



AGENDA

KERN COUNTY HOSPITAL AUTHORITY BOARD OF GOVERNORS

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

**Regular Meeting
Wednesday, February 21, 2018**

11:30 A.M.

BOARD TO RECONVENE

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

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

STAFF RECOMMENDATION SHOWN IN CAPS



PUBLIC PRESENTATIONS

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

BOARD MEMBER ANNOUNCEMENTS OR REPORTS

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

ITEMS FOR CONSIDERATION

CA

- 3) Minutes for Kern County Hospital Authority Board of Governors regular meeting on January 17, 2017 –
APPROVE
- 4) Proposed Report of Independent Auditors from Moss-Adams LLP, an independent contractor, regarding the audit of Kern Medical Center financial statements for the year ending June 30, 2017 –
RECEIVE AND FILE; REFER TO KERN COUNTY BOARD OF SUPERVISORS
- 5) Proposed update regarding the California section 1115 Medi-Cal 2020 Demonstration Waiver specific to the Kern Medical Center Whole Person Care Pilot program –
RECEIVE AND FILE

CA

- 6) Proposed 2017 Achievement Award from state of California Health and Human Services Agency for meeting or exceeding the Healthy People 2020 target for low-risk, first-birth cesarean deliveries –
RECEIVE AND FILE

CA

- 7) Proposed 2017 Comprehensive Annual Financial Report and 2017 Actuarial Valuation from Kern County Employees' Retirement Association –
RECEIVE AND FILE

CA

- 8) Proposed retroactive Amendment No. 10 to Agreement 042-2015 with Cantu Management Group, Inc., an independent contractor, for Chief Financial Officer and healthcare financial management services, revising the methodology for the monthly staffing fee for additional staff from hourly rates plus 44% to hourly rates plus a percentage of costs (benefits and expenses) not to exceed 44%, and increasing the maximum payable by \$7,500,000, from \$30,038,240 to \$37,538,240, effective January 1, 2018 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 9) Proposed retroactive Amended and Restated Membership Agreement with California Perinatal Quality Care Collaborative (CPQCC), an independent contractor, containing nonstandard terms and conditions, for statewide reporting and collection of hospital-level performance data on California maternal and neonatal care from December 1, 2017 through November 20, 2020, in an amount not to exceed \$30,000 –
APPROVE; AUTHORIZE CHIEF EXECUTIVE OFFICER TO SIGN

CA

- 10) Proposed Agreement with Arturo Gomez, M.D., a contract employee, for professional medical services in the Department of Surgery, Division of Orthopedic Surgery from March 16, 2018 through March 15, 2021, in an amount not to exceed \$3,690,000 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 11) Proposed retroactive Statement of Commitment to Graduate Medical Education in support of residency and fellowship training programs sponsored by Kern Medical Center, as required by Accreditation Council for Graduate Medical Education, effective July 1, 2016 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 12) Proposed retroactive Change Order No. 1 to Agreement 077-2017 with James E. Thompson, Inc., doing business as JTS Construction, an independent contractor, for construction management services related to the NOC IT hub project at Sagebrush Medical Plaza, increasing the maximum payable by \$3,756, from \$717,500 to \$721,256, to cover the cost of additional services –
MAKE FINDING PROJECT IS EXEMPT FROM FURTHER CEQA REVIEW PER SECTIONS 15301 AND 15061(b)(3) OF STATE CEQA GUIDELINES; APPROVE; AUTHORIZE CHAIRMAN TO SIGN; AUTHORIZE CHIEF EXECUTIVE OFFICER TO APPROVE ANY FUTURE CHANGE ORDERS IN AN AMOUNT NOT TO EXCEED 10% OF THE TOTAL CONTRACT PRICE OR \$789,250

CA

- 13) Proposed retroactive Agreement with MedHub, LLC, an independent contractor, containing nonstandard terms and conditions, for purchase of E*Value software license and maintenance to support graduate medical education from November 10, 2017 through November 9, 2020, in an amount not to exceed \$250,000 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN; AUTHORIZE CHIEF EXECUTIVE OFFICER TO SIGN SALES ORDERS TOTALING AN AMOUNT NOT TO EXCEED \$250,000

CA

- 14) Proposed Agreement with Siemens Healthcare Diagnostics Inc., an independent contractor, containing nonstandard terms and conditions, for the acquisition of three chemistry analyzers and purchase of equipment service and support, reagents, consumables, and supplies from March 1, 2018 through February 28, 2025, in an amount not to exceed \$2,826,913 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 15) Proposed Agreement with Hitachi Capital America Corp., an independent contractor, containing nonstandard terms and conditions, for capital lease with option to purchase three chemistry analyzers from Siemens Healthcare Diagnostics Inc., an independent contractor, for a term of 60 months commencing upon receipt of equipment, in an amount not to exceed \$534,332 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN; AUTHORIZE CHIEF EXECUTIVE OFFICER TO SIGN SUPPORTING DOCUMENTATION

CA

- 16) Proposed Agreement with Charter Communications Operating, LLC on behalf of its operating subsidiary Spectrum, an independent contractor, containing nonstandard terms and conditions, for purchase of cable TV, phone, internet and related services, effective February 21, 2018 –
APPROVE; AUTHORIZE CHAIRMAN TO SIGN; AUTHORIZE CHIEF EXECUTIVE OFFICER TO SIGN SERVICE ORDERS EACH TOTALING AN AMOUNT NOT TO EXCEED \$250,000

CA

- 17) Proposed retroactive Resolution revising the authority of Counsel to contract for expert legal services for claims and litigation management, effective January 1, 2018 –
APPROVE; ADOPT RESOLUTION
- 18) Kern County Hospital Authority Chief Financial Officer report –
RECEIVE AND FILE
- 19) Kern County Hospital Authority Chief Executive Officer report –
RECEIVE AND FILE

CA

- 20) Claims and Lawsuits Filed as of January 31, 2018 –
RECEIVE AND FILE

ADJOURN TO CLOSED SESSION

CLOSED SESSION

- 21) Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) –
- 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 –
- 23) Request for Closed Session for the purpose of discussion or taking action on authority trade secrets (Health and Safety Code Section 101855(e)(1)) –
- 24) CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Chief Executive Officer Russell V. Judd, and designated staff - Employee organizations: Service Employees International Union, Local 521 (Government Code Section 54957.6) –
- 25) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Hadie Vanessa Alvarez v. County of Kern, et al., Kern County Superior Court, Case No. BCV-15-101754 TSC –
- 26) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521 v. County of Kern, et al., Public Employment Relations Board, Case No. LA-CE-1084-M –
- 27) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Brandy Hernandez aka Brandy Desrocher, an individual v. County of Kern, et al., Kern County Superior Court, Case No. BCV-17-102820 SDS –
- 28) 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, MARCH 21, 2018, AT 11:30 A.M.

SUPPORTING DOCUMENTATION FOR AGENDA ITEMS

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

AMERICANS WITH DISABILITIES ACT (Government Code Section 54953.2)

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

20) CLAIMS AND LAWSUITS FILED AS OF JANUARY 31, 2018 –
RECEIVE AND FILE

- A) Second Amended Complaint for Personal Injury in the matter of Raul Jason Gomez v. Kern Medical Center, Kern County Superior Court, Case No. BCV-16-102903 SDS
- B) Claim in the matter of Sindy Gutierrez v. Kern County Hospital Authority
- C) Claim in the matter of Ana D. Rivera v. Kern County Hospital Authority
- D) Claim in the matter of Anthony Troy Sprouse v. Kern County Hospital Authority



SUMMARY OF PROCEEDINGS

KERN COUNTY HOSPITAL AUTHORITY BOARD OF GOVERNORS

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

Regular Meeting
Wednesday, January 17, 2018

11:30 A.M.

BOARD RECONVENED

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

Directors absent: Sistrunk

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

NON-AGENDA ITEM

MOTION TO CONSIDER NON-AGENDA ITEM NO. 23: MADE FINDING THAT THE NEED TO TAKE ACTION ON NON-AGENDA MATTER OCCURRED AFTER THE AGENDA WAS POSTED ON JANUARY 12, 2018. ON JANUARY 16, 2018, THE KERN COUNTY HOSPITAL AUTHORITY RECEIVED AN UPDATE REGARDING AN ONGOING PERSONNEL MATTER THAT REQUIRES THE IMMEDIATE ATTENTION OF THE BOARD OF GOVERNORS.

McLaughlin-McGauley: 6 Ayes; 1 Absent - Sistrunk

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

BOARD ACTION SHOWN IN CAPS

PUBLIC PRESENTATIONS

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

NO ONE HEARD

BOARD MEMBER ANNOUNCEMENTS OR REPORTS

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

NO ONE HEARD

RECOGNITION

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

ITEMS FOR CONSIDERATION

CA

- 4) Minutes for Kern County Hospital Authority Board of Governors regular meeting on December 13, 2017 –
APPROVED
Pelz-McGauley: 6 Ayes; 1 Absent - Sistrunk
- 5) Proposed presentation regarding Kern Medical sexual harassment policies and employee education –
MADE PRESENTATION; RECEIVED AND FILED
Berjis-McGauley: 6 Ayes; 1 Absent - Sistrunk

CA

- 6) Proposed Agreement with Matthew M. Malerich, M.D., Incorporated, an independent contractor, for professional medical services in the Department of Surgery from April 9, 2018 through April 8, 2021, in an amount not to exceed \$2,700,000 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 001-2018
Pelz-McGauley: 6 Ayes; 1 Absent - Sistrunk

CA

- 7) Proposed Agreement with Desert Hand and Plastic Surgery PC, an independent contractor, for professional medical services in the Department of Surgery from April 9, 2018 through April 8, 2021, in an amount not to exceed \$2,700,000 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 002-2018
Pelz-McGauley: 6 Ayes; 1 Absent - Sistrunk

CA

- 8) Proposed Agreement with Medtronic USA, Inc., an independent contractor, containing nonstandard terms and conditions, for the consigned purchase of Protégé carotid stent systems, effective January 17, 2018, in an annual amount estimated not to exceed \$52,320 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 003-2018
Pelz-McGauley: 6 Ayes; 1 Absent - Sistrunk

CA

- 9) Proposed retroactive Amendment No. 1 to Agreement 210-2016 with the County of Kern for employee benefit services, extending the provision of services, effective July 1, 2016 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 004-2018
Pelz-McGauley: 6 Ayes; 1 Absent - Sistrunk

CA

- 10) Proposed retroactive Resolution specifying the powers and duties of the Kern County Hospital Authority Chief Financial Officer, effective July 1, 2016 –
APPROVED; ADOPTED RESOLUTION 2018-001
Pelz-McGauley: 6 Ayes; 1 Absent - Sistrunk

CA

- 11) Proposed Agreement with HireRight, LLC, an independent contractor, containing nonstandard terms and conditions, for background screening products and services from January 17, 2018 through January 16, 2021, in an amount estimated not to exceed \$75,000 –
APPROVED; AUTHORIZED CHAIRMAN TO SIGN 005-2018
Pelz-McGauley: 6 Ayes; 1 Absent - Sistrunk

CA

- 12) Proposed acceptance of donation from CSAC EIA for travel and related expenses to cover all costs for one or more Kern Medical employees to attend the Division of Workers' Compensation "25th Annual DWC Educational Conference" in Los Angeles, California, from February 12-13, 2018 –
APPROVED; ADOPTED RESOLUTION 2018-002
Pelz-McGauley: 6 Ayes; 1 Absent - Sistrunk

- 13) Request to employ retired Kern County Hospital Authority employee Rose Bauer, as Extra Help Clinical Pharmacist, for the period ending June 30, 2018, or 960 hours, whichever occurs first, effective January 20, 2018 –
APPROVED
Lawson-Pelz: 6 Ayes; 1 Absent - Sistrunk
- 14) Kern County Hospital Authority Chief Financial Officer report –
RECEIVED AND FILED
McLaughlin-Berjis: 6 Ayes; 1 Absent - Sistrunk
- 15) Kern County Hospital Authority Chief Executive Officer report –
RECEIVE AND FILE
Pelz-Lawson: 6 Ayes; 1 Absent - Sistrunk
- CA
- 16) Claims and Lawsuits Filed as of December 31, 2017 –
RECEIVE AND FILE
Pelz-McGauley: 6 Ayes; 1 Absent - Sistrunk

ADJOURNED TO CLOSED SESSION
McGauley-McLaughlin

CLOSED SESSION

- 17) Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) – SEE RESULTS BELOW
- 18) Request for Closed Session for the purpose of discussion or taking action on authority trade secrets (Health and Safety Code Section 101855(e)(1)) – SEE RESULTS BELOW
- 19) CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Chief Executive Officer Russell V. Judd, and designated staff - Employee organizations: Service Employees International Union, Local 521 (Government Code Section 54957.6) – SEE RESULTS BELOW
- 20) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Farzin Tayefeh, M.D., et al. v. County of Kern, et al., Kern County Superior Court, Case No. BCV-15-100647 LHB – SEE RESULTS BELOW

- 21) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Kern Emergency Physicians Medical Group, a California general partnership v. County of Kern, et al., Kern County Superior Court, Case No. S-1500-CV-283225 LHB – SEE RESULTS BELOW
- 22) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Brandy Hernandez aka Brandy Desrocher, an individual v. County of Kern, et al., Kern County Superior Court, Case No. BCV-17-102820 SDS – SEE RESULTS BELOW
- 23) PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE (Government Code Section 54957(b)) – SEE RESULTS BELOW

RECONVENED FROM CLOSED SESSION
McLaughlin-Berjis

REPORT ON ACTIONS TAKEN IN CLOSED SESSION

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

Item No. 18 concerning REQUEST FOR CLOSED SESSION regarding peer review of health facilities (Health and Safety Code Section 101855(j)(2)) – HEARD; NO REPORTABLE ACTION TAKEN

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

Item No. 20 concerning CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Farzin Tayefeh, M.D., et al. v. County of Kern, et al., Kern County Superior Court, Case No. BCV-15-100647 LHB – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 21 concerning CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Kern Emergency Physicians Medical Group, a California general partnership v. County of Kern, et al., Kern County Superior Court, Case No. S-1500-CV-283225 LHB – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 22 concerning CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Brandy Hernandez aka Brandy Desrocher, an individual v. County of Kern, et al., Kern County Superior Court, Case No. BCV-17-102820 SDS – HEARD; NO REPORTABLE ACTION TAKEN

Item No. 23 concerning PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE (Government Code Section 54957(b)) – HEARD; NO REPORTABLE ACTION TAKEN

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

McGauley

/s/ Mona A. Allen
Authority Board Coordinator

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



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

February 21, 2018

Subject: Proposed Report of Independent Auditors from Moss-Adams, LLP

Recommended Action: Receive and File; Refer to Kern County Board of Supervisors

Summary:

Kern Medical requests your Board receive and file the Report of Independent Auditors from Moss-Adams, LLP, for the audit of Kern Medical's financial statements pursuant to Kern County Agreement No. 584-2015. The scope of the audit includes the audit of Kern Medical financial statements, which comprise the statement of net position as of June 30, 2017, and the related statements of revenue, expenses and changes in net position, and cash flows for the year then ended, and the related notes to the financial statements.



2017 Audit Results: Kern County Hospital Authority

February 21, 2018

[illegible]

Board of Governors

Kern County Hospital Authority



Dear Board of Governors:

Thank you for your continued engagement of Moss Adams LLP. We are pleased to have the opportunity to meet with you to discuss the results of our audit of the financial statements of Kern County Hospital Authority (“Kern Medical”) for the year ended June 30, 2017.

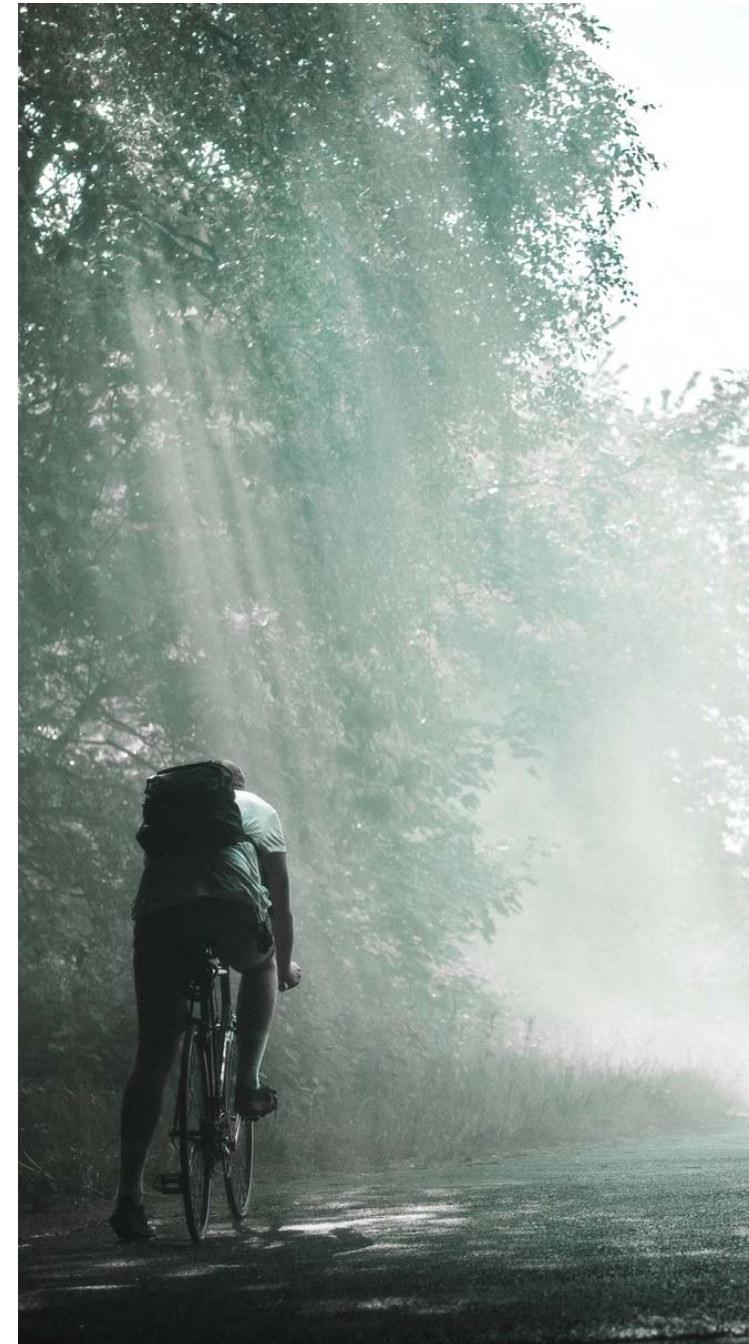
The accompanying report, which is intended solely for the use of the Board of Governors and management, presents important information regarding the Kern County Hospital Authority financial statements and our audit that we believe will be of interest to you. It is not intended and should not be used by anyone other than these specified parties.

