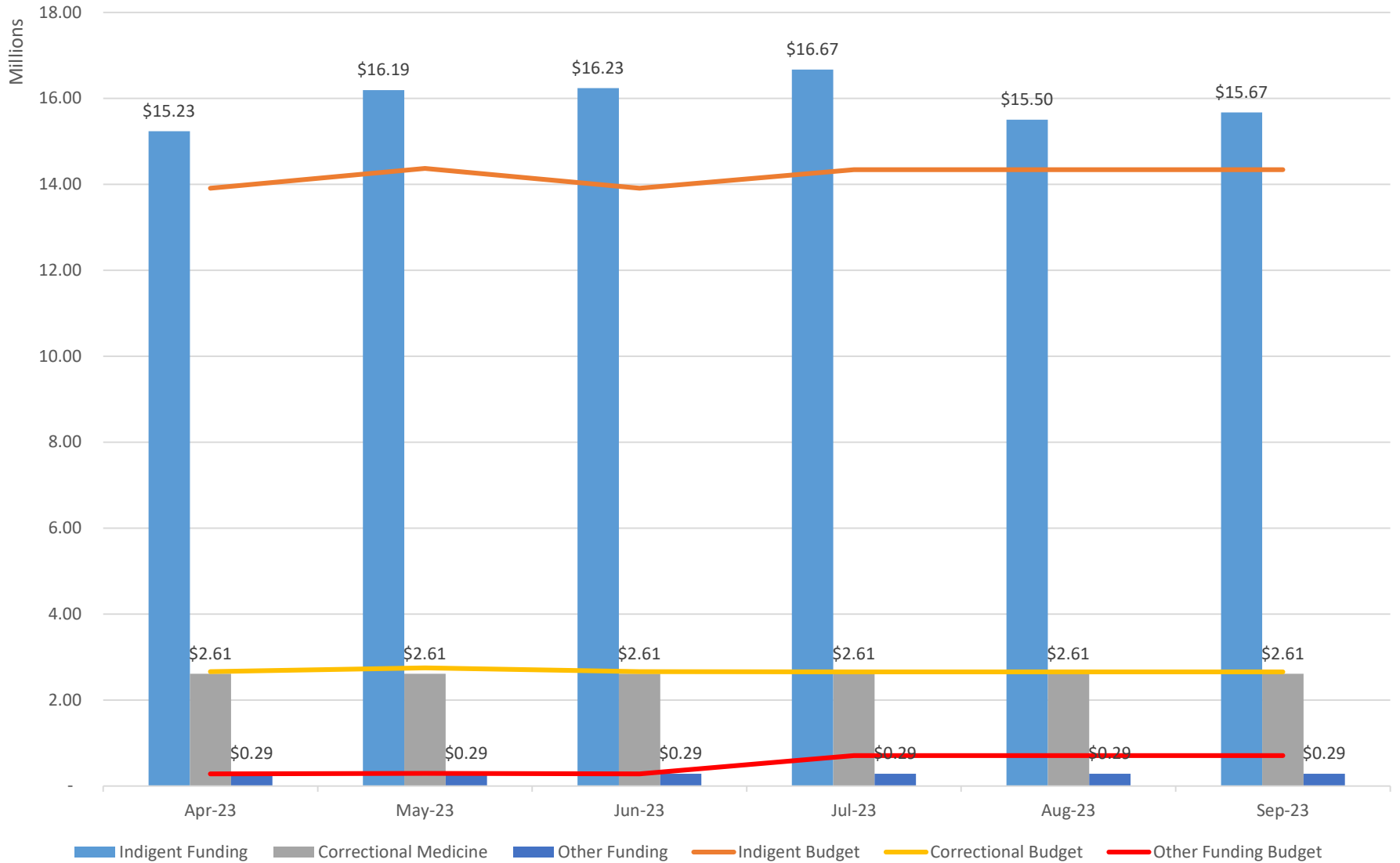
Registry Expense



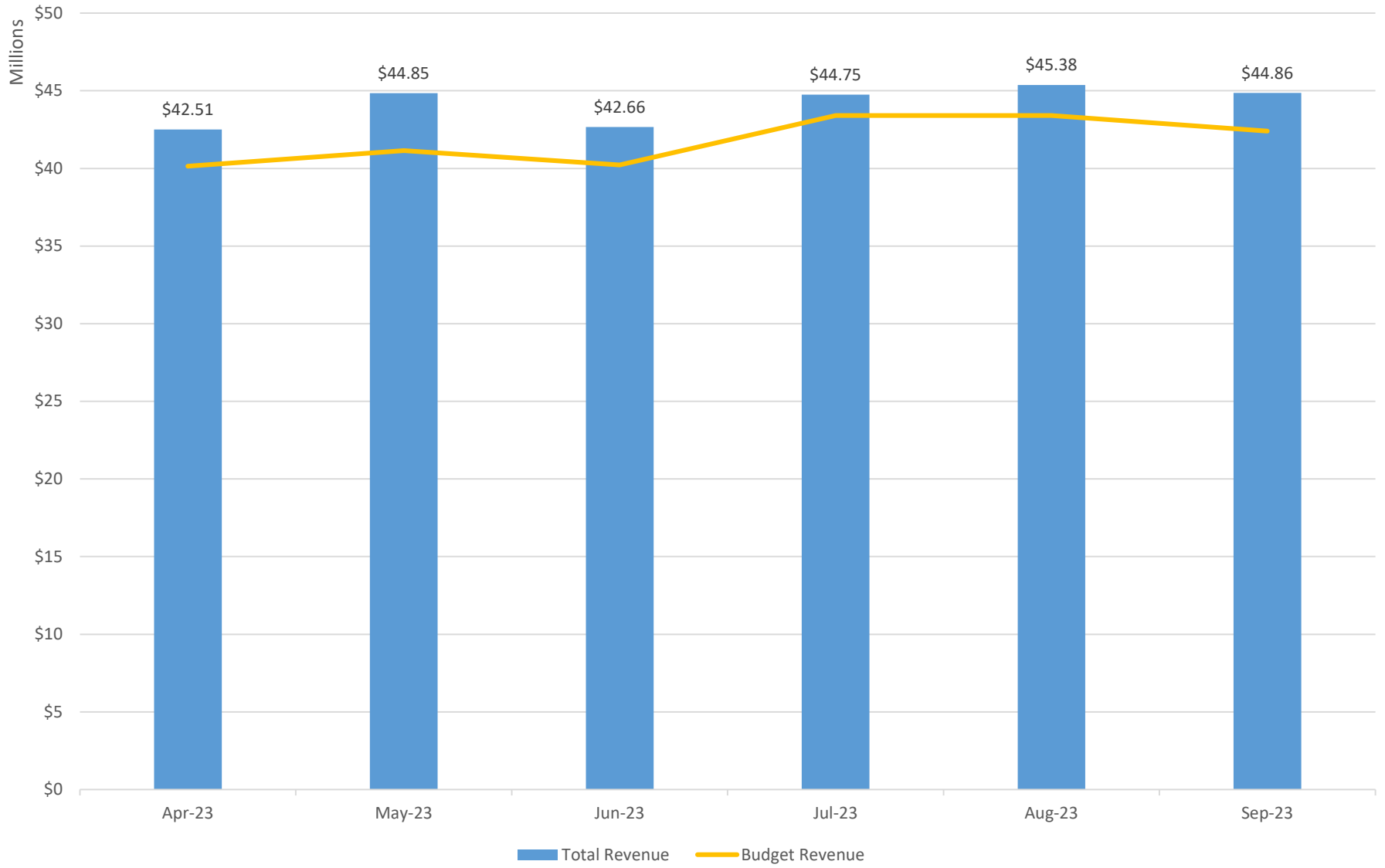
Patient Revenue



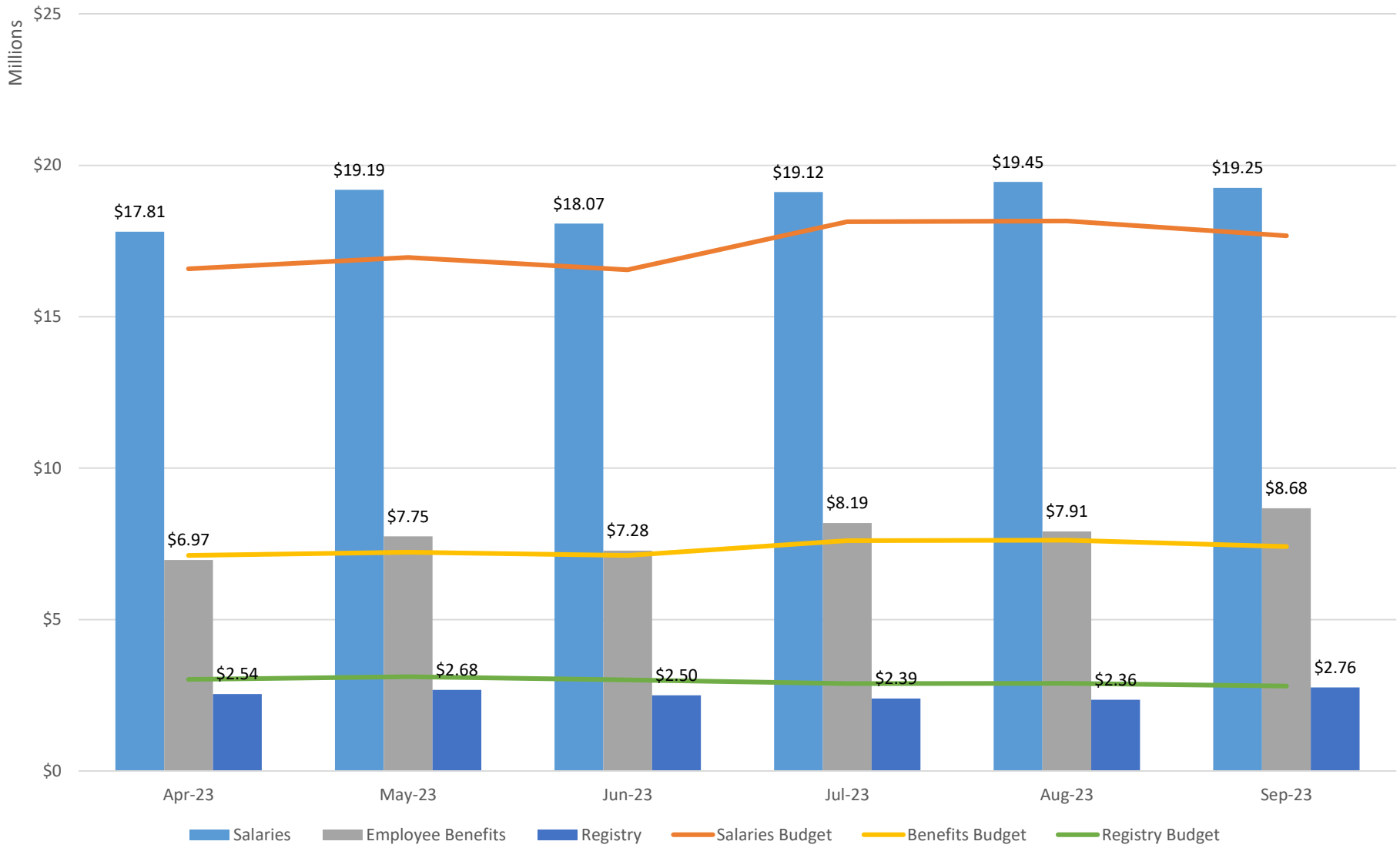
Indigent & Correctional Revenue



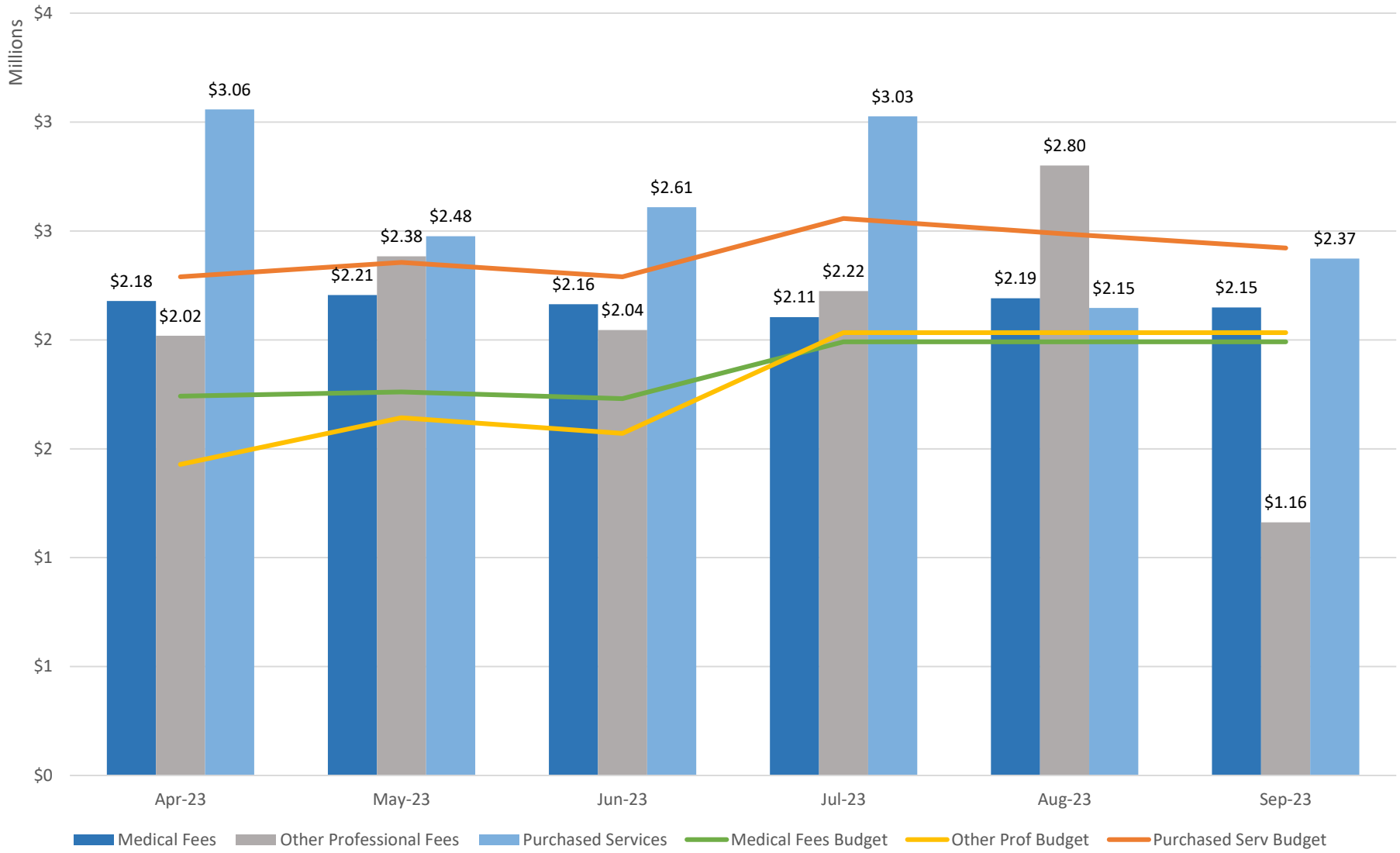
Total Revenue