We conducted our audit with the objectivity and independence that you expect. We receive the full support and assistance of the Kern County Hospital Authority personnel. We are pleased to serve and be associated with the Kern County Hospital Authority as its independent public accountants and look forward to our continued relationship.

We look forward to discussing our report or any other matters of interest with you during this meeting.

Agenda

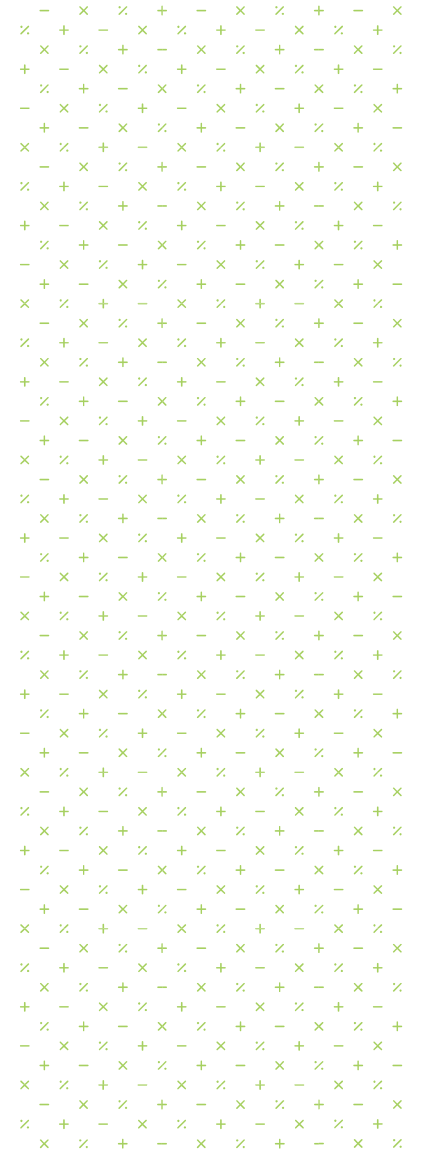
- Auditor Opinion and Reports
- Communication with Those Charged with Governance
- Exhibit: Management Representation Letter
- Other Information





Auditor Opinion & Reports

Better Together: Moss Adams & Kern County Hospital Authority



Scope of Services

We have performed the following services for Kern Medical:

- Annual financial statement audit for the year ending June 30, 2017

We have also performed the following non-attest services:

- Assisted in the drafting of the financial statements of Kern Medical



Auditor Report on the Financial Statements

Unmodified Opinion

- Financial statements are presented fairly and in accordance with US GAAP



Other Auditor Reports

GAGAS Report on *Internal Control Over Financial Reporting* and on *Compliance and Other Matters*

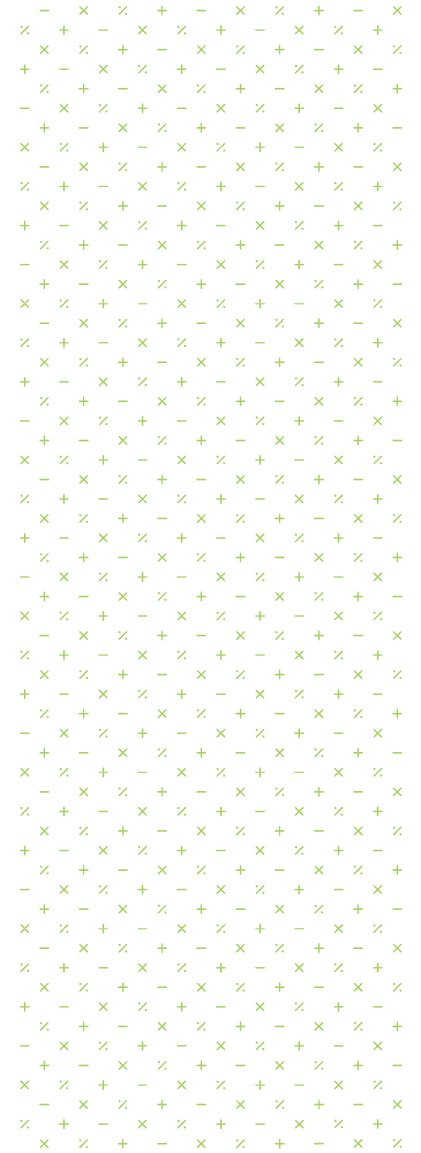
- Material weaknesses – None noted.
- Significant deficiencies:
 - Finding 2017-01 Journal Entry Process
 - Finding 2017-02 Timely Reconciliation of General Ledger Accounts
 - Finding 2017-03 Bank Account Reconciliation
 - Finding 2017-04 Purchasing and Disbursements Control Activities





Communication with Those Charged with Governance

Better Together: Moss Adams & Kern County Hospital Authority



Our Responsibility

Our responsibility under US Generally Accepted Auditing Standards and Government Auditing Standards.

1

To express our opinion on whether the financial statements prepared by management with your oversight are fairly presented, in all material respects, and in accordance with U.S. GAAP. However, our audit does not relieve you or management of your responsibilities.

2

To perform an audit in accordance with generally accepted auditing standards issued by the AICPA, Government Auditing Standards issued by the Comptroller General of the United States, and the California (CA) Code of Regulations, Title 2, Section 1131.2 and design the audit to obtain reasonable, rather than absolute, assurance about whether the financial statements are free of material misstatement.

3

To consider internal control over financial reporting and internal control over compliance as a basis for designing audit procedures but not for the purpose of expressing an opinion on its effectiveness or to provide assurance concerning such internal control.

4

To communicate findings that, in our judgment, are relevant to your responsibilities in overseeing the financial reporting. However, we are not required to design procedures for the purpose of identifying other matters to communicate to you.



Planned Scope & Timing of the Audit

It is the auditor's responsibility to determine the overall audit strategy and the audit plan, including the nature, timing and extent of procedures necessary to obtain sufficient and appropriate audit evidence and to communicate with those charged with governance and overview of the planned scope and timing of the audit.

OUR COMMENTS

- The planned scope and timing of the audit was communicated to Kern Medical's Board of Governors at the audit entrance meeting and was included in the engagement letter for the year ended June 30, 2017.



Significant Accounting Policies & Unusual Transactions

The auditor should determine that the Board of Governors is informed about the initial selection of and changes in significant accounting policies or their application. The auditor should also determine that the Board of Governors is informed about the methods used to account for significant unusual transactions and the effect of significant accounting policies in controversial or emerging areas for which there is a lack of authoritative guidance or consensus.

OUR COMMENTS

- Management has the responsibility for selection and use of appropriate accounting policies. The significant accounting policies used by the Kern Medical are described in the footnotes to the financial statements. Throughout the course of an audit, we review changes, if any, to significant accounting policies or their application, and the initial selection and implementation of new policies. There were no changes to significant accounting policies for the year ended June 30, 2017.
- We believe management has selected and applied significant accounting policies appropriately and consistent with those of the prior year.



Areas of Audit Emphasis

- Transfer of Operations – New Hospital Authority
- Patient Revenue/Receivables
- Valuation of Third Party Settlements
- Pension and Other Post-Employment Benefits Obligations
- Self-Insured Risks – Professional Liability and Workers Compensation
- Related Party Transactions



Areas of Audit Emphasis: Patient Service Revenue and Accounts Receivable Allowances

○ Accounting Issue

- Revenue recognition and adequacy of contractual allowances and allowances for bad debts

○ Description of circumstance

- Revenue recognized when service provided
- Receivables, primarily arising from third party payors

○ Audit risk

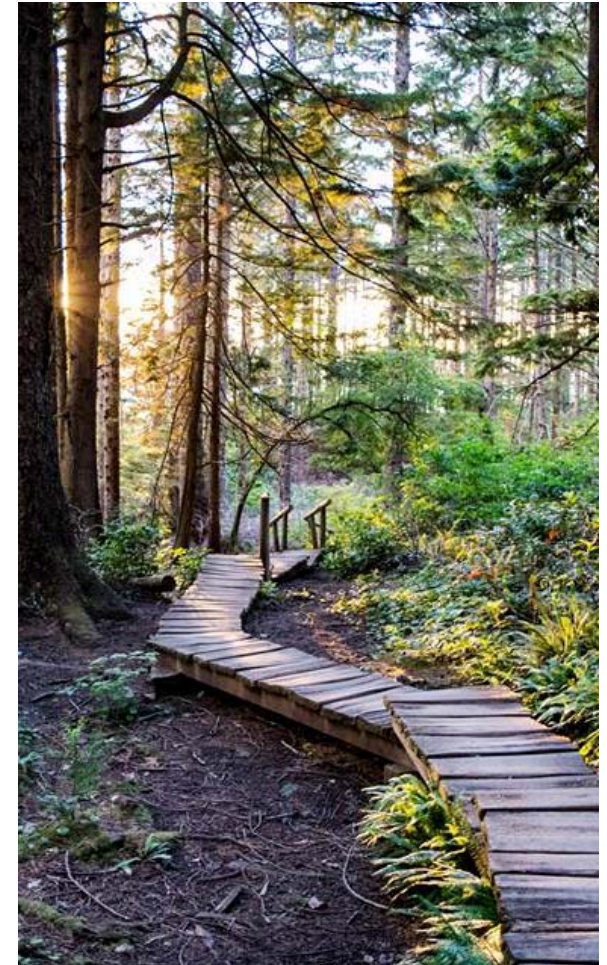
- Revenue recognition could be inappropriate
- Reserve for contractual allowances are understated

○ Moss Adams audit response

- Testing of internal controls around the revenue process
- Testing of management's estimate of allowances using underlying collection history
- Lookback analysis and subsequent cash receipts analysis

○ Moss Adams audit results

- Revenue recognition is considered appropriate
- Valuation of patient accounts receivable is appropriate
- Refer to next slide for hindsight analysis



Patient Accounts Receivable Lookback Analysis

	2016	2015	2014
Net Patient Accounts Receivable	\$27,033,032	\$29,757,971	\$31,864,945
Subsequent Cash Receipts	\$30,103,626	\$29,263,404	\$35,670,341
Cash Receipts in Excess of (Less Than) Amounts Recorded	\$3,070,594	(\$494,567)	\$3,805,396
Cash Receipts in Excess of (Less Than) Amounts Recorded (%)	11%	-2%	12%
Days in Patient Accounts Receivable	54	69	97



Areas of Audit Emphasis: Valuation of Third Party Settlements

○ Accounting Issue

- Revenue recognition and adequacy of reserves

○ Description of circumstance

- Revenue recognized in accordance with the elements of the respective reimbursement program
- Receivables or payables, arising from expected settlements with third party payors

○ Audit risk

- Revenue recognition could be inappropriate
- Reserves are understated

○ Moss Adams audit response

- Testing of internal controls around the revenue process
- Testing of management's estimate of reserves based on contractual reimbursement arrangements, historical settlements, latest available information from payors
- Lookback analysis and subsequent cash receipts analysis

○ Moss Adams audit results

- Revenue recognition is considered appropriate based on available information
- Valuation of third party settlements is appropriate



Management Judgements & Accounting Estimates

The Board of Governors should be informed about the process used by management in formulating particularly sensitive accounting estimates and about the basics for the auditor's conclusions regarding the reasonableness of those estimates.

OUR COMMENTS

- Management's judgements and accounting estimates are based on knowledge and experience about past and current events and assumptions about future events. We apply audit procedures to management's estimates to ascertain whether the estimates are reasonable under the circumstances and do not materially misstate the financial statements.
- Significant management estimates impacted the financial statements including the following: **accounts receivable reserves; actuarially determined accruals for workers' compensation, professional liability, pension and other post-employment liabilities; and accruals for third party settlements.**
- We deem them to be reasonable.



Management Judgements & Accounting Estimates

Our views about the quantitative aspects of the entity's significant accounting policies, accounting estimates, and financial statement disclosures.

OUR COMMENTS

- The disclosures in the financial statements are clear and consistent. Certain financial statement disclosures are particularly sensitive because of their significance to financial statements users. We call your attention to the following note:
- Note 1 – Nature of Operations and Reporting Entity - Disclosure on transfer of operations and related adjustments
 - \$38M decrease in pension liability beginning balance resulting from prior year Kern County allocation error
 - \$7.8M increase in workers' compensation liability beginning balance resulting from the change of responsibility from Kern County to Kern Medical



Significant Audit Adjustments & Unadjusted Differences Considered by Management to Be Immaterial

The Board of Governors should be informed of all significant audit adjustments arising from the audit. Consideration should be given to whether an adjustment is indicative of a significant deficiency or a material weakness in the Kern Medical's internal control over financial reporting, or in its process for reporting interim financial information, that could cause future financial statements to be materially misstated.

The Board of Governors should also be informed of uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented that were determined by management to be immaterial, both individually and in the aggregate, to the financial statements as a whole.

OUR COMMENTS

The following post closing adjustments were recorded:

- An adjustment of \$4,500,000 to decrease Net Patient Accounts Receivable and Net Patient Service Revenue based on subsequent collections
- An adjustment of \$2,800,000 to increase Professional Liability and Expenses based on actuarial analysis
- An adjustment of \$3,000,000 to increase Due to Governmental Agencies and decrease Indigent Patient Care Funding based on subsequent activity for intergovernmental transfers
- An adjustment of \$7,800,000 to increase Workers' Compensation Liability and Unrestricted Net Position resulting from the change of responsibility from Kern County to Kern Medical

There were no uncorrected adjustments.

Potential Effect on the Financial Statements of Any Significant Risks & Exposures

The Board of Governors should be adequately informed of the potential effect on financial statements of significant risks and exposures and uncertainties that are disclosed in the financial statements.

OUR COMMENTS

- Kern Medical is subject to potential legal proceedings and claims that arise in the ordinary course of business, which are disclosed in the notes to the financial statements.

Difficulties Encountered in Performing the Audit

The Board of Governors should be informed of any significant difficulties encountered in dealing with management related to the performance of the audit, including disagreements with management, whether or not satisfactorily resolved, about matters that individually or in the aggregate could be significant to Kern Medical's financial statements, or the auditor's report.

OUR COMMENTS

- No significant difficulties were encountered during our audit.
- We are pleased to report that there were no disagreements with management.



Material Uncertainties Related to Events & Conditions/ Fraud & Noncompliance with Laws and Regulations

Any doubt regarding the entity's ability to continue, as a going concern, should be communicated to the Board of Governors.

Fraud involving senior management and fraud (whether caused by senior management or other employees) that causes a material misstatement of the financial statements should be communicated. We are also required to communicate any noncompliance with laws and regulations involving senior management that come to our attention, unless clearly inconsequential.

OUR COMMENTS

- No such matters came to our attention.
- We have not become aware of any instances of fraud or noncompliance with laws and regulations.



Other Material Written Communications

The Board of Governors should be informed of any significant difficulties encountered in dealing with management related to the performance of the audit, including disagreements with management, whether or not satisfactorily resolved, about matters that individually or in the aggregate could be significant to the Kern Medical's financial statements, or the auditor's report.

OUR COMMENTS

- See Exhibit 1 for management representation letter.
- Other than the engagement letter, management representation letter, and communication to those charged with governance, there have been no other significant communications.



Management's Consultation with Other Accountants

In some cases, management may decide to consult about auditing and accounting matters. If management has consulted with other accountants about an auditing and accounting matter that involves application of an accounting principle to the Hospital's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts.

OUR COMMENTS

- We are not aware of any significant accounting or auditing matters for which management consulted other accountants.





Exhibit 1

[illegible]



December 21, 2017

Moss Adams LLP
10960 Wilshire Blvd., Suite 1100
Los Angeles, California 90024

We are providing this letter in connection with your audit of the financial statements of Kern County Hospital Authority (the Authority or Kern Medical), which comprise the net position as of June 30, 2017 and for the year then ended and the related notes to the financial statements for the purpose of expressing an opinion as to whether the financial statements are presented fairly, in all material respects, in accordance with accounting principles generally accepted in the United States (U.S. GAAP). Certain representations in this letter are described as being limited to matters that are material. Items are considered material, regardless of size, if they involve an omission or misstatement of accounting information that, in the light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement.

Except where otherwise stated below, immaterial matters less than \$350,000 collectively are not considered to be exceptions that require disclosure for the purpose of the following representations. This amount is not necessarily indicative of amounts that would require adjustment to or disclosure in the financial statements.

We confirm that, to the best of our knowledge and belief, having made such inquiries as we considered necessary for the purpose of appropriately informing ourselves as of December 20, 2017,

Financial Statements

1. We have fulfilled our responsibilities, as set out in the terms of the audit engagement letter dated March 8, 2017, for the preparation and fair presentation of the financial statements in accordance with U.S. GAAP.
2. We acknowledge our responsibility for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.
3. We acknowledge our responsibility for the design, implementation and maintenance of internal controls to prevent and detect fraud.
4. Significant assumptions used by us in making accounting estimates, including those measured at fair value, are reasonable.
5. Related party relationships and transactions have been appropriately accounted for and disclosed in accordance with the requirements of U.S. GAAP.
6. All events subsequent to the date of the financial statements and for which U.S. GAAP requires adjustment or disclosure have been adjusted or disclosed.
7. The effects of all known actual or possible litigation and claims have been accounted for and disclosed in accordance with U.S. GAAP.
8. We believe that the effects of the uncorrected financial statement misstatements summarized in the schedule below are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

Information Provided

9. We have provided you with:
 - a. Access to all information, of which we are aware that is relevant to the preparation and fair presentation of the financial statements such as records, documentation and other matters;
 - b. Minutes of the meetings of stockholders, directors, and committees of directors, or summaries of actions of recent meetings for which minutes have not yet been prepared;

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

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- c. Additional information that you have requested from us for the purpose of the audit;
 - d. Unrestricted access to persons within the entity from whom you determined it necessary to obtain audit evidence.
- 10. All transactions have been properly recorded in the accounting records and are reflected in the financial statements.
- 11. We have disclosed to you the results of our assessment of the risk that the financial statements may be materially misstated as a result of fraud.
- 12. We have no knowledge of any fraud or suspected fraud that affects the entity and involves—
 - a. Management,
 - b. Employees who have significant roles in internal control, or
 - c. Others when the fraud could have a material effect on the financial statements.
- 13. We have no knowledge of any allegations of fraud or suspected fraud, affecting the entity's financial statements communicated by employees, former employees, analysts, regulators or others.
- 14. We have disclosed to you all known instances of non-compliance or suspected non-compliance with laws and regulations whose effects should be considered when preparing financial statements.
- 15. We have disclosed to you all known actual or possible litigation, claims, and assessments whose effects should be considered when preparing the financial statements.
- 16. We have disclosed to you the identity of the entity's related parties and all the related party relationships and transactions of which we are aware.
- 17. We have made available to you all financial records and related data and all audit or relevant monitoring reports, if any, received from funding sources.
- 18. There have been no communications from regulatory agencies concerning noncompliance with, or deficiencies in, financial reporting practices.
- 19. We have a process to track the status of audit findings and recommendations.
- 20. We have identified to you any previous audits, attestation engagements, and other studies related to the audit objectives and whether related recommendations have been implemented.
- 21. We have provided our views on reported findings, conclusions, and recommendations, as well as our planned corrective actions, for the report.
- 22. Kern Medical has no plans or intentions that may materially affect the carrying value or classification of assets, liabilities, or net position.
- 23. We are responsible for compliance with the laws, regulations, and provisions of contracts and grant agreements applicable to us, including tax or debt limits and debt contracts; and we have identified and disclosed to you all laws, regulations and provisions of contracts and grant agreements that we believe have a direct and material effect on the determination of financial statement amounts or other financial data significant to the audit objectives, including legal and contractual provisions for reporting specific activities in separate funds.
- 24. There are no violations or possible violations of budget ordinances, laws and regulations (including those pertaining to adopting, approving, and amending budgets), provisions of contracts and grant agreements, tax or debt limits, and any related debt covenants whose effects should be considered for disclosure in the financial statements, or as a basis for recording a loss contingency, or for reporting on noncompliance.
- 25. As part of your audit, you assisted with the preparation of the financial statements. We have designated an individual with suitable skill, knowledge, or experience to oversee your services and have assumed all management responsibilities. We have reviewed, approved, and accepted responsibility for those financial statements and related notes.
- 26. Kern Medical has satisfactory title to all owned assets, and there are no liens or encumbrances on such assets nor has any asset been pledged as collateral other than as disclosed in the notes to financial statements.

27. Kern Medical has complied with all aspects of contractual agreements that would have a material effect on the financial statements in the event of noncompliance.
28. We have followed all applicable laws and regulations in adopting, approving, and amending budgets.
29. This financial statements include all component units as well as joint ventures with an equity interest, and properly disclose all other joint ventures and other related organizations.
30. Components of net position (net investment in capital assets; restricted; and unrestricted) and equity amounts are properly classified and, if applicable, approved.
31. Investments, derivative instruments, and land and other real estate are properly valued.
32. Provisions for uncollectible receivables have been properly identified and recorded.
33. Receivables recorded in the financial statements represent valid claims against debtors for sales or other charges arising on or before the statement of net position date and have been appropriately reduced to their estimated net realizable value.
34. Revenues are appropriately classified in the statements of revenues, expenses and changes in net position within program revenues, general revenues, contributions to term or permanent endowments, or contributions to permanent fund principal.
35. Interfund, internal and intra-entity activity and balances have been appropriately classified and reported.
36. Deposits and investment securities and derivative instruments are properly classified as to risk and investments and properly valued.
37. All investments purchased or held at any time during the period under audit were in conformity with the provisions of Kern Medical's investment policy, bond documents, and the State of California Code Section 53601.
38. During the audit period and through the date of this letter, no investments were sold or disposed of at a material loss.
39. For the past three years, no payment or any claims or judgment has exceeded the amount of applicable insured limits.
40. Capital assets, including infrastructure and intangible assets, are properly capitalized, reported, and, if applicable, depreciated.
41. Capital assets have been evaluated for impairment as a result of significant and unexpected decline in service utility. Impairment loss if applicable has been properly recorded.
42. Under current California laws, Kern Medical's facilities must comply with specific provisions related to structural and nonstructural seismic standards. These laws will generally require Kern Medical to retrofit, remodel or upgrade certain buildings, subject to legislative changes and certain available exemptions. Kern Medical received an extension through 2019. The cost estimates associated with this compliance have not been completed but will likely be significant.
43. Kern Medical has complied, in all material respects, with the requirements of SEC Rule No. 15c2-12 for all applicable debt issued after July 3, 1995.
44. Tax exempt bonds have retained their tax exempt status.
45. As of June 30, 2017, unrecorded arbitrage rebate incurred is not material to the financial position of Kern Medical's financial statements.
46. We have appropriately disclosed Kern Medical's policy regarding whether first to apply restricted or unrestricted resources when an expense is incurred for purposes for which both restricted and unrestricted net position are available and have determined that net position were properly recognized under the policy.
47. We acknowledge our responsibility for the required supplementary information (RSI). The RSI is measure and presented within prescribed guidelines and the methods of measurement and presentation have not changed from those used in the prior period. We have disclosed to you any significant assumptions and interpretations underlying the measurement and presentation of the RSI.
48. Adequate provision has been made for losses, costs and expenses that may be incurred subsequent to the statement of net position date in respect of patient service revenue with dates of service prior to the statement of net position, and for uncollectible accounts and contractual allowances.

Adequate provision has been made for estimated adjustments to accounts receivable, such as for denied claims, and contractual allowances.

All fiscal intermediary and third party payor reports and information have been made available to you. Third party settlements in Kern Medical's financial statements include differences between filed cost reports and calculated settlements and are necessary based on the historical experience or new or ambiguous regulation that may be subject to different interpretations. While we believe Kern Medical is entitled to all the amounts claimed on our cost reports, we believe the amounts of these differences are appropriate.

49. Billings to third-party payors comply in all material respects with applicable coding guidelines (for example, ICD-10) and laws and regulations (including those dealing with Medicare and Medicaid antifraud and abuse), and billings reflect only charges for goods and services that were medically necessary; properly approved by regulatory bodies, if required; and properly rendered.
50. All required Medicare, Medi-Cal and similar cost reports have been filed. We recognize that as management we are responsible for the accuracy and the propriety of all cost reports filed with Medicare, Medi-Cal or other third parties. We believe that all costs reflected in such reports are appropriate and allowable under applicable reimbursement rules and regulations. All such costs are patient related and properly allocated to applicable payors. The reimbursement methodologies and principles employed are in accordance with applicable rules and regulations. Appropriate provisions have been made in the cost reports to reflect the prior audit adjustment by intermediaries, third party payors, or regulatory agencies. We have fully disclosed in the cost report all items required to be disclosed, including disputed costs that are being claimed to establish a basis for subsequent appeal.
51. Management has recorded in the financial statements estimated provisions for third-party payor contractual adjustments and allowances and has made the required disclosures in accordance with applicable accounting guidance for the year ended June 30, 2017 based on management's analysis of existing conditions. Kern Medical recorded changes in estimates in amounts expected to be received resulting in reductions in net patient service revenue of approximately \$3,600,000 during the fiscal year ended June 30, 2017. The changes in estimates were a result of new and more current information received during the year ended June 30, 2017.
52. Effective January 1, 2016, California's Section 1115 Waiver Renewal (Renewal), called Medi-Cal 2020, was approved by CMS. As part of the Renewal, the Global Payment Program (GPP) establishes a statewide pool of funding for the remaining uninsured by combining federal disproportionate share (DSH) and uncompensated care funding where selected Designated Public Hospital systems, like Kern Medical, can achieve their goal of "global budget" by meeting a service threshold that incentivizes movement from high cost, avoidable services to providing higher value, and preventative services. Kern Medical recognized approximately \$25,561,000 in revenue during the year ended June 30, 2017 for section 1115 waiver programs including GPP. As of June 30, 2017 Kern Medical recorded a receivable of approximately \$5,833,000 for this program which is included in due to governmental agencies.
53. CMS authorized California to invest savings generated through the Demonstration to achieve critical objectives, such as improved quality of care and better care coordination through safety net providers. Over 5 years, up to approximately \$7,464,000,000 in federal funds will be available to all hospitals participating in the PRIME program. As a result of participating in PRIME, Kern Medical recorded revenue of approximately \$26,343,000 for the year ended June 30, 2017. As of June 30, 2017, approximately \$14,368,000 receivable balance is included in the overall balance due from governmental agencies on the accompanying statement of net position as of June 30, 2017.
54. Effective June 1, 2017, CMS approved an amendment to the Special Terms and Conditions of California's Medi-Cal 2020 Demonstration for the Whole Person Care (WPC) Pilots program. The overarching goal of the WPC Pilots is the coordination of health, behavioral health, and social services, as applicable, in a patient-centered manner with the goals of improved beneficiary health and wellbeing through more efficient and effective use of resources. WPC Pilots provide the option to Kern Medical to receive support to integrate care for a particularly vulnerable group of Medi-Cal beneficiaries who have been identified as high users of multiple systems and continue to have poor health outcomes. Through collaborative leadership and systematic coordination among public and private entities, WPC Pilot entities will identify target populations, share data between systems, coordinate care real time, and evaluate individual and population progress – all with the goal of providing comprehensive coordinated care for the beneficiary resulting in better health outcomes. As a result of participating in WPC, Kern Medical recorded \$15,735,000 in revenues for the year ended June 30, 2017.
55. Beginning January 1, 2014, the Affordable Care Act (ACA) provides 100% matching of federal medical assistance percentages (FMAP) for newly eligible Medi-Cal patients. During fiscal years 2017 and 2016, the Kern Medical estimated the difference between cost and interim payments received. As a result of the ACA cost reimbursement, the Health System recorded \$24,965,000 for the year ended June 30, 2017, which is

included in indigent patient care funding. As of June 30, 2017, approximately \$863,000 receivable balance is included in the overall balance due from governmental agencies on the accompanying statement of net position as of June 30, 2017.

56. For newly eligible Medi-Cal patients under the ACA effective January 1, 2014, certain portions of the ACA provided Medi-Cal coverage for patients previously covered under risk sharing agreements. The majority of these beneficiaries were enrolled in managed Medi-Cal health plans. Due to payment mechanisms between the State and the health plans (capitation), an opportunity to receive supplemental funding similar to current rate range programs was made available to the DPHs. As a result of the supplemental funding, the Kern Medical recorded revenue of \$17,968,000 for the year ended June 30, 2017, which is included in indigent patient care funding. As of June 30, 2017, approximately \$18,186,000 receivable balance is included in the overall balance due from governmental agencies on the accompanying statement of net position as of June 30, 2017.
57. The financial statements disclose all material construction commitments or commitments to share revenues (i.e. disposition of development agreements, owner participation agreements, etc.).
58. We agree with the findings of specialists in evaluating Kern Medical's liability for both Pension and Other Post-Employment Benefits and have adequately considered the qualifications of the specialists in determining the amounts and disclosures used in the financial statements and underlying accounting records. We did not give or cause any instructions to be given to specialists with respect to the values or amounts derived in an attempt to bias their work, and we are not otherwise aware of any matters that have had an impact on the independence or objectivity of the specialists.
59. We believe that the actuarial assumptions and methods used to measure pension liabilities and costs for financial accounting purposes are appropriate in the circumstances.
60. The healthcare industry is subject to numerous laws and regulations of federal, state, and local governments. Compliance with these laws and regulations can be subject to governmental review and interpretation, as well as regulatory actions unknown and unasserted at this time. Government activity continues with respect to investigations and allegations concerning violations by healthcare companies of regulations, which could result in the imposition of significant fines and penalties, as well as significant repayments of previously billed and collected revenues. We are unaware of government reviews of Kern Medical ongoing at this time other than those by Kern Medical's regulators in the normal course of business.
61. We have received notification of Recovery Audit Contractor (RAC) audits and determined an accrual is not necessary at June 30, 2017 on the accounts that are being audited.
62. Adequate provision has been made for any material loss that is probable from medical malpractice liabilities as of June 30, 2017. We agree with the findings of the specialists in evaluating the liabilities and have adequately considered the qualifications of the specialists in determining the amounts and disclosures used in the financial statements and underlying accounting records. We did not give or cause any instructions to be given to specialists with respect to the values or amounts derived in an attempt to bias their work, and we are not otherwise aware of any matters that have had an impact on the independence or objectivity of the specialist. We believe that the estimates of the medical malpractice claims incurred but not reported are reasonable and are based on the best available information and that the liabilities and related loss contingencies, change in estimate and expected outcome of uncertainties have been adequately described in Kern Medical's financial statements.
63. The lease commitment schedule included in the footnotes to the financial statements was prepared accurately using current lease agreements and represents a complete listing of all equipment and real estate leases for which we are contractually obligated as of June 30, 2017.
64. In 2001, the Office of Inspector General (OIG) of the U.S. Department of Health of Human Services conducted an audit of DSH payments to Kern Medical in order to determine that those payments did not exceed the hospital specific limit for fiscal year 1998. In September 2002, the OIG issued its final report, claiming total overpayments to Kern Medical of approximately \$38,700,000, of which approximately \$19,400,000 represents the Federal share. The report states that Federal law requires the State to recover overpayments, and State law requires that overpayments determined by audit or Federal disallowance should be recouped by the State. However, in its conclusions, the report does not specifically request Kern Medical to refund the overpayment. The SDHS and Kern Medical generally disagree with the findings of the OIG and maintain that the DSH payments were properly paid in accordance with the approved State plan. Furthermore, both the State and Kern Medical assert that the governing statute, OBRA 1993, does not require retrospective settlement, as these settlements are extremely disruptive and counter-productive to the purposes of the DSH program. No provision has been made in the June 30, 2017 financial statements to repay the amounts claimed by the OIG in its report.

65. AB 2546 passed the California State Legislature on September 26, 2014 and authorized the Board of Supervisors of the County to establish, by ordinance, the Kern County Hospital Authority to manage, administer, and control Kern Medical Center, an enterprise fund of the County, and other health care facilities, and other functions affiliated or consolidated with Kern Medical Center. The Board has adopted the ordinance organizing the Hospital Authority effective November 6, 2015. Pursuant to the aforementioned legislation, effective July 1, 2016, ownership, control, management, medical facilities, and operation of Kern Medical Center was transferred to the Kern County Hospital Authority. The Kern County Hospital Authority is a local unit of government separate and apart from the County and any other public entity. The Kern County Hospital Authority recognized the restated (see Note 2) carrying values of assets, deferred outflows of resources, liabilities, and deferred inflows of resources of the operations of the Kern Medical Center as of July 1, 2016, the effective transfer date. The Kern County Hospital Authority recognized the net position of operations it received as a special item in the accompanying statement of revenues, expenses and changes in position for the year ended June 30, 2017.
66. Subsequent to the transfer of operations, management determined that the pension liabilities that were previously allocated to Kern Medical Center had been overstated, resulting from an error in the allocation calculation for General and Safety employees in the County's internal allocation percentage. The initial allocation calculation did not exclude general employee costs out of safety related departments. As a result, Kern Medical's proportionate share of the County's net pension liability transferred in had been overstated by approximately \$38 million. Management determined that an adjustment to the opening balance of Kern Medical was required.