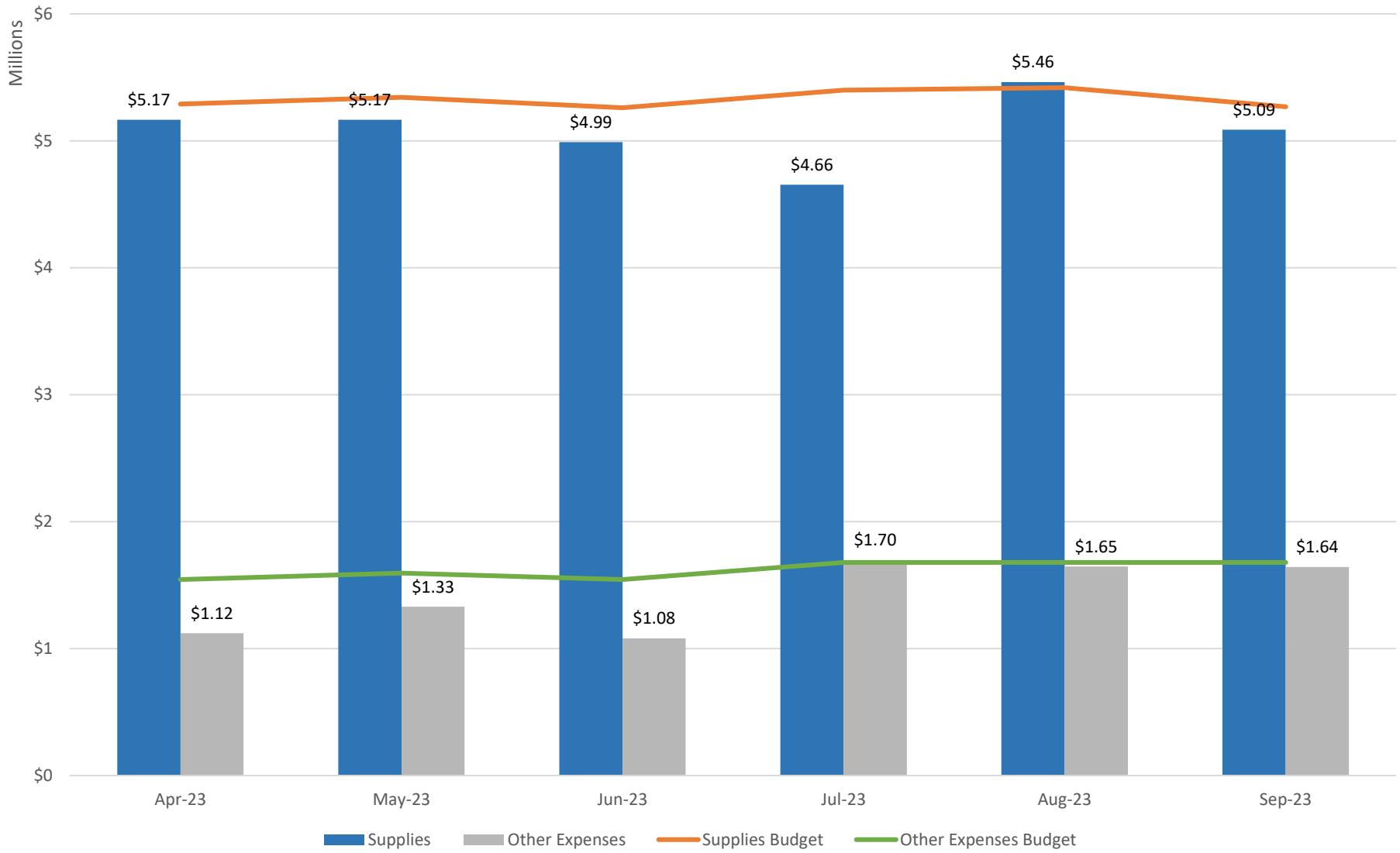
Expenses



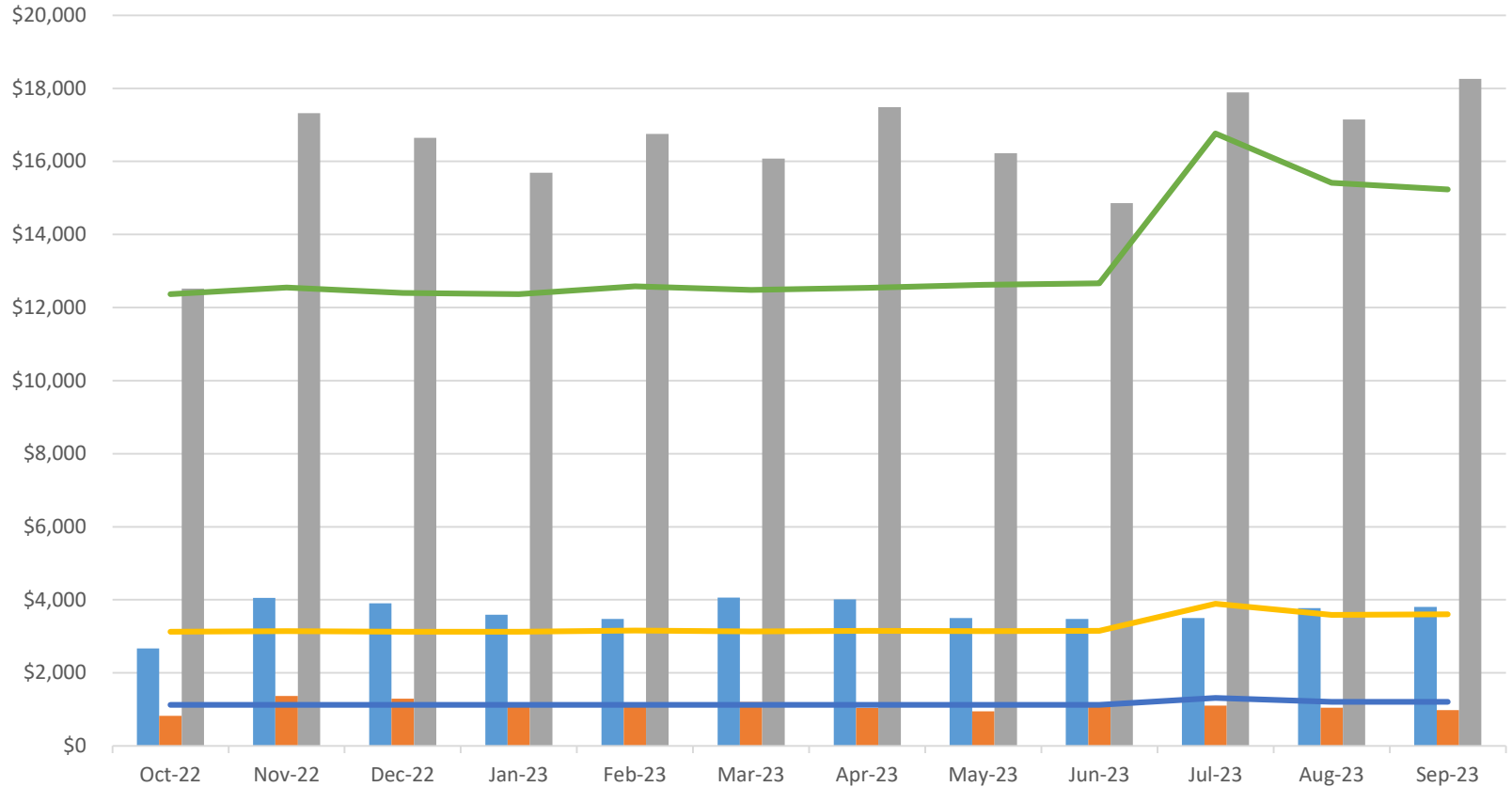
Expenses



Expenses

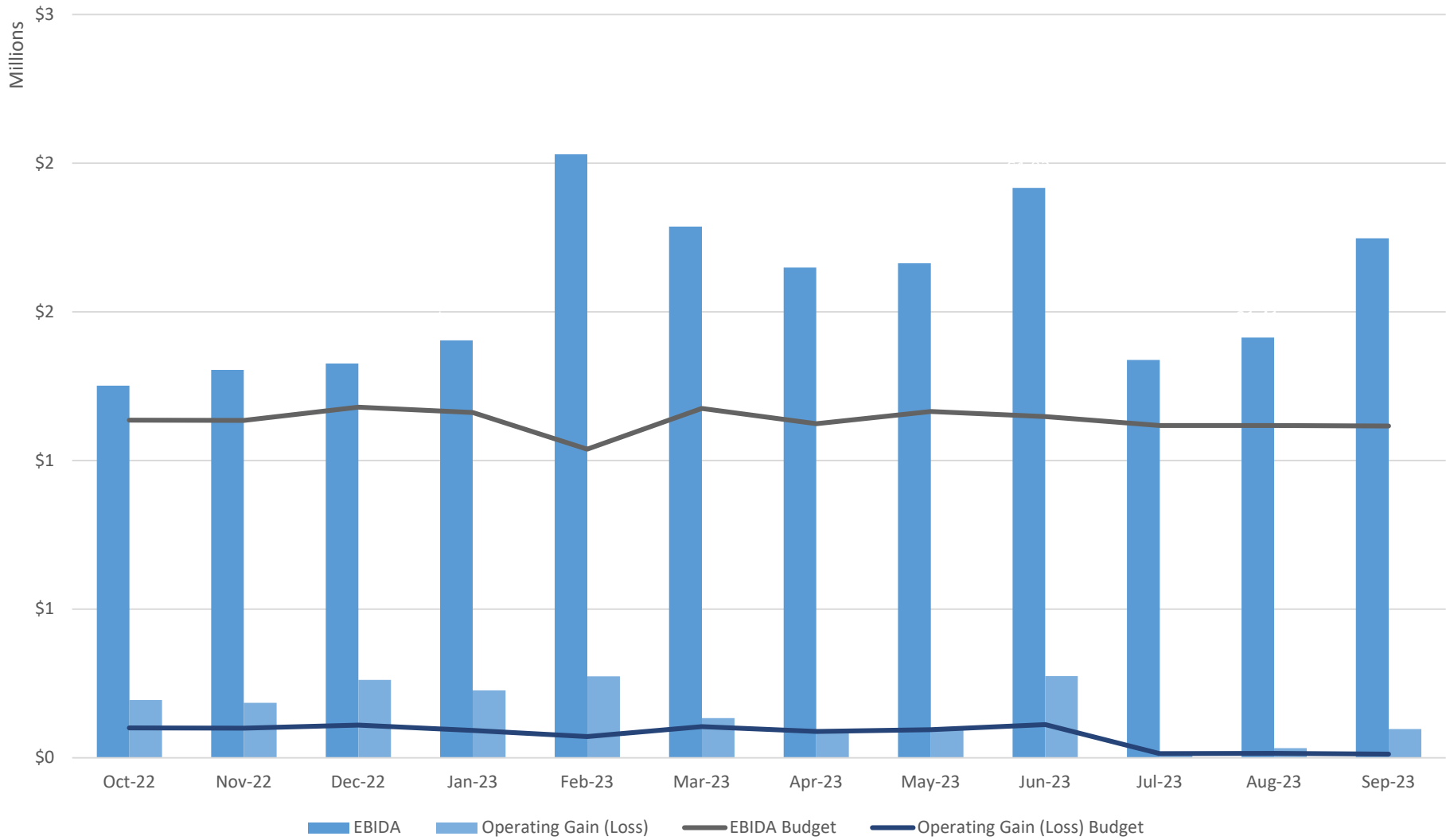


Operating Metrics

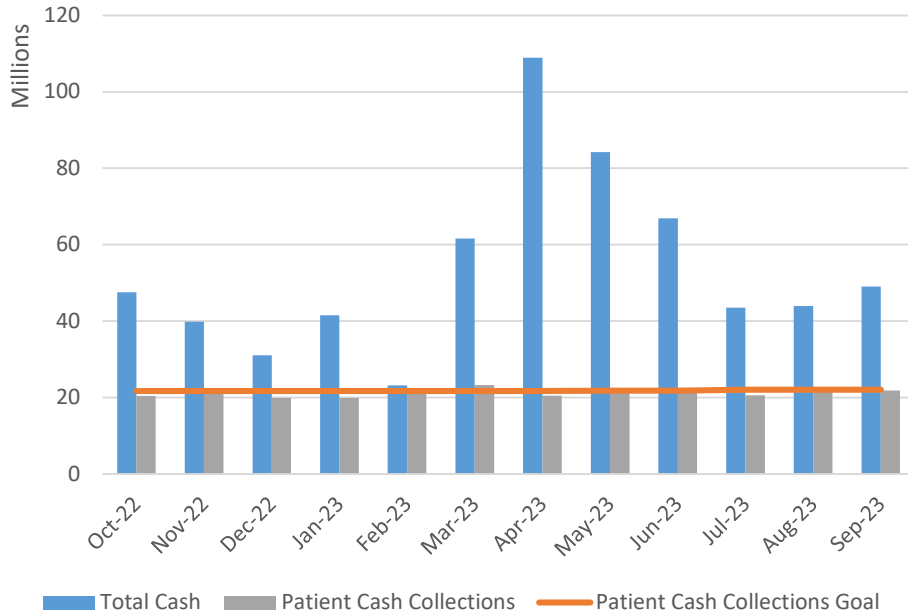


	Oct-22	Nov-22	Dec-22	Jan-23	Feb-23	Mar-23	Apr-23	May-23	Jun-23	Jul-23	Aug-23	Sep-23
Supply Expense per AA	\$2,670	\$4,056	\$3,902	\$3,588	\$3,480	\$4,065	\$4,016	\$3,497	\$3,473	\$3,502	\$3,775	\$3,809
Pharm Cost per AA	\$826	\$1,368	\$1,293	\$1,153	\$1,094	\$1,199	\$1,037	\$948	\$1,115	\$1,104	\$1,047	\$978
Net Revenue Per AA	\$12,523	\$17,317	\$16,642	\$15,694	\$16,749	\$16,078	\$17,486	\$16,224	\$14,857	\$17,893	\$17,150	\$18,258
Budget Supp/AA	\$3,127	\$3,145	\$3,124	\$3,122	\$3,156	\$3,133	\$3,151	\$3,145	\$3,153	\$3,891	\$3,590	\$3,606
Budget Pharm/AA	\$1,126	\$1,126	\$1,126	\$1,126	\$1,127	\$1,128	\$1,127	\$1,126	\$1,127	\$1,310	\$1,210	\$1,210
Budget Net Rev/AA	\$12,368	\$12,545	\$12,398	\$12,368	\$12,579	\$12,483	\$12,539	\$12,624	\$12,661	\$16,765	\$15,413	\$15,234