Russell Judd, Chief Executive Officer



Andy Cantu, Chief Financial Officer

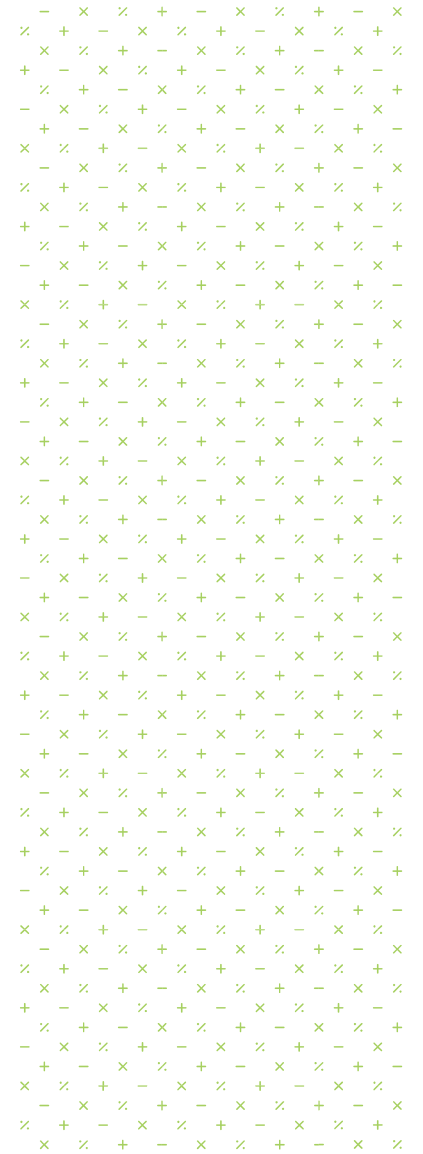


John Mills, Director of Finance



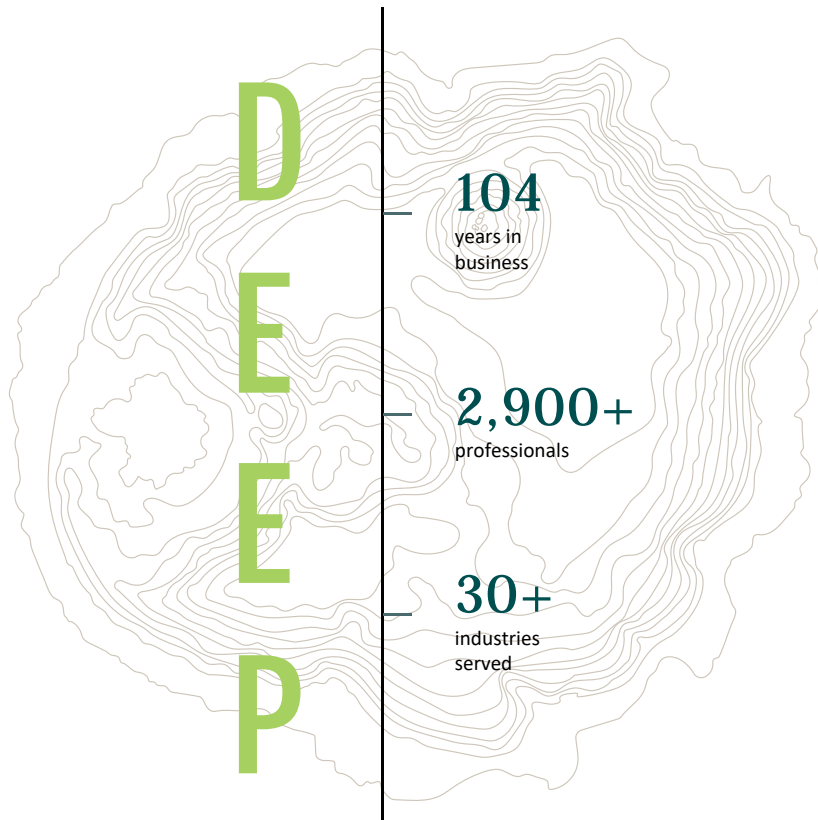
Industry Focus

Better Together: Moss Adams & Kern County Hospital Authority





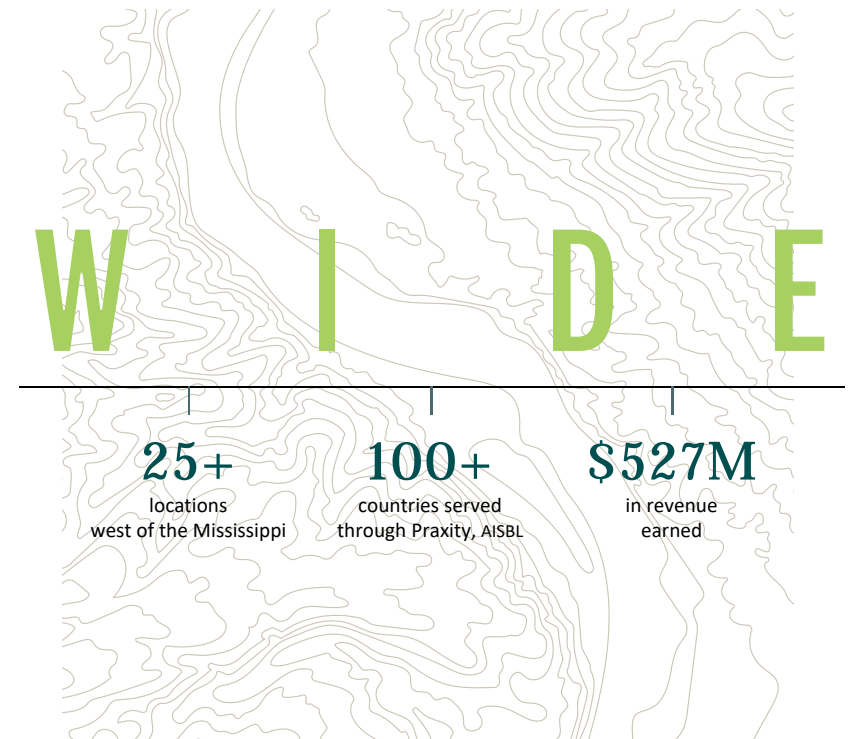
Our Expertise



*Crater Lake—
A monument to perseverance, North America's
deepest lake filled to 1,949 feet over 720 years.*

Data as of November 2017

Our Reach



*Grand Canyon—
At 277 miles long and up to 18 miles
wide, this icon serves as a testament
to determination and time.*

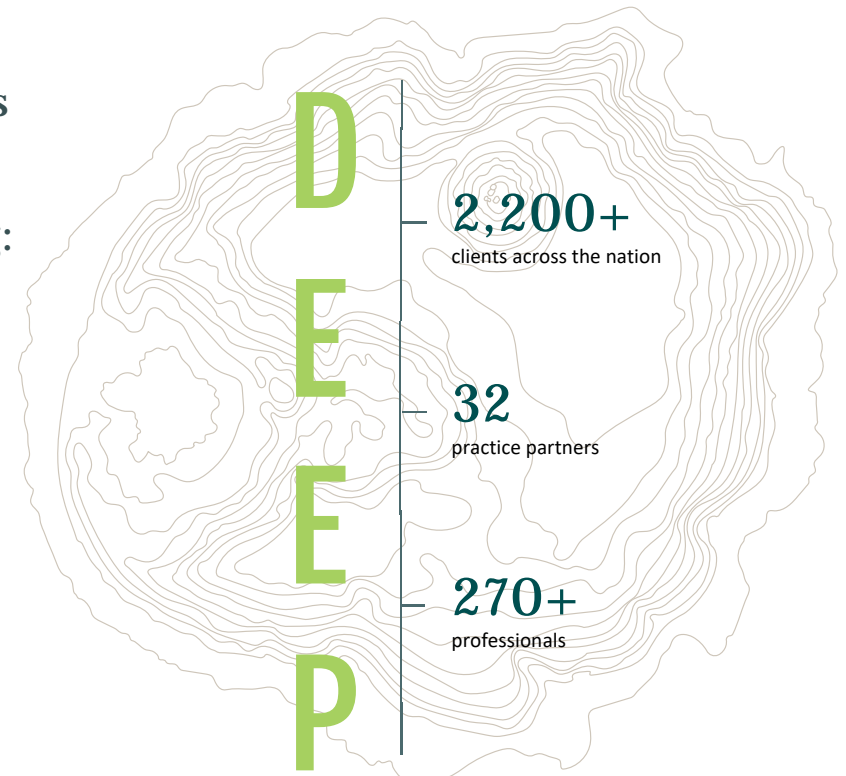
Data as of November 2017

Health Care Industry Experience

Our health care professionals dedicate their careers to serving the industry.

We cover the full spectrum of health care including:

- Hospitals and health systems
- Independent practice associations
- Medical groups
- Community health centers
- Behavioral health organizations
- Long-term care
- Surgery centers
- Knox Keene licensed health plans
- Health care ancillary services



*Crater Lake—
A monument to perseverance, North
America's deepest lake filled to 1,949 feet over
720 years.*

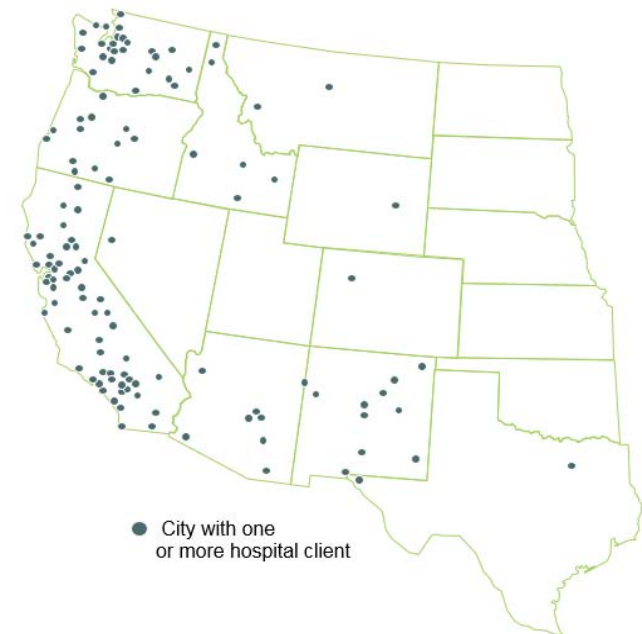
Data as of November 2017



Hospital and Health Systems

Moss Adams serves more than 200 hospitals and health systems, ranging in size from 15 to over 1,000 beds. We offer tailored solutions and health care consulting services to our for-profit, government, and not-for-profit entities. Our clients include:

- Integrated health systems
- University-based hospitals
- Tertiary-care teaching hospitals
- Community and sole community hospitals
- District hospitals
- Critical access hospitals
- Pediatric hospitals



Health Care Consulting Services

Audit and tax are vital. But you may have needs that go beyond these core functions. Our dedicated health care consulting team provides a range of services to address all your needs—both now and in the future.

Health Care Consulting		
COST REIMBURSEMENT	GOVERNMENT COMPLIANCE	OPERATIONAL IMPROVEMENT
Medicare & Medicaid	Regulatory Compliance	Revenue Cycle Enhancement
Provider-based Licensure & Certification	Coding Validation	Claims Recovery
Medical Education	Coding Department Redesign	Litigation Support
Uncompensated Care	HIPAA Reviews & Assessments	Employer Health Benefits
	Corporate Compliance	Operational Assessments & Process Improvement
STRATEGY & INTEGRATION	LEAN CONSULTING	
Provider Risk Analysis, Contracting & Operational Design	3P + Innovation	
M&A Support	Lean Management & Hoshin	
Feasibility Studies	Lean Operations	
Market Intelligence & Benchmarking	Quality & Patient Safety	



Services

We offer a full range of services and specializations that span accounting, consulting, and wealth management to suit your specific needs.

Accounting
ASSURANCE
Financial Statement Audits
Employee Benefit Plans
Public Company & SEC
Internal Audit
Outsourced Accounting
Contract Compliance
Sustainability
TAX
Accounting for Income Taxes (ASC 740)
Accounting Methods
Compensation & Benefits
Credits & Incentives
International
State & Local
Controversy & Dispute Resolution
Tax Structuring
Transfer Pricing

Consulting
IT
Compliance
Cybersecurity
Assessment & Planning
Development & Integration
STRATEGY & OPERATIONS
Business Planning
Performance Audits
Succession Planning
TRANSACTIONS
Due Diligence
Investment Banking
M&A Tax
Restructuring
Valuations

Wealth Management
INDIVIDUAL
Tax
Financial Planning
Investments
Family Office
INSTITUTIONAL
Investments
Insurance



Health Care Operational Consulting

We have the resources to help you identify risk, take advantage of emerging opportunities, and proactively address any operational inefficiencies:

- Charge capture re-design
- Feasibility consultants
- HIPAA security reviews and assessments
- Claim analysis practice
- Cost segregation studies
- Corporate compliance practice
- Internal audit services
- Technology assessments and consulting
- Real estate and construction advisory services
- Third-party reimbursement services
- Research center
- Wage index review
- Revenue cycle management



Cost Reimbursement Consulting

Optimizing your organization's reimbursement requires coordination across people, systems, and processes. That's why, as we develop strategies to help you navigate Medicare and Medicaid's ever-changing landscape, we consider your financial statements, budgeting, and business planning.

We offer a detailed approach that focuses on five key areas:

- Medicare and Medicaid cost reimbursement
- Provider-based licensure and certification
- Medical education programs
- Wage index reviews
- Uncompensated care

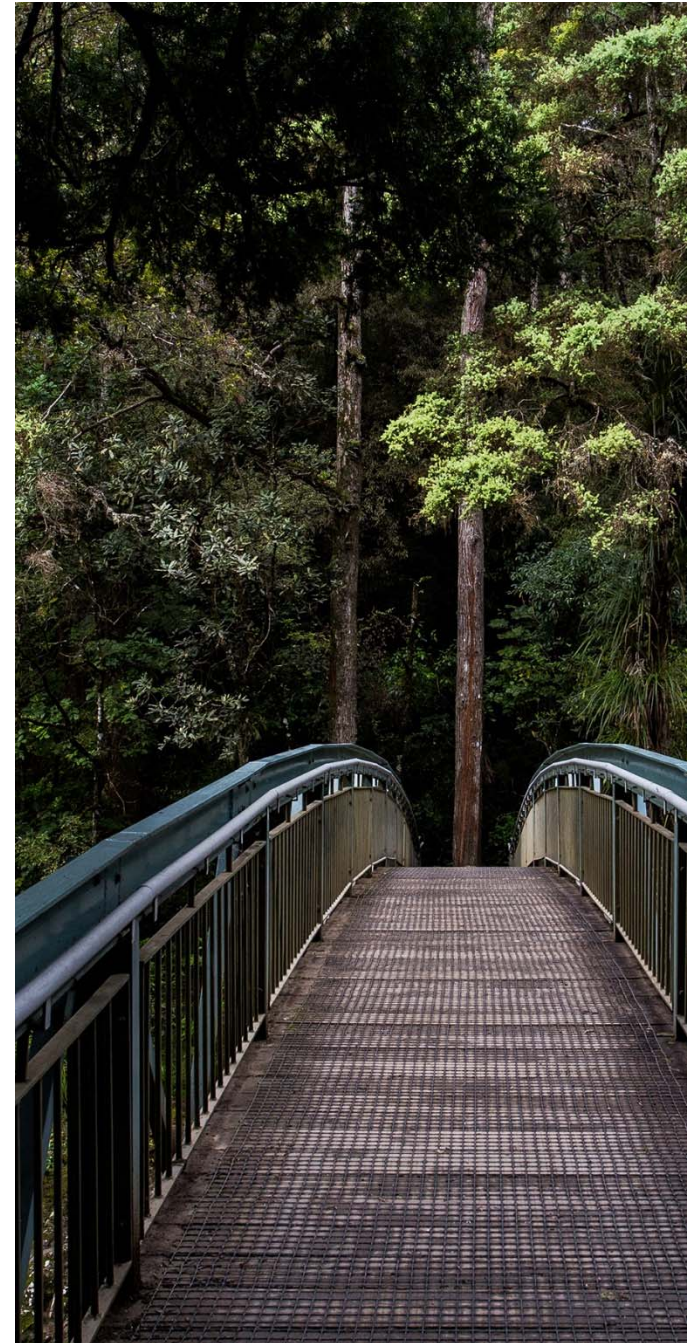


Operational Improvement Consulting

Moss Adams has provided operational improvement consulting services for numerous health insurers, from multimillion-member national health plans to small regional Medi-Cal and Medicaid insurers.

We offer expertise in six key areas:

- Operational assessments and process improvement
- Revenue cycle
- Claims auditing, recovery, and revenue assessment
- Litigation support
- Employer health benefits

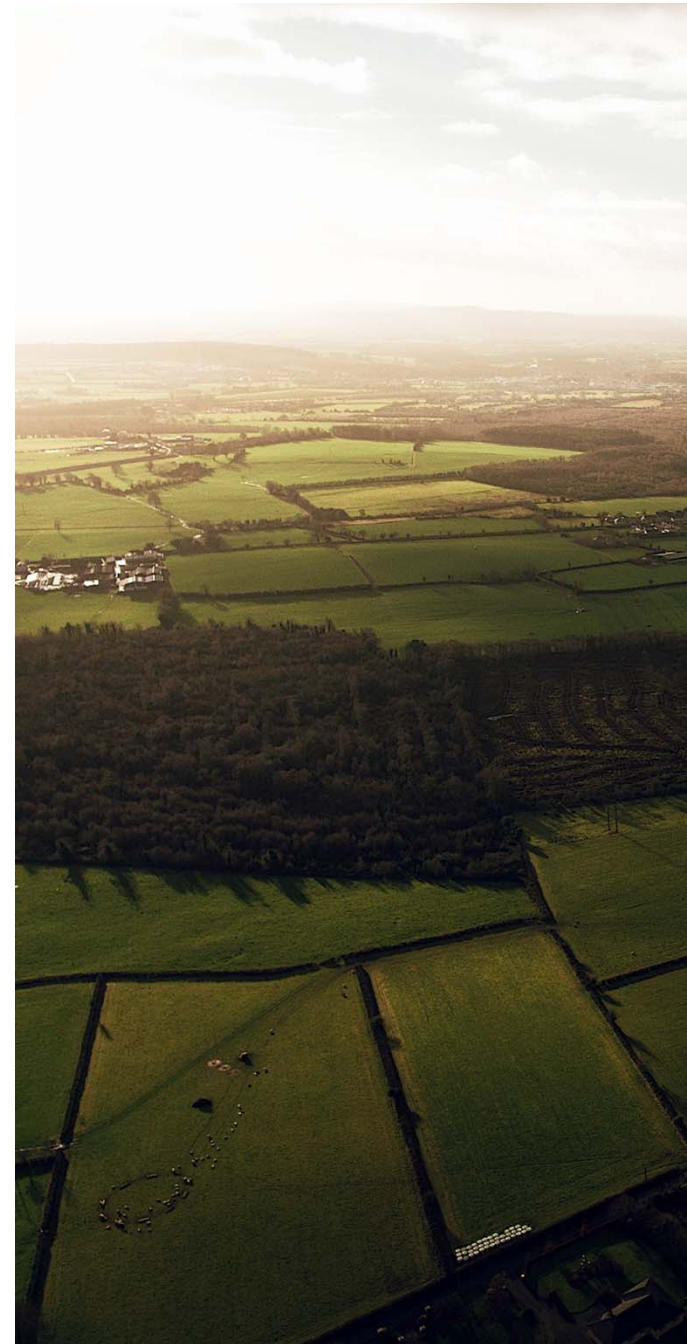


Government Compliance Consulting

Navigating the ins and outs of government compliance takes a trained eye. We work closely with you to help identify areas of improvement, correct billing errors, and prevent future oversights.

We focus on four key areas:

- Regulatory compliance
- Coding validation
- Coding department redesign
- EHR internal controls

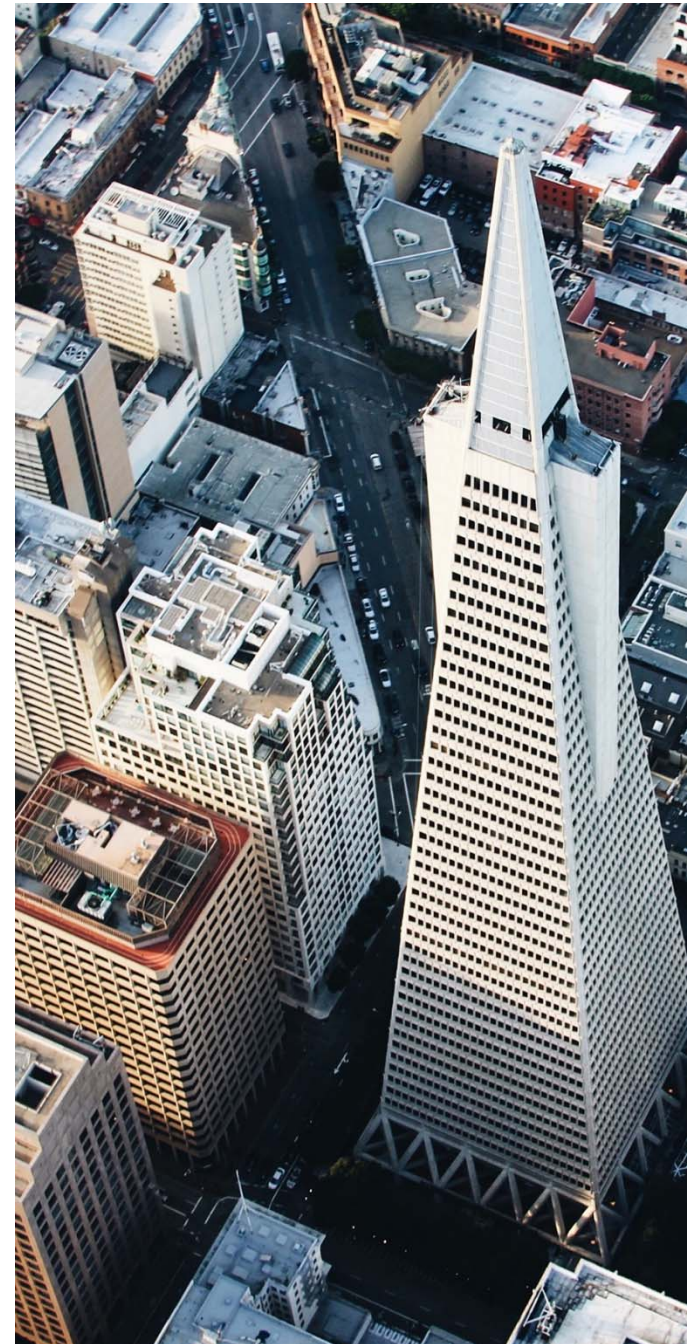


Strategy and Integration Consulting

Our health care consultants are dedicated to helping you gain efficiency, streamline operations, and find opportunity in a time of rapid industry upheaval.

We focus on:

- Strategic planning and implementation
- Provider risk analysis, contracting, and operational design
- Market intelligence and benchmarking
- Service line enhancement
- Feasibility studies and analysis
- Managed care assessment and negotiation
- M&A support
- Financial modeling

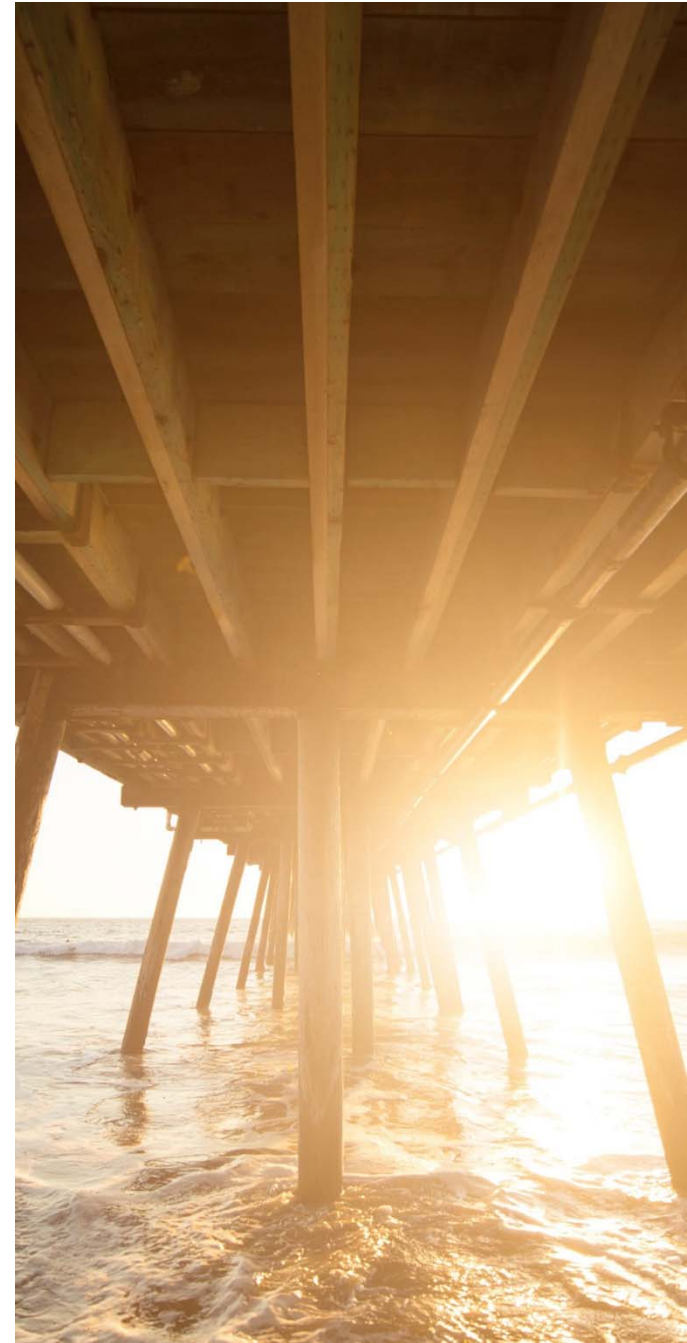


Internal Audit Solutions

We offer a custom, risk-based approach to helping you achieve the desired level of assurance; achieve your organization's goals; improve your local capability and efficiency; and reduce your compliance costs.

Working with you, we can address such challenges as:

- Board of Governors expectations
- Internal control problems
- Inefficient business processes, costly or wasteful practices
- High fixed internal audit costs
- Unfulfilled internal audit needs
- Insufficient coverage of information technology, tax
- Compliance failures



Insights and Resources

In today's fast-paced world, we know how precious your time is. We also know that knowledge is key. These resources offer what you need to know, when you need to know it, and is presented in the format that fits your life.

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Stacy J. Stelzriede, Partner
Stacy.Stelzriede@mossadams.com
(310) 295-3772

Stelian Damu, Senior Manager
Stelian.Damu@mossadams.com
(818) 577-1914

Jae Hyun, Senior
Jae.Hyun@mossadams.com
(310) 481-1251

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*REPORT OF INDEPENDENT AUDITORS
AND FINANCIAL STATEMENTS
WITH SUPPLEMENTARY INFORMATION*

FOR

KERN COUNTY HOSPITAL AUTHORITY

June 30, 2017

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Report of Independent Auditors

The Board of Governors
Kern County Hospital Authority

Report on Financial Statements

We have audited the accompanying financial statements of Kern County Hospital Authority ("Kern Medical"), a discretely presented component unit of the County of Kern, California, as of and for the year ended June 30, 2017, and the related notes to the financial statements, which collectively comprise Kern Medical's basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the net position of Kern Medical as of June 30, 2017, and the changes in financial position and cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Emphasis of Matter

As discussed in Note 1, effective July 1, 2016, ownership, control, management, medical facilities, and operation of Kern Medical Center, an enterprise fund of the County of Kern, was transferred to the Kern County Hospital Authority. The Kern County Hospital Authority is a local unit of government separate and apart from the County and any other public entity. Subsequent to the transfer of operations, management determined that the pension liabilities that were previously allocated to Kern Medical Center had been overstated, which required an adjustment to the opening balance sheet of Kern Medical. Additionally, with the change in ownership, Kern Medical assumed the legacy employees and recorded an additional liability for worker's compensation.

Other Matters

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis and other post-employment benefit schedules, including schedules of funding progress, on pages 3–10, and 51–55, respectively, be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated December 21, 2017 on our consideration of Kern Medical's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering Kern Medical's internal control over financial reporting and compliance.

Moss Adams LLP

Los Angeles, California
December 21, 2017

Kern County Hospital Authority Management's Discussion and Analysis

The discussion and analysis of the Kern County Hospital Authority (the Authority or Kern Medical) financial performance provides an overall review of the financial activities for the fiscal year ending June 30, 2017. The intent of this discussion and analysis is to provide further information about Kern Medical's financial performance as a whole. Readers should also review the financial statements and the accompanying notes to the financial statements to enhance their understanding of Kern Medical's financial performance.

Summary of Organization and Business

Kern Medical Center, an enterprise fund of the County of Kern, operated as a constituent department of the County of Kern (the County) through June 30, 2016. Effective July 1, 2016, under the authority of the Kern County Board of Supervisors, the Kern County Hospital Authority was formed to operate and control Kern Medical Center. The Authority was formed to provide an organizational and operational structure that facilitates and improves Kern Medical Center's ability to function with flexibility, responsiveness, and innovation. Under the Kern County Hospital Authority, Kern Medical continues to function as a designated public hospital and a critical component of the state and county health care safety net. The creation of an independent Authority to provide maintenance, operation, management, and control of Kern Medical and its related health care resources in a manner consistent with the County's obligations under Section 17000 of the Welfare and Institutions Code, is the best way to achieve these objectives in a manner that ensures continued viability of Kern Medical and its constitutes an ongoing material benefit to the County and its residents. The Authority is a local unit of government and a subdivision of the state separate and apart from the County and any other public entity. The Authority is governed by a Board of Governors appointed by the County Board of Supervisors. The Authority is not governed by or subject to the County of Kern Rules of Civil Service Commission and not governed by, or subject to, other operational rules of the county, including, but not limited to, those relating to personnel and procurement.

Key Performance Indicators

Admissions (Excluding Births)	9,659
Discharges	11,262
Births	2,604
Patient Days (Excluding Newborns)	48,841
Average Daily Census	134

Overview of the Financial Statements

The financial statements of the Kern Medical report information about Kern Medical's use of accounting methods, which are similar to those used by private sector companies. These statements offer short and long-term financial information about its activities and include the statement of net position; the statement of revenues, expenses, and changes in net position; and the statement of cash flows. In addition, the accompanying notes are an integral part of these financial statements.

Kern County Hospital Authority

Management's Discussion and Analysis

The statement of net position includes all of Kern Medical's assets, liabilities and deferred inflows and outflows and provides information about the nature and amounts of investments in resources (assets) and obligations to Kern Medical's creditors (liabilities). It also provides the basis for evaluating the capital structure of Kern Medical and assessing the liquidity and financial flexibility of Kern Medical.

The statement of revenues, expenses, and changes in net position reports all of the revenues and expenses during the time period indicated. This statement measures the success of Kern Medical's operations over the past year and can be used to determine whether Kern Medical has successfully recovered all of its costs through its charges at established rates and other revenues. Over time, increases or decreases in net position may serve as a unique indicator of whether or not the financial position of Kern Medical is improving or deteriorating.

The statement of cash flows reports cash receipts; cash payments; and changes in cash resulting from operations, investing, and financing activities, and the changes in cash during the reporting period.

The notes to the financial statements provide required disclosures and other information that are essential to a full understanding of material data provided in the statements. The notes present information about Kern Medical's accounting policies, significant account balances and activities, material risks, obligations, commitments, contingencies, and subsequent events, if any.

Financial Analysis

Condensed Statement of Net Position

Current assets	\$ 119,189,770
Capital assets	52,936,227
Restricted and other assets	<u>912,973</u>
Total assets	173,038,970
DEFERRED OUTFLOWS OF RESOURCES	<u>71,752,645</u>
Total assets and deferred outflows of resources	<u><u>\$ 244,791,615</u></u>
Current liabilities	\$ 104,758,923
Noncurrent liabilities	<u>396,285,808</u>
Total liabilities	501,044,731
DEFERRED INFLOWS OF RESOURCES	<u>22,238,926</u>
Net investment in capital assets	49,686,149
Restricted	6,682,961
Unrestricted	<u>(334,861,152)</u>
Total net position	<u>(278,492,042)</u>
Total liabilities, deferred inflows of resources, and net position	<u><u>\$ 244,791,615</u></u>

Kern County Hospital Authority Management's Discussion and Analysis

Statement of Net Position Highlights:

Current assets – Current assets at June 30, 2017 were \$119.2 million, consisting mainly of cash and net patient accounts receivable. The ending cash balance of \$67.3 million and the ending net patient accounts receivable balance of \$39.7 million were due in large part to improved efficiency in revenue cycle processes realized after the implementation of new policies and procedures. Receivables booked from third party governmental payers are due mostly to the approval by the Federal Centers for Medicaid and Medicare of the renewal of California's Section 1115 Medicaid Waiver in December 2015 and other programs under the Affordable Care Act and Medi-Cal Managed Care Supplemental Programs

Deferred outflows of resources – In connection with GASB No. 68, the Kern Medical reported deferred outflows of resources of \$71.8 million related to changes in actuarial assumptions, net differences between projected and actual earnings on pension plan investments and contributions made subsequent to the measurement date.

Long-term liabilities – Long-term liabilities at June 30, 2017 had a balance of \$396.3 million, consisting mainly of a \$329.9 million net pension liability.

Deferred inflows of resources – In connection with GASB No. 68, Kern Medical reported deferred inflows of resources of \$22.2 million related to the net differences between pension plan expected and actual experience and changes in proportion and differences between Kern Medical contributions and proportionate share of contributions.

Unrestricted net position – The unrestricted net position balance of negative \$334.9 million at June 30, 2017 consists mainly of net pension liability.

Condensed Statement of Revenues, Expenses, and Changes in Net Position

Operating revenue	\$ 360,563,063
Nonoperating revenue	942,811
Total revenue	<u>361,505,874</u>
Depreciation and amortization	5,994,971
Operating expenses	340,881,090
Nonoperating expenses	3,226,481
Total expenses	<u>350,102,542</u>
Net loss before transfers and special items	11,403,332
Special Item - Transfer of Operations	<u>(289,895,374)</u>
Change in net position	(278,492,042)
Beginning net position	<u>-</u>
Ending net position	<u><u>\$ (278,492,042)</u></u>

Kern County Hospital Authority

Management's Discussion and Analysis

Statement of Revenue, Expenses, and Changes in Net Position Highlights:

The first component of Kern Medical's net position is its operating revenue. The primary components of operating revenue are as follows:

Net patient service revenue totaled \$199.9 million for the fiscal year ended June 30, 2017. Kern Medical also recognized revenue from various *indigent patient funding* sources including IGT Programs, Disproportionate Share funding, the Hospital Fee Program totaling \$119.7 million for the year. County funding of \$29.2 million was recognized as revenue for the year.

The second component of Kern Medical's net position is its operating expenses. Operating expenses totaled \$340.9 million for the year ended June 30, 2017. Operating expenses consist mainly of salaries and benefits expenses of \$204.4 million and services and supplies expenses of \$132.6 million.

Analysis of Capital Assets

In fiscal year 2016-17, Kern Medical's capital assets increased approximately \$3.8 million due to additions to Construction in Progress (CIP) and various other additions and deletions of equipment and additions of accumulated depreciation. The remaining activity related to various additions and deletions of equipment and additions of accumulated depreciation. The table below provides summarized information for Kern Medical's outstanding capital assets at June 30, 2017:

	Balance July 1, 2016	Additions	Deletions	Balance June 30, 2017
Capital Assets Not Being Depreciated	\$ 1,744,593	\$ 3,679,246	\$ -	\$ 5,423,839
Capital Assets Being Depreciated	135,665,041	6,093,968	120,367	141,638,642
Less Accumulated Depreciation and Amortization	88,227,189	6,005,457	106,392	94,126,254
Capital Assets Being Depreciated, Net	47,437,852	88,511	13,975	47,512,388
Capital Assets, Net	<u>\$ 49,182,445</u>	<u>\$ 3,767,757</u>	<u>\$ 13,975</u>	<u>\$ 52,936,227</u>

Additional information on Kern Medical's capital assets can be found in Note 6 of this report.

Kern County Hospital Authority Management's Discussion and Analysis

Long-Term Debt Summary

In fiscal year 2016-17, the reduction of long-term debt is the result of principal payments on existing debt. The table below provides summarized information for the Kern Medical's outstanding long-term liabilities at June 30, 2017:

	Balance July 1, 2016	Incurred or Issued	Satisfied or Matured	Balance June 30, 2017	Amounts Due Within One Year	Amounts Due in More Than One Year
Certificates of Participation	\$ 4,236,774	\$ -	\$ 986,694	\$ 3,250,080	\$ 1,032,670	\$ 2,217,410
Unamortized Net Premium	79,976	-	19,993	59,983	-	59,983
Capital Lease	2,452,213	-	527,672	1,924,541	537,387	1,387,154
Pension Obligation Bonds	30,923,172	-	2,481,767	28,441,405	2,674,831	25,766,574
Total	<u>\$ 37,692,135</u>	<u>\$ -</u>	<u>\$ 4,016,126</u>	<u>\$ 33,676,009</u>	<u>\$ 4,244,888</u>	<u>\$ 29,431,121</u>

Additional information on the Medical Center's long-term debt can be found in Note 8 of this report.

Economic Factors Affecting Next Year

- Patient volumes from all payor sources are expected to remain flat. Kern Medical does anticipate that the volume will stay constant. However, due to the Affordable Care Act, Kern Medical has realized a shift in the payor source toward Medi-Cal and Managed Medi-Cal plans as more patients qualify for some form of insurance coverage.
- For FY 2017-18, Kern Medical will continue to participate in the governmental funding from the Public Hospital Redesign and Incentives in Medi-Cal (PRIME) program. This program replaces the Delivery System Reform Incentive Payment (DSRIP) program funding that the Medical Center qualified for in previous years. Kern Medical also qualified for the Global Payment Program (GPP). The GPP replaces the Disproportionate Share Hospital Intergovernmental Transfer (DSH-IGT) funding and the Safety Net Care Pool (SNCP) funding that the Medical Center qualified for in previous years. Kern Medical will also participate in the Whole Person Care (WPC) pilot program for FY 2017-18. This program is also part of the Section 1115 Medicaid Waiver, Medi-Cal 2020, that was approved by the Centers for Medicare and Medicaid Services (CMS) in December 2015. This program is designed to provide integrated, patient-centered care through coordination of physical and behavioral health and social services to meet patients' holistic needs.
- Expenses are expected to remain flat without significant increases to the employee benefit expense.
- The timing of State and Federal funding will continue to impact cash flow throughout the year.

Contacting Kern Medical's Chief Financial Officer

This financial report is designed to provide citizens, customers, and creditors with a general overview of Kern Medical's finances, and to demonstrate Kern Medical's accountability for the money it receives. If you have any questions about this report, or need additional financial information, please contact the Chief Financial Officer, Kern Medical, 1700 Mount Vernon Ave., Bakersfield, California 93306.