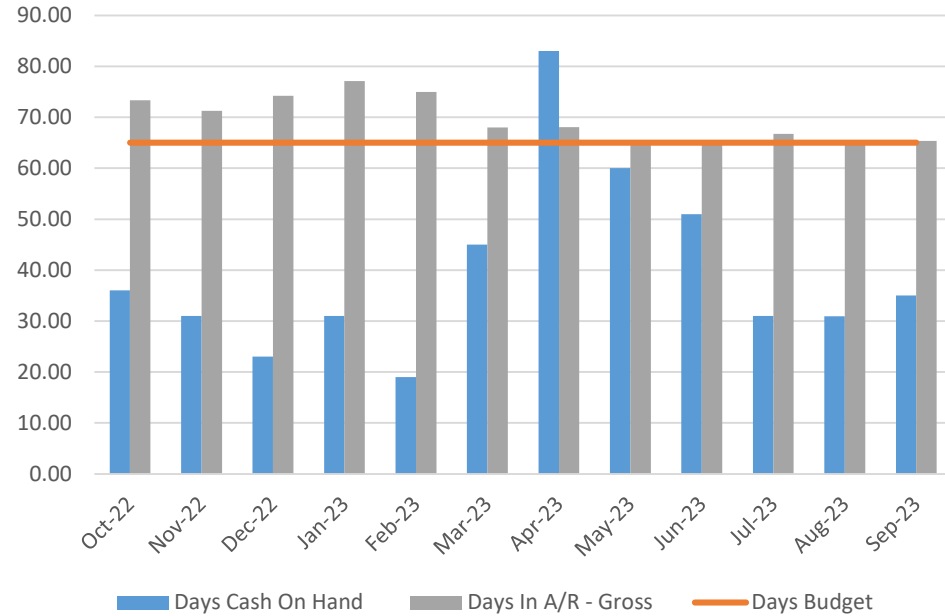
EBIDA Rolling Year



Cash Rolling Year



AR Days Rolling Year



KERN MEDICAL
3-Month Trend Analysis: Revenue & Expense
September 30, 2023

	JULY	AUGUST	SEPTEMBER	BUDGET SEPTEMBER	VARIANCE POS (NEG)	PY SEPTEMBER
Gross Patient Revenue	\$ 99,642,472	\$ 114,081,378	\$ 105,308,360	\$ 95,598,072	10%	\$ 97,840,455
Contractual Deductions	(75,858,703)	(89,254,657)	(80,920,773)	(73,335,256)	10%	(74,161,703)
Net Revenue	23,783,769	24,826,722	24,387,587	22,262,816	10%	23,678,752
Indigent Funding	16,669,352	15,503,545	15,669,352	14,338,567	9%	14,409,710
Correctional Medicine	2,608,481	2,608,481	2,608,481	2,651,620	(2%)	2,658,247
County Contribution	285,211	285,211	285,211	282,447	1%	285,211
Incentive Funding	0	0	0	425,000	(100%)	0
Net Patient Revenue	43,346,813	43,223,958	42,950,630	39,960,450	7%	41,031,920
Other Operating Revenue	1,331,549	2,141,758	1,892,709	2,428,863	(22%)	1,813,521
Other Non-Operating Revenue	72,460	13,789	14,895	13,060	14%	15,823
Total Revenue	44,750,822	45,379,506	44,858,234	42,402,374	6%	42,861,263
Expenses						
Salaries	19,120,192	19,449,899	19,254,350	17,674,151	9%	16,765,881
Employee Benefits	8,191,034	7,911,268	8,679,863	7,414,303	17%	8,633,534
Registry	2,393,441	2,355,837	2,760,925	2,803,256	(2%)	2,878,459
Medical Fees	2,105,015	2,191,190	2,148,823	1,991,696	8%	2,114,453
Other Professional Fees	2,223,784	2,801,060	1,162,032	2,033,569	(43%)	1,924,341
Supplies	4,655,576	5,464,014	5,087,961	5,269,211	(3%)	5,035,783
Purchased Services	3,026,004	2,146,677	2,373,485	2,422,027	(2%)	2,453,497
Other Expenses	1,697,541	1,646,605	1,643,846	1,678,508	(2%)	1,766,483
Operating Expenses	43,412,587	43,966,550	43,111,285	41,286,722	4%	41,572,431
Earnings Before Interest, Depreciation, and Amortization (EBIDA)	\$ 1,338,235	\$ 1,412,956	\$ 1,746,950	\$ 1,115,652	57%	\$ 1,288,832
EBIDA Margin	3%	3%	4%	3%	48%	3%
Interest	214,507	235,497	230,973	117,423	97%	112,658
Depreciation	648,884	580,635	855,178	699,368	22%	687,309
Amortization	454,983	564,412	564,424	286,579	97%	294,594
Total Expenses	44,730,961	45,347,095	44,761,859	42,390,091	6%	42,666,992
Operating Gain (Loss)	\$ 19,862	\$ 32,411	\$ 96,375	\$ 12,282	685%	\$ 194,272
Operating Margin	0.0%	0.07%	0.21%	0.03%	641.7%	0.5%

KERN MEDICAL
Year to Date Analysis: Revenue & Expense

September 30, 2023

	ACTUAL	BUDGET	VARIANCE	PY	PY VARIANCE
	FYTD	FYTD	POS (NEG)	FYTD	POS (NEG)
Gross Patient Revenue	\$ 319,032,210	\$ 292,176,788	9%	\$ 290,944,666	10%
Contractual Deductions	(246,034,133)	(223,377,589)	10%	(222,692,021)	10%
Net Revenue	72,998,077	68,799,199	6%	68,252,645	
Indigent Funding	47,842,249	43,015,701	11.2%	42,793,487	12%
Correctional Medicine	7,825,442	7,954,859	(2%)	8,151,957	(4%)
County Contribution	855,633	847,342	1%	855,633	0.0%
Incentive Funding	0	1,275,000	(100%)	0	0.0%
Net Patient Revenue	129,521,401	121,892,101	6%	120,053,722	8%
Other Operating Revenue	5,366,017	7,286,590	(26%)	5,890,494	(9%)
Other Non-Operating Revenue	101,144	39,180	158%	39,534	156%
Total Revenue	134,988,563	129,217,872	4%	125,983,750	7%
Expenses					
Salaries	57,824,441	53,973,707	7.1%	51,152,085	13%
Employee Benefits	24,782,165	22,641,908	9.5%	21,409,215	16%
Registry	7,510,203	8,585,841	(13%)	9,613,887	(22%)
Medical Fees	6,445,027	5,975,087	8%	5,965,008	8%
Other Professional Fees	6,186,877	6,100,707	1%	5,926,416	4%
Supplies	15,207,552	16,089,138	(5%)	15,004,744	1%
Purchased Services	7,546,166	7,465,637	1%	7,034,751	7%
Other Expenses	4,987,991	5,035,523	(1%)	5,479,746	(9%)
Operating Expenses	130,490,422	125,867,548	4%	121,585,852	7%
Earnings Before Interest, Depreciation, and Amortization (EBIDA)	\$ 4,498,141	\$ 3,350,324	34%	\$ 4,397,898	2%
EBIDA Margin	3%	3%	29%	3%	(5%)
Interest	680,977	352,269	93%	335,986	103%
Depreciation	2,084,697	2,098,103	(1%)	2,065,813	1%
Amortization	1,583,818	859,737	84%	883,783	79%
Total Expenses	134,839,915	129,177,657	4%	124,871,433	8%
Operating Gain (Loss)	\$ 148,648	\$ 40,215	270%	\$ 1,112,317	(87%)
Operating Margin	0.1%	0.0%	253.8%	0.9%	(88%)