Kern County Hospital Authority
Statement of Net Position
June 30, 2017

ASSETS AND DEFERRED OUTFLOWS OF RESOURCES

CURRENT ASSETS

Cash (Note 3)	\$ 25,777,320
Pooled cash and investments (Note 3)	41,531,160
Revolving fund cash (Note 3)	10,980
Patient accounts receivable, net of allowances for doubtful accounts of \$19,614,265 (Note 5)	39,712,617
Other receivables (Note 12)	3,984,219
Interest receivable	147,030
Inventories	4,488,031
Prepaid expenses	3,538,413
Total current assets	<u>119,189,770</u>

CASH AND INVESTMENTS DEPOSITED WITH TRUSTEE (Notes 3 and 4)	912,973
---	---------

CAPITAL ASSETS, net (Note 6)	<u>52,936,227</u>
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Total assets	173,038,970
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DEFERRED OUTFLOWS OF RESOURCES (Note 15)	<u>71,752,645</u>
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Total assets and deferred outflows of resources	<u><u>\$ 244,791,615</u></u>
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LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND NET POSITION

CURRENT LIABILITIES

Accounts payable and accrued expenses	\$ 28,808,010
Due to governmental agencies (Note 11)	45,451,277
Salaries and employee benefits payable	6,796,040
Interest payable, current portion (Note 9)	4,509,453
Current portion of compensated absences payable (Note 7)	11,490,255
Current portion of capital leases (Note 8)	537,387
Current portion of estimate for professional liability (Note 17)	2,429,000
Current portion of estimate for workers' compensation liability (Note 17)	1,030,000
Current portion of long-term debt (Note 9)	3,707,501
Total current liabilities	<u>104,758,923</u>

NONCURRENT LIABILITIES

Interest payable, non-current portion (Note 9)	18,639,954
Capital lease, non-current portion (Note 8)	1,387,154
Compensated absences payable (Note 7)	3,830,085
Net pension liability (Note 15)	329,935,445
Net other post-employment benefits (Note 18)	4,201,203
Estimate for professional liability (Note 17)	3,475,000
Estimate for workers' compensation liability (Note 17)	6,773,000
Long-term debt, net of current portion (Note 8)	28,043,967
Total liabilities	<u>501,044,731</u>

DEFERRED INFLOWS OF RESOURCES (Note 16)	<u>22,238,926</u>
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NET POSITION

Net investment in capital assets	49,686,149
Restricted for:	
Debt service	912,973
Capital assets	5,769,988
Unrestricted	<u>(334,861,152)</u>
Total net position	<u>(278,492,042)</u>

Total liabilities, deferred inflows of resources and net position	<u><u>\$ 244,791,615</u></u>
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Kern County Hospital Authority
Statement of Revenues, Expenses, and Changes in Net Position
For The Year Ended June 30, 2017

OPERATING REVENUES

Net patient service revenue net of provision for uncollectible accounts of \$472,077	\$ 199,855,392
Indigent patient care funding	119,734,851
County funding	29,237,877
Other operating revenue	11,734,943
Total operating revenues	<u>360,563,063</u>

OPERATING EXPENSES

Salaries and employee benefits	204,445,460
Services and supplies	132,550,710
Other expenses	3,884,920
Depreciation and amortization	5,994,971
Total operating expenses	<u>346,876,061</u>

OPERATING INCOME	<u>13,687,002</u>
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NONOPERATING REVENUE (EXPENSES)

Interest on bank deposits and investments, net	812,220
Aid from other governmental agencies	58,598
Other nonoperating revenues	71,993
Interest expense	(3,226,481)
Total nonoperating expenses, net	<u>(2,283,670)</u>

Net income before capital contribution and transfers	11,403,332
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SPECIAL ITEM - TRANSFER OF OPERATIONS (Note 1)	<u>(289,895,374)</u>
---	----------------------

Change in net position	<u>(278,492,042)</u>
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NET POSITION, Beginning of year	-
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NET POSITION, End of year	<u><u>\$(278,492,042)</u></u>
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Kern County Hospital Authority
Statement of Cash Flows
For The Year Ended June 30, 2017

CASH FLOWS FROM OPERATING ACTIVITIES	
Cash received for patient/current services	\$ 187,175,807
Cash received for other operations	188,292,563
Cash paid for salaries and benefits	(200,774,646)
Cash paid for services and supplies	<u>(122,076,018)</u>
Net cash provided by operating activities	<u>52,617,706</u>
CASH FLOWS FROM NONCAPITAL FINANCING ACTIVITIES	
Cash received from various County funds	130,591
Cash received for advances	379,720,816
Cash repayments of advances	(379,720,816)
Interest paid - pension obligation bond	(4,828,018)
Principal paid - pension obligation bond	<u>(2,481,767)</u>
Net cash used in noncapital financing activities	<u>(7,179,194)</u>
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES	
Acquisition or construction of capital assets	(9,762,728)
Proceeds from sale of surplus assets	13,975
Payment of long-term debt - capital lease	(527,672)
Capital lease interest paid	(41,891)
Payment of long-term debt - Certificates of Participation (COP)	(986,694)
COP interest paid	<u>(164,232)</u>
Net cash used in capital and related financing activities	<u>(11,469,242)</u>
CASH FLOWS FROM INVESTING ACTIVITIES	
Interest on bank deposits and investments	<u>750,698</u>
NET INCREASE IN CASH AND CASH EQUIVALENTS	34,719,968
CASH AND CASH EQUIVALENTS, Beginning of year	<u>33,512,465</u>
CASH AND CASH EQUIVALENTS, End of year	<u>\$ 68,232,433</u>

Kern County Hospital Authority
Statement of Cash Flows (Continued)
For The Year Ended June 30, 2017

Reconciliation of cash and cash equivalents
to the Statement of Net Position:

Cash	\$ 25,777,320
Pooled cash and investments	41,531,160
Revolving fund cash	10,980
Cash and investments deposited with a trustee	912,973
	<hr/>
Total cash and cash equivalents at the end of year	<u><u>\$ 68,232,433</u></u>

Reconciliation of operating income to net cash used in
operating activities:

Operating income	\$ 13,687,002
Adjustments to reconcile operating loss to net cash provided used in operating activities:	
Provision for bad debts	472,077
Depreciation and amortization	5,994,971
Changes in assets and liabilities:	
Patient accounts receivable, net	(13,151,662)
Other receivables	27,584,892
Inventories	(1,113,502)
Prepaid expenses	(1,074,952)
Deferred outflows of resources	(26,380,147)
Accounts payable and accrued expenses	8,088,753
Salaries and employee benefits payable	(3,762,823)
Compensated absences payable	5,401,187
Estimate for professional liability	1,624,941
Estimate for professional liability	55,000
Due to governmental agencies	6,779,372
Net other post-employment benefits obligations	(1,153,687)
Net pension liability	22,627,046
Deferred inflows of resources	6,939,238
	<hr/>
Net cash provided by operating activities	<u><u>\$ 52,617,706</u></u>

Kern County Hospital Authority

Notes to Financial Statements

Note 1 – Nature of Operations and Reporting Entity

Kern County Hospital Authority (the Authority or Kern Medical) is a 222-bed acute care teaching hospital affiliated with the University of California Schools of Medicine at Los Angeles, San Diego, and Irvine. Kern Medical is responsible for the provision of health care services for emergency, outpatient, and inpatient medical care to all classes of patients including Medicare and Medi-Cal eligible, medically indigent persons, and inmates of the County of Kern (the County) institutions and juvenile facilities. The management of Kern Medical reports directly to the Kern Medical's Board of Governors.

AB 2546 passed the California State Legislature on September 26, 2014 and authorized the Board of Supervisors of the County to establish, by ordinance, the Kern County Hospital Authority to manage, administer, and control Kern Medical Center, an enterprise fund of the County, and other health care facilities, and other functions affiliated or consolidated with Kern Medical Center. The Board has adopted the ordinance organizing the Hospital Authority effective November 6, 2015. Pursuant to the aforementioned legislation, effective July 1, 2016, ownership, control, management, medical facilities, and operation of Kern Medical Center was transferred to the Kern County Hospital Authority. The Kern County Hospital Authority is a local unit of government separate and apart from the County and any other public entity. The Kern County Hospital Authority recognized the carrying values of assets, deferred outflows of resources, liabilities, and deferred inflows of resources of the operations of the Kern Medical Center as of July 1, 2016, the effective transfer date. The Kern County Hospital Authority recognized the net position it received as a special item in the accompanying statement of revenues, expenses and changes in position for the year ended June 30, 2017.

On July 1, 2016, County and the Kern County Hospital Authority also entered into an Agreement for Health Care Services, Finance and Support (the Service Agreement) addressing certain financial relationships between the two parties, including:

- (i) County's financial support of the Authority in the form of loans and/or grants;
- (ii) Authority's assumption of certain liabilities of the County, which liabilities the County incurred in connection with prior operations of Kern Medical Center;
- (iii) The continued provision of certain health care services to residents of the County;
- (iv) Authority's participation in the County Treasury
- (v) County's consent for the Authority to participate in and receive, and otherwise access, certain County general purpose funds and local revenue fund amounts identified or earmarked for health care services to the indigent, including Medi-Cal beneficiaries and uninsured patients.

The Service Agreement stipulates that the worker's compensation benefits liability attributable to legacy employees hired before July 1, 2016 would be assumed by the Authority. The actuarially estimated legacy workers' compensation benefits liability as of July 1, 2016 was approximately \$7.8 million.

Subsequent to the transfer of operations, management determined that the pension liabilities that were previously allocated to Kern Medical Center had been overstated, resulting from an error in the allocation calculation for General and Safety employees in the County's internal allocation percentage. The initial allocation calculation did not exclude general employee costs out of safety related departments. As a result, Kern Medical's proportionate share of the County's net pension liability transferred in had been overstated by approximately \$38 million. Management determined that an adjustment to the opening balance of Kern Medical was required.

Kern County Hospital Authority

Notes to Financial Statements

Note 1 – Nature of Operations and Reporting Entity (continued)

The following table summarizes the amounts recognized as of the effective transfer date, including the adjustments for the workers' compensation and pension liabilities:

	Unadjusted Net Position Transferred	Adjustments	Adjusted Net Position Transferred
ASSETS AND DEFERRED OUTFLOWS OF RESOURCES			
CURRENT ASSETS	\$ 97,131,637	\$ -	\$ 97,131,637
CASH AND INVESTMENTS DEPOSITED WITH TRUSTEE	906,469	-	906,469
CAPITAL ASSETS, net	49,182,445	-	49,182,445
Total assets	147,220,551	-	147,220,551
DEFERRED OUTFLOWS OF RESOURCES	49,355,071	(3,982,578)	45,372,493
Total assets and deferred outflows of resources	<u>\$ 196,575,622</u>	<u>\$ (3,982,578)</u>	<u>\$ 192,593,044</u>
LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND NET POSITION			
CURRENT LIABILITIES			
Current portion of estimate for workers' compensation liability	\$ -	\$ 1,000,000	\$ 1,000,000
Other current liabilities	87,298,654	-	87,298,654
Total current liabilities	87,298,654	1,000,000	88,298,654
NONCURRENT LIABILITIES			
Net pension liability	345,262,534	(37,954,135)	307,308,399
Estimate for workers' compensation liability	-	6,748,000	6,748,000
Other noncurrent liabilities	64,833,677	-	64,833,677
Total noncurrent liabilities	410,096,211	(31,206,135)	378,890,076
Total liabilities	497,394,865	(30,206,135)	467,188,730
DEFERRED INFLOWS OF RESOURCES	15,299,688	-	15,299,688
NET POSITION			
Net investment in capital assets	44,945,672	-	44,945,672
Restricted for:			
Debt service	906,469	-	906,469
Capital assets	5,686,499	-	5,686,499
Education	844,037	-	844,037
Unrestricted	(368,501,608)	26,223,557	(342,278,051)
Total net position	(316,118,931)	26,223,557	(289,895,374)
Total liabilities, deferred inflows of resources and net position	<u>\$ 196,575,622</u>	<u>\$ (3,982,578)</u>	<u>\$ 192,593,044</u>

Kern County Hospital Authority

Notes to Financial Statements

Note 2 – Summary of Significant Accounting and Reporting Policies

Basis of accounting and presentation – The accompanying financial statements have been prepared using the economic resource measurement focus and the accrual basis of accounting, in accordance with U.S. generally accepted accounting principles for healthcare organizations and are presented in accordance with the reporting model as prescribed in Governmental Accounting Standards Board (GASB) Statement No. 34, *Basic Financial Statement - and Management's Discussion and Analysis - for State and Local Governments*. GASB Statement No. 34 and subsequent amendments including GASB Statement No. 63 as discussed below, established standards for external financial reporting and requires that resources be classified for accounting and reporting purposes into the following net position categories:

Net investment in capital assets – Capital assets, net of accumulated depreciation and outstanding principal balances of debt attributable to the acquisition, construction, or improvement of those assets.

Restricted net position – Assets whose use by Kern Medical are subject to externally imposed constraints that can be fulfilled by actions of Kern Medical pursuant to those constraints or that expire by the passage of time. Restricted resources are used in accordance with Kern Medical's policies. When both restricted and unrestricted resources are available for use, the determination to use restricted or unrestricted resources is made on a case-by-case basis.

Unrestricted net position – This amount represents the amount of net position that is not subject to externally imposed constraints. Unrestricted net position may be designated for specific purposes by action of the Board of Supervisors or may otherwise be limited by contractual agreements with outside parties.

Use of estimates – The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Actual results could differ from those estimates.

Pooled cash and investments – Pooled cash and investments are managed by the County Treasury in a commingled pool in accordance with the County Investment Policy. The County Treasury Oversight Committee is responsible for the regulatory oversight of the commingled pool. The County reports all of its investments, including the investments of its commingled pool, at fair value. The County Treasurer determines the fair value of the pool on a monthly basis based upon quoted market prices. The net appreciation (depreciation) in the fair value of investments is included in the interest on bank deposits and investment balance. Realized earnings and losses are allocated quarterly to commingled investment pool participants based on the participants' average daily cash balance relative to the entire pool. A negative average cash balance results in an earnings charge that is netted against the interest on bank deposits and investments balance.

Information regarding the County's cash and investments can be found in the notes to the County's basic financial statements.

Kern County Hospital Authority

Notes to Financial Statements

Note 2 – Summary of Significant Accounting and Reporting Policies (continued)

Patient accounts receivable – Kern Medical reports patient accounts receivable for services rendered at net realizable amounts from third-party payers, patients and others. Kern Medical provides an allowance for uncollectible accounts based upon a review of outstanding receivables and historical collection information. As a service to the patient, Kern Medical bills third-party payers directly and bills the patient when the patient's liability is determined. Patient accounts receivable are due in full when billed. Accounts are considered delinquent and subsequently written off as bad debts based on individual credit evaluation and specific circumstances of the account.

Inventories – Inventories consist of expendable supplies held for consumption. Supply inventories are stated at the lower of cost, or market.

Capital assets – Capital assets, which include property, plant, and equipment, are stated at cost if purchased, or fair value on the date received if donated. Kern Medical has established a policy to capitalize expenses for capital assets with an individual cost of \$5,000 for equipment, \$25,000 for intangibles, and \$50,000 for structures with a useful life greater than one year. Interest cost incurred on borrowed funds during the period of construction of capital assets is capitalized as a component of the cost of acquiring those assets. Intangible assets are amortized based on estimated useful life and will vary by item. Capital assets other than intangible assets are depreciated using the straight-line method over the estimated useful lives of the assets as follows:

Structures and improvements	10 to 40 years
Equipment and intangibles	3 to 15 years

Capital assets are reviewed for impairment when events or changes in circumstances suggest that the service utility of the capital asset may have significantly and unexpectedly declined. Capital assets are considered impaired if both the decline in service utility of the capital asset is large in magnitude and the event or change in circumstance is outside the normal life cycle of the capital asset. Such events or changes in circumstances that may be indicative of impairment include evidence of physical damage, enactment or approval of laws or regulations or other changes in environmental factors, technological changes or evidence of obsolescence, changes in the manner or duration of use of a capital asset, and construction stoppage. The determination of the impairment loss is dependent upon the event or circumstance in which the impairment occurred. Impairment losses, if any, are recorded in the statement of revenues, expenses, and changes in net position. There were no impairment losses recorded in the year ended June 30, 2017.

Compensated absences – Kern Medical policies permit most employees to accumulate vacation and sick leave benefits that may be realized as paid time off or, in limited circumstances, as a cash payment. Expense and the related liability are recognized as vacation benefits and are earned whether the employee is expected to realize the benefit as time off or in cash. Expense and the related liability for sick leave benefits are recognized when earned to the extent the employee is expected to realize the benefit in cash determined using the termination payment method. Compensated absence liabilities are computed using the regular pay and termination pay rates in effect at the statement of net position date plus an additional amount for compensation-related payments such as Social Security and Medicare taxes computed using rates in effect at that date.

Kern County Hospital Authority

Notes to Financial Statements

Note 2 – Summary of Significant Accounting and Reporting Policies (continued)

Net patient service revenue – Kern Medical has agreements with third-party payers that provide for payments to Kern Medical at amounts different from its established rates. Net patient service revenue is reported at the estimated net realizable amounts receivable from patients, third-party payers, and others for services rendered, including a provision for bad debt and estimated retroactive adjustments under reimbursement agreements with third-party payers. Retroactive adjustments are accrued on an estimated basis in the period the related services are rendered and adjusted in future periods, as final settlements are determined.

Normal estimation differences between subsequent cash collections on patient accounts receivable and net patient accounts receivable estimated in the prior year are reported as adjustments to net patient service revenue in the current period.

Third-party payers – Kern Medical is reimbursed for services provided to patients under certain programs administered by governmental agencies. Laws and regulations governing the Medicare and Medi-Cal programs are complex and subject to interpretation. Kern Medical believes that it is in compliance with all applicable laws and regulations and is not aware of any pending or threatened investigations involving allegations of potential wrongdoing. While no such regulatory inquiries have been made, compliance with such laws and regulations can be subject to future government review and interpretation as well as significant regulatory action including fines, penalties, and exclusion from the Medicare and Medi-Cal programs.

The majority of Kern Medical's receivables are related to the care of patients covered by Medi-Cal, Medicare, and special funding created by legislative acts that subsidize certain health care facilities that treat a disproportionate share of Medi-Cal beneficiaries.

Uncompensated care – The County is mandated to provide medical care to indigent and dependent poor County residents under California Welfare and Institutions Code Section 17000. The County fulfills its Section 17000 obligation through services provided at Kern Medical. Through its Medically Indigent Adult Program, patients are charged for services and supplies based on their ability to pay. In assessing a patient's ability to pay, Kern Medical utilizes State-determined poverty levels. Additionally, Kern Medical provides services to patients that are outside of the Medically Indigent Adult Program and does not receive compensation for those services. Kern Medical maintains records to identify, monitor, and report the level of indigent and uncompensated care provided to the community. These records include the estimate cost of services and supplies furnished yet uncompensated for. The following information measures the level of uncompensated care provided during the fiscal year ended June 30, 2017.

Estimated Cost of Services Provided but Uncompensated	\$ 21,000,000
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Note 2 – Summary of Significant Accounting and Reporting Policies (continued)

Pensions – For purposes of measuring the net pension liability and deferred outflows/inflows of resources related to pensions, and pension expense, information about the fiduciary net position of the Local Government of the County of Kern's Kern County Employees' Retirement Association (KCERA) plans (Plans) and additions to/deductions from the Plans' fiduciary net position have been determined on the same basis as they are reported by KCERA. For this purpose, benefit payments (including refunds of employee contributions) are recognized when due and payable in accordance with the benefit terms. Investments are reported at fair value.

Disclosures about fair value of financial instruments – The carrying amount of revolving fund cash, pooled cash and investments, cash and investments deposited with a trustee, patient accounts receivable, other current assets, accounts payable, and accrued expenses approximate fair value because of the short-term maturity of these instruments.

Risk management – Kern Medical is exposed to various risks of loss from torts; theft of, damage to, and destruction of assets; business interruption; errors and omissions; employee injuries and illness; natural disasters; and employee health, dental, and accident benefits. As discussed in Note 13, commercial insurance coverage is purchased by Kern Medical for claims arising from such matters where the Kern Medical has not retained the risk of loss. Kern Medical is self-insured for medical malpractice claims and judgments. The provision for estimated self-insured medical malpractice includes estimates of the ultimate costs for both reported claims and claims incurred but not reported (IBNR), and other allocated claim adjustment expenses.

Concentration of credit risk – Receivables from government programs present the only concentrated group of credit risk for Kern Medical. Management does not believe that there are any credit risks associated with these governmental agencies. Negotiated and private receivables consist of receivables from various payers, including individuals involved in diverse activities, subject to differing economic conditions and do not represent any concentrated credit risk to Kern Medical. Management continually monitors and adjusts its reserves and allowances associated with these receivables, and such allowances have historically been adequate to cover losses realized.

Income taxes – Kern Medical is exempt from Federal and State income tax pursuant to Internal Revenue Code (IRC) Section 115 and similar provisions of the California Franchise Tax Code and is also exempt from Federal and State income tax filing requirements.

Cash and investments deposited with a trustee – Cash and investments deposited with a trustee represent restricted cash and investments, which include unexpected bond proceeds, interest earnings, and reserves established in accordance with related bond indentures. These funds are managed by fiscal agents in accordance with debt agreements.

Operating revenues and expenses – The statement of revenues, expenses and changes in net position distinguishes between operating and non-operating revenues and expenses. Operating revenues result from exchange transactions associated with providing health care services, Kern Medical's principal activity. Non-exchange revenues, including grants, contributions and income (losses) from investments, are reported as non-operating revenues. Operating expenses are all expenses incurred to provide health care services.

Kern County Hospital Authority

Notes to Financial Statements

Note 2 – Summary of Significant Accounting and Reporting Policies (continued)

Recent accounting pronouncements – During the year ended June 30, 2016, Kern Medical adopted GASB Statement No. 72, Fair Value Measurement and Application which requires Kern Medical to use valuation techniques which are appropriate under the circumstances and are either a market approach, a cost approach or income approach. There was no material impact on Kern Medical's financial statements as a result of the implementation of GASB Statement No. 72.

In June 2015, the GASB issued Statement No. 75, *Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions*. The primary objective of GASB Statement No. 75 is to improve accounting and financial reporting by state and local governments for postemployment benefits other than pensions (other postemployment benefits or OPEB). It also improves information provided by state and local governmental employers about financial support for OPEB that is provided by other entities. GASB Statement No. 75 results from a comprehensive review of the effectiveness of existing standards of accounting and financial reporting for all postemployment benefits (pensions and OPEB) with regard to providing decision-useful information, supporting assessments of accountability and interperiod equity, and creating additional transparency. This guidance is effective for Kern Medical in the year ended June 30, 2018. Kern Medical is currently assessing the impact of this standard on Kern Medical's financial statements.

Note 3 – Pooled Cash and Investments

Kern Medical's share of the County's total pooled cash and investments is included in the Statement of Net Position under the captions pooled cash and investments, revolving fund cash, and cash and investments deposited with a trustee. Substantially all the County's cash balances are pooled and invested by the County Treasurer for the purpose of increasing interest earnings through investment activities. Interest earned on pooled investments is credited to Kern Medical based upon Kern Medical's average daily deposit balance during the allocation period with all remaining interest deposited with the County.

The framework for measuring fair value provides a hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (level 1) and the lowest priority to unobservable inputs (level 3).

Note 3 – Pooled Cash and Investments (continued)

The three levels of the fair value hierarchy are described as follows:

- Level 1** Inputs to the valuation methodology are unadjusted quoted prices for identical assets or liabilities in active markets.
- Level 2** Inputs to the valuation methodology include quoted prices for similar assets or liabilities in active markets; quoted prices for identical or similar assets or liabilities in inactive markets; inputs other than quoted prices that are observable for the asset or liability; and inputs that are derived principally from or corroborated by observable market data by correlation or other means. If the asset or liability has a specified (contractual) term, the level 2 input must be observable for substantially the full term of the asset or liability.
- Level 3** Inputs to the valuation methodology are unobservable and significant to the fair value measurement.

The asset or liability's fair value measurement level within the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurement. Valuation techniques maximize the use of relevant observable inputs and minimize the use of unobservable inputs.

The County Treasurer determines the fair value of the pool on a monthly basis based upon quoted market prices. The portfolio is typically comprised of U.S. agency securities and high-quality short-term instruments, resulting in a relatively short-weighted average maturity. Fair value calculations are based on market values provided by the County's investment custodian. Investments in the pool are highly liquid. All of the County's pooled cash and investments accounted for at fair value are considered to be Level 1 as of June 30, 2017. Kern Medical does not have any withdrawal restrictions on the pooled cash and investments.

The valuation methods used by Kern Medical may produce a fair value calculation that may not be indicative of net realizable value or reflective of future fair values. Furthermore, although Kern Medical believes its valuation methods are appropriate and consistent with other market participants, the use of different methodologies or assumptions to determine the fair value of certain financial instruments could result in a different fair value measurement at the reporting date.

Cash and investments as of June 30, 2017, consist of the following:

Deposits:	
Cash	\$ 25,777,320
Cash in Revolving Fund	10,980
Pooled Funds:	
Cash and Investments in County Treasury	41,531,160
Cash and Investments Deposited with Bond Trustee	<u>912,973</u>
Total Cash and Investments	<u><u>\$ 68,232,433</u></u>

Kern County Hospital Authority

Notes to Financial Statements

Note 3 – Pooled Cash and Investments (continued)

Authorized investments – Investments in the County Treasurer’s pool have been made as permitted by the County’s written investment policy as approved by the Board of Supervisors. Investment of debt proceeds held by bond trustees is governed by provisions of the debt agreements, rather than the general provisions of the California Government Code or the County’s investment policy. The table on the following page identifies the investment types that are authorized for investments held by bond trustees.

Interest rate risk – Interest rate risk is the risk that changes in the market interest rates will adversely affect the fair value of an investment. Generally, the longer the maturity of an investment, the greater the sensitivity of its fair value to changes in the market interest rates.

Information about the sensitivity of the fair values of Kern Medical’s investments to market interest rate fluctuations is provided by the following table that shows the distribution of the County’s investments by maturity:

Investment Type	Amount	Remaining Maturity (in Months)			
		12 Months or Less	13 to 24 Months	25 to 60 Months	More than 60 Months
County Investment Pool	\$ 41,531,160	\$ 41,531,160	\$ -	\$ -	\$ -
Held by Bond Trustee:					
Investment Contract	859,775	-	-	-	859,775
Money Market Funds	53,198	53,198	-	-	-
Total	<u>\$ 42,444,133</u>	<u>\$ 41,584,358</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 859,775</u>

Credit risk – Generally credit risk is the risk that an issuer of an investment will not fulfill its obligation to the holder of the investment. This is measured by the assignment of a rating by a nationally recognized statistical rating organization. Presented below is the minimum rating required by (where applicable) the California Government Code, the County’s investment policy, and the actual rating as rated by Standard & Poor’s as of year-end for each investment type.

Investment Type	Amount	Minimum Legal Rating	Ratings at Year-End	
			AAAm-G	Not Rated
County Investment Pool	\$ 41,531,160	N/A	\$ -	\$ 41,531,160
Held by Bond Trustee:				
Cash Equivalents	859,775	N/A	-	859,775
Money Market	53,198	AAAm-G	53,198	-
Total	<u>\$ 42,444,133</u>		<u>\$ 53,198</u>	<u>\$ 42,390,935</u>

Kern County Hospital Authority

Notes to Financial Statements

Note 3 – Pooled Cash and Investments (continued)

Concentration of credit risk – Concentration of credit risk is the risk that the failure of any one issuer would place an undue financial burden on Kern Medical. Kern Medical's investment with the County Treasury's pool mitigates the concentration of credit risk by diversifying the portfolio and limiting investments in any one issuer to no more than 5 percent of the total portfolio, other than securities issued by the U.S. government and its affiliated agencies. Investments issued by, or explicitly guaranteed by the U.S. government, and investments in mutual funds, external investment pools, and other pooled investments are exempt from this requirement, as they are normally diversified themselves.

Kern Medical's debt agreement places no limit on the amount the County may invest in any one issuer.

Note 4 – Cash and Investments Deposited with a Trustee

Cash and investments deposited with a trustee relate to construction debt refinancing and equipment acquisition funds from certificates of participation held by the trustee. Amounts held by trustee are to be used for the following purposes:

Reserve Required by Debt Agreements	\$ 859,775
Construction of Facilities	<u>53,198</u>
	<u>\$ 912,973</u>

Cash and investments deposited with a trustee are invested in various cash equivalents, which are registered and held in trust in the County's name.

Note 5 – Patient Accounts Receivable

Kern Medical grants credit without collateral to its patients, many of whom are area residents and are insured under third-party payer agreements. Gross patient accounts receivable as of June 30, 2017 consisted of:

Medicare	11 %
Medi-Cal	54
Other third-party and commercial payor	15
Self pay	17
County responsibility	<u>3</u>
Total	<u>100 %</u>

Kern County Hospital Authority

Notes to Financial Statements

Note 6 – Capital Assets, Depreciation, and Amortization

Capital asset activity for the fiscal year ended June 30, 2017, is shown below:

	July 1, 2017	Additions	Disposals	June 30, 2017
Capital Assets Not Being Depreciated:				
Land	\$ 168,115	\$ 2,280	\$ -	\$ 170,395
Construction in progress	1,576,478	3,676,966	-	5,253,444
Total Capital Assets Not Being Depreciated	1,744,593	3,679,246	-	5,423,839
Capital Assets Being Depreciated:				
Equipment	42,449,363	4,528,380	120,367	46,857,376
Structures and improvements	82,462,623	-	-	82,462,623
Intangibles	10,753,055	1,565,588	-	12,318,643
Total Capital Assets Being Depreciated	135,665,041	6,093,968	120,367	141,638,642
Less Accumulated Depreciation and Amortization for:				
Equipment	30,436,283	3,215,861	106,392	33,545,752
Structures and improvements	47,562,148	2,487,192	-	50,049,340
Intangibles	10,228,758	302,404	-	10,531,162
Total Accumulated Depreciation	88,227,189	6,005,457	106,392	94,126,254
Total Capital Assets Being Depreciated, Net	47,437,852	88,511	13,975	47,512,388
Total Capital Assets, Net	\$ 49,182,445	\$ 3,767,757	\$ 13,975	\$ 52,936,227

Note 7 – Compensated Absences Payable

Under the terms of union contracts, employees are granted vacation and sick leave in varying amounts depending upon their respective bargaining unit. In the event of termination or death, an employee, or the employee's estate, is compensated 100% of accumulated vacation. In the event of an employee's death or retirement, excluding deferred retirement, an employee, or the employee's estate, is compensated for accumulated sick leave in varying amounts from 50% to 100% depending on the employee's bargaining unit and length of service. The value of accumulated vacation and sick leave as of June 30, 2017 is summarized below:

Current Portion	\$ 11,490,255
Long-Term Portion	3,830,085
	<u>\$ 15,320,340</u>

Kern County Hospital Authority

Notes to Financial Statements

Note 8 – Long-Term Debt

The following is a summary of long-term obligation transactions of Kern Medical for the year ended June 30, 2017:

	Balance 2016	Incurred or Issued	Satisfied or Matured	Balance 2017	Due Within One Year	in More Than One Year
Certificates of Participation, 2011 Refunding COP Series A - Kern Medical Center Portion	\$ 4,236,774	\$ -	\$ 986,694	\$ 3,250,080	\$ 1,032,670	\$ 2,217,410
Unamortized Net Premium	79,976	-	19,993	59,983	-	59,983
Capital Lease	2,452,213	-	527,672	1,924,541	537,387	1,387,154
Pension Obligation Bonds	30,923,172	-	2,481,767	28,441,405	2,674,831	25,766,574
Total	<u>\$ 37,692,135</u>	<u>\$ -</u>	<u>\$ 4,016,126</u>	<u>\$ 33,676,009</u>	<u>\$ 4,244,888</u>	<u>\$ 29,431,121</u>

Scheduled principal and interest repayments for long-term debt are as follows:

Year Ending June 30,	Principal	Interest
2018	3,707,501	1,036,340
2019	3,974,194	901,204
2020	4,260,642	755,053
2021	3,396,695	623,755
2022	3,208,676	501,880
2023 - 2028	<u>13,143,777</u>	<u>9,090,063</u>
	<u>\$ 31,691,485</u>	<u>\$ 12,908,295</u>

Total interest costs incurred for the year ended June 30, 2017 was \$3,226,481.

Certificates of participation – The original issue amount of the 2011 Refunding Certificate of Participation (COP), Series A, is \$8,558,425 and the expected maturity dates are from November 1, 2011– 2019. The 2011 Refunding COP, Series A has fixed interest rates from 2.00% to 5.00%. The proceeds of the 2011 Refunding COP are being used for the acquisition of equipment and acquisition of construction and renovation of certain facilities.

Under the terms of the COP issue, Kern Medical is required to maintain certain investments with a trustee to pay principal and interest. These investments are classified as cash and investments deposited with a trustee in the accompanying financial statements.

Kern County Hospital Authority

Notes to Financial Statements

Note 8 – Long-Term Debt (continued)

Pension obligation bonds – In November 1995, the County issued pension obligation bonds to finance the County's share of the unfunded accrued actuarial liability of the Kern County Employees' Retirement Association. As of June 30, 2017, the amount of total 1995 pension obligation bonds outstanding for the County as a whole was \$27,867,000. Of this amount, \$4,721,626, was allocated to Kern Medical. The initial basis of the amount allocated to Kern Medical was determined by Kern Medical's share of the County-wide retirement contribution for the fiscal year ended June 30, 1995.

The bonds have various maturity dates between 2016 and 2022 for the capital appreciation bonds. Interest ranges from 6.16% to 7.26% for the current interest bonds and from 7.56% to 7.61% for the capital appreciation bonds.

In May 2003, the County issued pension obligation bonds to finance the County's share of the unfunded accrued actuarial liability of the Kern County Employees' Retirement Association. In August 2008, the County issued pension obligation bonds, Series 2008 A. The Series 2003 B Bonds have been redeemed with the proceeds of the Series 2008 A Refunding Bonds. As of June 30, 2017, the amount of total 2003 and 2008 pension obligation bonds outstanding for the County as a whole was \$ 143,699,000. Of this amount, \$23,719,784 was allocated to Kern Medical. The initial basis of the amount allocated to Kern Medical was determined by Kern Medical's share of the County-wide retirement contribution for the fiscal year ended June 30, 2003.

The Series 2003 A Bonds were issued as Current Interest Bonds and Capital Appreciation Bonds; the Series 2003 B were refunded as Adjustable Rate Bonds in August 2008. The bonds have various maturity dates between 2006 and 2023 for the Current Interest Bonds and from 2023 and 2028 for the Capital Appreciation Bonds. Series 2003 A Bonds have fixed interest rates that range from 2.33% to 4.88% for the current interest bonds and 5.50% to 5.57% for the capital appreciation bonds. The 2008 A Bonds have an adjustable rate. Adjustable rates follow LIBOR plus 0.75%. Starting in April 2014, the 2008 A Bonds have a fixed interest rate of 4.185%.

Kern County Hospital Authority

Notes to Financial Statements

Note 8 – Long-Term Debt (continued)

Capital leases – Kern Medical has entered into several long-term lease purchase agreements for certain major pieces of equipment. At the end of the lease, when all terms have been met, the related equipment will become property of Kern Medical.

The following is a schedule of future minimum lease payments for capital leases:

Year Ending June 30,	
2018	570,210
2019	570,210
2020	570,210
2021	327,643
	<hr/>
Total minimum lease payments	\$ 2,038,273
Less amount representing interest	<hr/> 113,732
Present value of future minimum lease payments	<hr/> <u>\$ 1,924,541</u>

For the fiscal year ended June 30, 2017, the interest expense and interest paid for the capital leases were \$41,890.

Note 9 – Interest Payable

The following is a summary of interest payable transactions of Kern Medical for the year ended June 30, 2017:

	Beginning June 30, 2017	Amount Accrued	Amount Paid	Ending June 30, 2017
<u>Current</u>				
Capital Lease Interest	\$ 15,960	\$ 38,762	\$ 41,890	\$ 12,832
2011 Refunding COP, Series A	29,547	134,686	164,232	1
Pension Obligation Bonds (POB)	4,161,552	5,314,270	4,979,202	4,496,620
	<hr/>	<hr/>	<hr/>	<hr/>
Total Current Interest Payable	4,207,059	5,487,718	5,185,324	4,509,453
<u>Non-Current</u>				
POB Capital Appreciation Bonds	20,730,010	(2,137,634)	(47,578)	18,639,954
	<hr/>	<hr/>	<hr/>	<hr/>
Total Interest Payable	<u>\$ 24,937,069</u>	<u>\$ 3,350,084</u>	<u>\$ 5,137,746</u>	<u>\$ 23,149,407</u>

Kern County Hospital Authority

Notes to Financial Statements

Note 10 – Net Patient Service Revenue

Kern Medical has agreements with third-party payers that provide for payments to Kern Medical at amounts different from its established rates. These payment arrangements include:

Medicare – Inpatient acute care services and substantially all outpatient services rendered to Medicare program beneficiaries are paid at prospectively determined rates. These rates vary according to a patient classification system that is based on clinical, diagnostic, acuity and other factors. Kern Medical is reimbursed for certain services at tentative rates with final settlement determined after submission of annual cost reports by Kern Medical and audits thereof by the Medicare administrative contractor. The Medicare administrative contractor has audited Kern Medical's cost reports through June 30, 2014.