**KERN MEDICAL
BALANCE SHEET**

	SEPTEMBER 2023	SEPTEMBER 2022
ASSETS:		
<i>Total Cash</i>	\$ 49,067,212	\$ 59,758,650
Patient Receivables Subtotal	252,080,496	261,247,548
Contractual Subtotal	(188,654,910)	(211,718,168)
<i>Net Patient Receivable</i>	63,425,585	49,529,380
Total Indigent Receivable	221,512,514	150,235,890
Total Other Receivable	16,385,817	15,864,796
Total Prepaid Expenses	6,197,653	5,149,642
Total Inventory	5,574,431	4,146,138
<i>Total Current Assets</i>	362,163,212	284,684,497
Deferred Outflows of Resources	105,241,458	127,290,855
Total Land, Equipment, Buildings and Intangibles	254,250,638	226,295,924
Total Construction in Progress	13,234,078	8,017,838
<i>Total Property, Plant & Equipment</i>	267,484,715	234,313,762
Total Accumulated Depr & Amortization	(159,076,621)	(139,619,594)
<i>Net Property, Plant, and Equipment</i>	108,408,094	94,694,168
<i>Total Long Term Assets</i>	105,241,458	127,290,855
<i>Total Assets</i>	\$ 575,812,764	\$ 506,669,520

**KERN MEDICAL
BALANCE SHEET**

SEPTEMBER 2023 SEPTEMBER 2022

LIABILITIES & EQUITY:

Total Accounts Payable	\$	11,541,961	\$	14,098,654
Total Accrued Compensation		33,576,155		40,015,881
Total Due Government Agencies		15,380,580		16,779,249
Total Other Accrued Liabilities		28,276,695		22,206,189
<i>Total Current Liabilities</i>		88,775,391		93,099,973
Unfunded Pension Liability		284,243,193		381,152,811
Other Long-Term Liabilities		134,837,243		61,859,422
<i>Total Long-Term Liabilities</i>		419,080,436		443,012,233
<i>Total Liabilities</i>		507,855,827		536,112,206
Fund Balance		36,714,022		36,714,022
Retained Earnings		31,242,916		(66,156,707)
<i>Total Fund Balance</i>		67,956,937		(29,442,686)
<i>Total Liabilities and Fund Balance</i>	\$	575,812,764	\$	506,669,520



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

November 15, 2023

Subject: Kern County Hospital Authority Chief Executive Officer Report

Recommended Action: Receive and File

Summary:

The Chief Executive Officer of the Kern County Hospital Authority will provide your Board with a hospital-wide update.



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

November 15, 2023

Subject: Monthly report on What's Happening at Kern Medical Center

Recommended Action: Receive and File

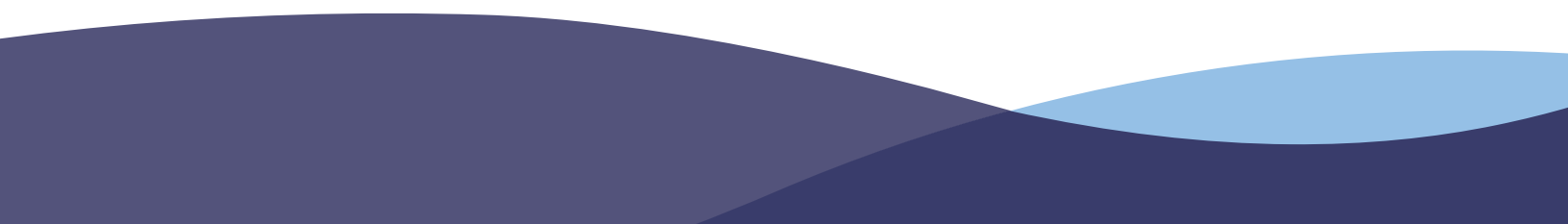
Summary:

Each month Kern Medical will be sharing a report with your Board on "What's Happening" in and around Kern Medical.

Therefore, it is recommended that your Board receive and file the attached report on What's Happening at Kern Medical.



What's Happening?



CSF Medical Non-Profit Foundation Hosts Wellness Fair to Provide Resources for Uninsured



National Alliance on Mental Illness Walk



Veterans Stand Down



Heart Walk



Virtual Job Fair

Kern Medical
Virtual Recruitment Event
15 min

Join us for our Virtual Recruitment Event: October 19th. Don't forget to book an available time slot and specify your preferred role of interest.

Select a Date & Time

October 2023

SUN	MON	TUE	WED	THU	FRI	SAT
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Time zone
Pacific Time - US & Canada (4:19pm)

Thursday, October 19

- 1:00pm
- 1:15pm
- 1:30pm
- 1:45pm
- 2:00pm
- 2:15pm
- 2:30pm
- 2:45pm
- 3:00pm

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60 applicants interviewed!

Healthful Harvest

HEALTHFUL HARVEST

Save the date for a fun-filled community health event with food, music, and giveaways!

SUNDAY, OCTOBER 28, 2023

12:00 PM TO 4:00 PM

Haven Drive Middle School
341 Haven Drive, Arvin 93203

For more event information, call 661.632.5562

EVENT PRESENTED BY:

Adventist Health Dignity Health KAISER PERMANENTE KernMedical

Halloween - Pumpkin Contest!

KERN MEDICAL'S DEPARTMENT PUMPKIN CARVING CONTEST

- DEPARTMENTS MUST SIGN UP BY EMAILING: MARKETING@KERNMEDICAL.COM
- ONE (1) PUMPKIN PER DEPARTMENT
- PICK UP PUMPKIN FROM CAFETERIA OCTOBER 25-27, FROM 9AM-11AM OR 1:30PM-3PM
- SUBMIT YOUR PUMPKIN FOR JUDGING TUESDAY, OCTOBER 31, IN THE COURTYARD FROM 7AM-10AM
OR BY EMAILING A PHOTO TO MARKETING@KERNMEDICAL.COM



Costume Contest!

KERN MEDICAL'S HALLOWEEN COSTUME CONTEST RULES

- ALL COSTUMES MUST BE "G-RATED", MODEST, AND MEET KERN MEDICAL STANDARDS
- COSTUME MUST ALLOW STAFF TO DO THEIR ASSIGNED JOB DUTIES
- NO INFLATABLE COSTUMES
- NO HALLOWEEN MASKS DURING PATIENT CARE OR INTERACTIONS
- NO MESSY OR STICKY SUBSTANCES ON YOUR COSTUME
- NO SCARY OR GROSS MAKE-UP
- REGISTER FOR JUDGING IN THE CAFE COURTYARD AT 11:00 A.M. ON TUESDAY, OCTOBER 31 OR BY EMAILING A PHOTO TO MARKETING@KERNMEDICAL.COM BY 5PM ON TUESDAY



COSTUME CATEGORIES

- | | | | |
|--------------------|--------------------|----------------------|--------------|
| -BEST OVERALL | (GROUP) | -BEST OVERALL | (INDIVIDUAL) |
| -BEST THEME | (GROUP) | -LEAST RECOGNIZABLE | (INDIVIDUAL) |
| -MOST CREATIVE/DIY | (GROUP/INDIVIDUAL) | -BEST SUPERHERO | (INDIVIDUAL) |
| -FUNNIEST | (GROUP/INDIVIDUAL) | -BEST SUPERVILLAIN | (INDIVIDUAL) |
| -BEST MAKEUP | (GROUP/INDIVIDUAL) | -BEST COUPLE COSTUME | |
| -MOST KERN MEDICAL | (GROUP/INDIVIDUAL) | | |



Kern Medical in the News

The Bakersfield Californian

November 11
National First Responders Day – Dr. Sage Wexner

Kern Medical in the News



November Issue
What Are You Thankful For? – Scott Thygerson, CEO

National Recognitions in October

- American Pharmacists Month
- Breast Cancer Awareness Month
- Clergy and Chaplains Appreciation Month
- National Physical Therapy Month
- Down Syndrome Awareness Month
- Healthy Lung Month
- Liver Awareness Month
- National Spina Bifida Awareness Month
- SIDS Awareness Month
- National Case Management Week (October 9-15)
- World Mental Health Day (October 10)
- World Hospice and Palliative Care Day (October 14)
- World Stroke Day (October 29)

National Recognitions in November

- American Diabetes Month
- Bladder Health Month
- COPD Awareness Month
- Gastric Cancer/Stomach Cancer Awareness Month
- Lung Cancer Awareness Month
- Movember
- National Alzheimer's Disease Awareness Month
- National Diabetes Month
- National Epilepsy Awareness Month
- National Family Caregivers Month
- Pancreatic Cancer Awareness Month
- Prematurity Awareness Month
- World Pneumonia Day (November 12)
- International Survivors of Suicide Loss Day (November 18)
- US Antibiotic Awareness Week (November 18-24)
- National Family Health History Day (November 23)

Did You Know?



Dr. Sarah Gonzalez is the Director of Addiction Medicine, Director of Shelter Medicine, and the responsible physician for Correctional Medicine at Kern Medical.

Kern County is in the middle of a fentanyl crisis. Starting on October 30th, Kern Medical is launching a full-service addiction medicine program. One part involved an inpatient consult service. A second part includes MARC (Medication Assistance and Recovery Clinic), located in A-Wing on Tuesday and Thursday afternoons.



Less than 10% of patients with a substance use disorder, including alcohol use, seek treatment. “We try to have them come in and not feel judged, in that, we try to eliminate the stigma, and we’re there to help meet them where they are,” Dr. Gonzalez said.



Currently, you will need a referral from your primary care or the Emergency Department. We will take any insurance.

However, we are working on a process to allow patients to be able to self-refer themselves.

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

(Government Code Section 54957.7)

On the recommendation of the Chief Executive Officer, the Board of Governors will hold a closed session on November 15, 2023, 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**

Government Code Section 54956.9

Based on the advice of Counsel, the Board of Governors is holding a closed session on November 15, 2023, 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 - FORMALLY INITIATED LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Christopher Harkins,
Plaintiff, v. Kern County Hospital Authority, a municipal corporation; and DOES 1
through 50, inclusive, Defendants, Kern County Superior Court Case No. BCV-23-
102237 DRZ –

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

Government Code Section 54956.9

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 X CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Service Employees
International Union, Local 521, Charging Party, v. Kern County Hospital Authority,
Respondent, Public Employment Relations Board Case No. LA-CE-1633-M –

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

Government Code Section 54956.9

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- X CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
(Government Code Section 54956.9(d)(2) & (e)(2)) Number of cases: One (1)
Significant exposure to litigation in the opinion of the Board of Governors on the advice of legal counsel, based on: Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the Authority and that are known to a potential plaintiff or plaintiffs. Facts and circumstances are as follows: Rebecca Rivera, M.D. –

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

Government Code Section 54956.9

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 X CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Service Employees
International Union, Local 521, Charging Party, v. Kern County Hospital Authority,
Respondent, Public Employment Relations Board Case No. LA-CE-1580-M –

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

Government Code Section 54956.9

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 X CONFERENCE WITH LEGAL COUNSEL - FORMALLY INITIATED LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Service Employees
International Union, Local 521 Plaintiff/Petitioner, v. Kern County Hospital
Authority, Kern Medical Surgery Center, LLC, and DOES 1-25, Defendants/
Respondents, Kern County Superior Court Case No. BCV-22-101782 JEB –

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

Government Code Section 54957.7

The Board of Governors will hold a closed session on November 15, 2023, to consider:

 X CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Chief Executive Officer Scott Thygerson, and designated staff - Unrepresented Employees (Government Code Section 54957.6) –

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

(Government Code Section 54957.7)

On the recommendation of the Chief Executive Officer, the Board of Governors will hold a closed session on November 15, 2023, 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 facilities (Health and Safety Code Section 101855(j)(2)) –

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

Government Code Section 54957.7

The Board of Governors will hold a closed session on November 15, 2023, to consider:

 X PUBLIC EMPLOYEE PERFORMANCE EVALUATION - Title: Chief Executive Officer (Government Code Section 54957) –