Medi-Cal – Inpatient acute services rendered to Medi-Cal program beneficiaries are paid at a prospectively determined rate per discharge (APR-DRG). These rates vary according to a patient classification system based on clinical, diagnostic and other factors. Outpatient services are reimbursed based upon a fee schedule per procedure, test or service.

Approximately 79% of net patient service revenue is from participation in the Medicare and state-sponsored Medi-Cal programs for the year ended June 30, 2017. Laws and regulations governing the Medicare and Medi-Cal programs are complex and subject to interpretation and change. As a result, it is reasonably possible that recorded estimates will change materially in the near term.

Kern Medical has also entered into payment agreements with certain commercial insurance carriers, health maintenance organizations and preferred provider organizations. The basis for payment to Kern Medical under these agreements includes prospectively determined rates per discharge, discounts from established charges and prospectively determined daily rates.

Note 11 – Indigent Patient Care Funding

Kern Medical is entitled to receive supplemental funding from various governmental sources based on the patients served. The following information summarizes the major payment arrangements for the fiscal year ended June 30, 2017.

Global Payment Program (GPP)	\$ 25,560,825
PRIME	26,342,765
Whole Person Care (WPC)	15,734,500
Affordable Care Act (ACA)	24,964,701
Medi-Cal managed care supplemental programs	17,967,774
Other	<u>9,164,286</u>
Total	<u><u>\$ 119,734,851</u></u>

Note 11 – Indigent Patient Care Funding (continued)

Medi-Cal waiver – California’s Medi-Cal Hospital/Uninsured Care Demonstration Project (Demonstration) is a system for paying selected hospitals, including Kern Medical, for hospital care provided to Medi-Cal and uninsured patients. The Demonstration was negotiated between the State of California’s Department of Health Services (SDHS) and the Federal Centers for Medicare and Medicaid Services (CMS) in 2006, and covers the period from July 1, 2005, to June 30, 2010. The implementing State legislation (SB 1100) was enacted by the Legislature in September 2005. The five-year Demonstration affects payments for 23 public hospitals, including all University of California owned hospitals, identified as Designated Public Hospitals, and private and non-designated public safety net hospitals that serve large numbers of Medi-Cal patients. The program was extended in 2010 to cover the period from July 1, 2010, to June 30, 2015. The program was further extended in 2015 to cover the period from July 1, 2015, to June 30, 2020.

Under the Demonstration, payments for the public hospitals are comprised of: 1) Fee for Service (FFS) cost-based reimbursement for inpatient hospital services (exclusive of physician component); 2) Disproportionate Share Hospital (DSH) Program payments (formerly SB 855); and 3) distribution from a newly created pool of Federal funding for uninsured care, known as the Safety Net Care Pool (SNCP). The nonfederal share of these three types of payments will be provided by the public hospitals rather than the State, primarily through certified public expenditures (CPE) whereby the hospital would expend its local funding for services to draw down the Federal financial participation (FFP), currently provided at a 50% match. For the inpatient hospital FFS cost-based reimbursement, each hospital will provide its own CPE and receive all of the resulting Federal match. For the DSH and SNCP distributions, the CPEs of all the public hospitals will be used in the aggregate to draw down the Federal match. It is therefore possible for one hospital to receive the Federal match that results from another hospital’s CPEs. In this situation, the first hospital is referred to as a “recipient” hospital, while the second is referred to as a “donor” hospital. A recipient hospital is required to “retain” the FFP amounts resulting from donated CPEs.

The Demonstration prioritizes payments so that, to the extent possible, total payments to hospitals are at a minimum “baseline” level. For public hospitals, the baseline level is determined and satisfied on a hospital-specific basis. The three funding components that will be utilized to meet each hospital’s baseline level are as follows:

1) Medi-Cal inpatient FFS cost-based reimbursement: The FFP which is paid to the hospital represents approximately half of the facility-specific costs or CPE. The hospital’s amounts will fluctuate based on the number of facility-specific Medi-Cal patients served and the facility-specific cost-computations that will be adjusted on an interim and final basis.

2) DSH funds: These payments are made to hospitals to take into account the uncompensated costs of care delivered to the uninsured, including undocumented immigrants, as well as shortfalls between Medi-Cal psychiatric and Medi-Cal managed care payments and the cost of care delivered. The nonfederal share of these funds will be a combination of CPEs for these services and Intergovernmental Transfers (IGTs) and as such are subject to interim and final cost settlement. There is an annual fixed allotment of Federal DSH funds and the waiver allocates almost all of these funds to public hospitals.

Kern County Hospital Authority

Notes to Financial Statements

Note 11 – Indigent Patient Care Funding (continued)

3) SNCP distributions: Federal payments made to public hospitals and clinics for uncompensated care delivered to uninsured patients and for certain designated non-hospital costs, such as drugs and supplies for the uninsured. The nonfederal share of these funds will be based on CPEs for these services and as such are subject to interim and final cost settlement. Effective January 1, 2016, this program was replaced with the Global Payment Program, described below.

Included in due to governmental agencies in the accompanying statement of net position are amounts payable to DHS as of June 30, 2017 of approximately \$79,633,000, which represents the amounts received but not yet earned by the Hospital under the waiver program net of amounts earned but not yet received by the Hospital under the program. The Hospital recorded changes in estimates in amounts expected to be received resulting in reductions in net patient service revenue of approximately \$3,600,000 during the year ended June 30, 2017.

Global Payment Program (GPP) – Effective January 1, 2016, California’s Section 1115 Waiver Renewal (Renewal), called Medi-Cal 2020, was approved by CMS. As part of the Renewal, the Global Payment Program (GPP) establishes a statewide pool of funding for the remaining uninsured by combining federal disproportionate share (DSH) and uncompensated care funding where selected Designated Public Hospital systems, like Kern Medical, can achieve their goal of “global budget” by meeting a service threshold that incentivizes movement from high cost, avoidable services to providing higher value, and preventative services. Kern Medical recognized approximately \$25,561,000 in revenue during the year ended June 30, 2017 for section 1115 waiver programs including GPP. As of June 30, 2017 Kern Medical recorded a receivable of approximately \$5,833,000 for this program which is included in due to governmental agencies.

Public Hospital Redesign and Incentives in Medi-Cal program (PRIME) – Additionally, as part of the Renewal, CMS authorized California to invest savings generated through the Demonstration to achieve critical objectives, such as improved quality of care and better care coordination through safety net providers. Over 5 years, up to approximately \$7,464,000,000 in federal funds will be available to all hospitals participating in the PRIME program. As a result of participating in PRIME, Kern Medical recorded revenue of approximately \$26,343,000 for the year ended June 30, 2017. As of June 30, 2017, approximately \$14,368,000 receivable balance is included in the overall balance due from governmental agencies on the accompanying statement of net position as of June 30, 2017.

Whole Person Care (WPC) – Effective June 1, 2017, CMS approved an amendment to the Special Terms and Conditions of California’s Medi-Cal 2020 Demonstration for the Whole Person Care (WPC) Pilots program. The overarching goal of the WPC Pilots is the coordination of health, behavioral health, and social services, as applicable, in a patient-centered manner with the goals of improved beneficiary health and wellbeing through more efficient and effective use of resources. WPC Pilots provide the option to Kern Medical to receive support to integrate care for a particularly vulnerable group of Medi-Cal beneficiaries who have been identified as high users of multiple systems and continue to have poor health outcomes. Through collaborative leadership and systematic coordination among public and private entities, WPC Pilot entities will identify target populations, share data between systems, coordinate care real time, and evaluate individual and population progress – all with the goal of providing comprehensive coordinated care for the beneficiary resulting in better health outcomes. As a result of participating in WPC, Kern Medical recorded \$15,735,000 in revenues for the year ended June 30, 2017.

Note 11 – Indigent Patient Care Funding (continued)

Affordable Care Act – Beginning January 1, 2014, the Affordable Care Act (ACA) provides 100% matching of federal medical assistance percentages (FMAP) for newly eligible Medi-Cal patients. During fiscal years 2017 and 2016, the Kern Medical estimated the difference between cost and interim payments received. As a result of the ACA cost reimbursement, the Health System recorded revenue of \$24,965,000 for the year ended June 30, 2017, which is included in indigent patient care funding. As of June 30, 2017, approximately \$863,000 receivable balance is included in the overall balance due from governmental agencies on the accompanying statement of net position as of June 30, 2017.

Medi-Cal Managed Care Supplemental Programs – For newly eligible Medi-Cal patients under the ACA effective January 1, 2014, certain portions of the ACA provided Medi-Cal coverage for patients previously covered under risk sharing agreements. The majority of these beneficiaries were enrolled in managed Medi-Cal health plans. Due to payment mechanisms between the State and the health plans (capitation), an opportunity to receive supplemental funding similar to current rate range programs was made available to the DPHs. As a result of the supplemental funding, the Kern Medical recorded revenue of \$17,968,000 for the year ended June 30, 2017, which is included in indigent patient care funding. As of June 30, 2017, approximately \$18,186,000 receivable balance is included in the overall balance due from governmental agencies on the accompanying statement of net position as of June 30, 2017.

Note 12 – Shared Risk and Incentive Revenues

During the fiscal year ended June 30, 2015, Kern Medical entered into a risk sharing agreement with a health plan for hospital and specialist medical services provided to members assigned to Kern Medical. The risk sharing agreement sets forth provisions whereby Kern Medical receives the surplus between the negotiated capitated amounts and the cost of the hospital and specialist medical services provided to members over the period of the contract. The program is administered by the health plan, and according to the agreement, Kern Medical is not required to fund deficits if the cost of providing services exceeds the capitated amounts. Estimated settlements are accrued based upon the performance of the risk-sharing contracts in the period covered by the contract and adjusted in the future periods as final settlements are determined. The shared risk arrangement also contains certain provisions that may result in additional incentive revenue to Kern Medical if certain performance measures are met. No revenues were recognized during the year ended June 30, 2017.

Note 13 – Health and Welfare Realignment Act

The Health and Welfare Realignment Act transferred a significant portion of the financial and administrative responsibilities for local health and welfare programs from the State to counties. The State utilizes a one-half cent sales tax increase and an increase in vehicle license fees as the sources for funding allocations to the counties in lieu of previous State General Fund financing. The amount to be received by counties is dependent upon the actual increased sales tax and vehicle license fees. Kern Medical's share of these revenues for the fiscal year ended June 30, 2017 was approximately \$2,086,000, which are classified as transfers in on the Statement of Revenues, Expenses, and Changes in Net Position.

Kern County Hospital Authority

Notes to Financial Statements

Note 14 – Related Party Transactions

County Funding – Kern Medical receives funds from the County as funding for providing care for inmates of Kern County jail and inmates of Kern County juvenile hall. The County Board of Supervisors approves a budgeted amount to be paid to Kern Medical. Based on the approved budgeted amount, Kern Medical recognized revenues of approximately \$23,700,000 for the year ended June 30, 2017. These revenues have been classified as transfers in on the Statement of Revenues, Expenses, and Changes in Net Position. As of June 30, 2017, Kern Medical recorded a receivable of approximately \$1,800,000 from the County's General Fund for these services.

Kern Medical provides health care services to Medically Indigent Adults as provided under Section 17000 of the Health and Safety regulations under the State of California. Reimbursement for the services is provided by the County's General Fund through the use of State Health and Welfare Realignment Revenues. Based on the approved budgeted amount, Kern Medical recognized revenues of approximately \$3,400,000 for the year ended June 30, 2017. These revenues have been classified as transfers in on the Statement of Revenues, Expenses, and Changes in Net Position. As of June 30, 2017, there were no amounts due from the County's General Fund for these services.

Advances payable – Kern Medical has an agreement with the County allowing for advances from the County's General Fund up to \$100,000,000. As of June 30, 2017, there were no amounts due to the County's General Fund.

Note 15 – Pension Plan

General Information about the Pension Plans

Plan descriptions – The County of Kern's Board of Supervisors established the Kern County Employees' Retirement Association (KCERA) under the provisions of the County Employees' Retirement Law of 1937 (CERL) on January 1, 1945. All permanent employees of the County of Kern, Kern Medical and thirteen related agencies are covered by KCERA, which operates as a cost-sharing multi-employer defined benefit plan. It is the responsibility of KCERA to function as an investment and administrative agent for the County of Kern with respect to the pension plan. KCERA became independent from the County's supervision and control as a result of the 1992 passage of Proposition 162, which legally established the independent control of the Board of Retirement. Separate audited financial statements can be obtained through KCERA at 11125 River Run Boulevard, Bakersfield, CA 93311. Management of the KCERA plan is vested with the Board of Retirement, which consists of nine members and two alternates.

Note 15 – Pension Plan (continued)

The Board of Retirement establishes policy for the operation of the plan, considers applications for disability retirement, recommends contributions on the basis of actuarial valuations and controls investments of assets. Prior to January 1, 1996, the Kern County Treasurer-Tax Collector was responsible for financial reporting and accounting for all investments as required by Government Code Section 31596 et seq., as amended. On January 11, 1987, the Board of Retirement authorized the retirement fund to incur an administrative expense and hire an Administrator to serve at the Board of Retirement's pleasure. The Administrator is responsible for the processing and computing of applications for retirement benefits, refunds, beneficiary allowances, death benefits, reciprocity, and any other duties the Board of Retirement may assign. The Administrator also acts as Secretary for all Board of Retirement and Committee meetings and performs other activities as directed by the Board of Retirement. The KCERA Plan provides for retirement, disability, death, beneficiary and cost-of-living benefits.

All regular full-time employees of the County of Kern or contracting districts, including Kern Medical, who work 50% or more of their regular standard hours required become members of KCERA effective on the first day of the payroll period following the date of hire.

General Tier I and Tier II members are eligible to retire at age 70 regardless of service or at age 50 with 10 or more years of retirement service credit. A member with 30 years of service is eligible to retire regardless of age. General Tier III members are eligible to retire at age 70 regardless of service or at age 52 with 5 or more years of retirement service credit.

The retirement benefit the member will receive is based on age at retirement, final average compensation (FAC), years of retirement service credit and benefit tier.

The amount of such monthly benefit is determined as a percentage of their final monthly compensation and is based on age at retirement and the number of years of service. The final monthly compensation is the monthly average of the final 12 months' compensation, or, if the member so elects, any other continuous 12-month period in the member's work history. If hired on or after January 1, 2013 the final compensation is measured over a period of 36 months.

An annual 2% cost-of-living adjustment (COLA) for all retirees and continuance beneficiaries was adopted as of April 1, 1973. The liability for this annual retirement benefit increase was funded entirely from the unreserved fund balance until February 5, 1983. After this date (as recommended by the plan's Independent Actuary, adopted by KCERA Board of Retirement, and approved by the County Board) and prior to fiscal year 2003, funding the 2% COLA was included in the employers' contribution. COLA for all retirees and continuance beneficiaries was increased to 2.5% effective April 1, 2002.

Kern County Hospital Authority

Notes to Financial Statements

Note 15 – Pension Plan (continued)

The Memorandum of Understanding (MOU) adopted March 2012 between the County and its general employees states that all general members hired prior to the first day of payroll period 2004-16 shall start to pay, in the second year of the agreement, one-sixth of the employee's normal contribution to retirement. In the third year, the employee's normal contribution will increase to one-third. All general members hired on or after the first day of payroll period 2005-16 shall pay 100% of the new employee's normal contribution to retirement. The County Administrative Office negotiated an agreement with the Central California Association of Public Employees (CCAPE) adopting Government Code Section 31676.17 which provides enhanced retirement benefits, commonly known as 3% at 60, for General members, in August 2004.

Basis of accounting – KCERA follows GASB accounting principles and reporting guidelines. The financial statements are prepared using the accrual basis of accounting and reflect the overall operations of KCERA. Employer and member contributions are recognized in the period in which the contributions are due, and benefits and refunds of prior contributions are recognized when due and payable in accordance with the terms of KCERA.

Fair valuation of investments – Fair value for investments are derived by various methods as indicated in the following table:

Publicly traded stocks	Most recent exchange closing price. International securities reflect currency exchange rates in effect at June 30, 2016.
Short-term investments and bonds	Institutional evaluations or priced at par.
OTC securities	Evaluations based on good faith opinion as to what a buyer in the marketplace would pay for a security.
Commingled funds	Net asset value provided by the investments manager.
Alternative investments	Provided by the Fund manager based on the underlying financial statements and performance of the investments.
Private equity real estate investments	Estimated based on the price that would be received to sell an asset in an orderly transaction between marketplace participants at the measurement date. Investments without a public market are valued based on assumptions made and multiple valuation techniques used by the investment manager.

Contributions – As a condition of participation under the provisions of CERL, members are required to contribute to KCERA a percentage of their salaries. Member contribution rates for fiscal year 2016 ranged from 4.45% to 18.48% and were applied to the member's base pay plus pensionable special pays. For general members hired prior to 2013, contribution rates were determined by benefit tier and KCERA entry age. The contribution rates of general members who first joined KCERA on or after January 1, 2013 are at least 50% of the normal cost rate. Furthermore, the rate of members integrated with Social Security is reduced by one-third on the first \$161 of biweekly salary.

Note 15 – Pension Plan (continued)

Interest is credited to member contributions semi-annually on June 30 and December 31, in accordance with Article 5.5 of the CERL. Member contributions and credited interest are refundable upon termination of membership.

Each year, an actuarial valuation is performed for the purpose of determining the funded ratio of the retirement plan and the employer contributions that are necessary to pay benefits accruing to KCERA members that were not otherwise funded by member contributions or investment earnings. The employer contribution rates are actuarially determined by using the Entry Age Normal Actuarial Cost method. Employer rates include the “normal cost” and an annual amortization payment toward the Plan’s unfunded actuarial accrued liability. Contribution rates determined in each actuarial valuation (as of June 30) apply to the fiscal year beginning 12 months after the valuation date. Employer rates for fiscal year 2017 ranged from 31.83% to 33.43% of covered payroll. Contributions to the pension plan from Kern Medical were approximately \$26,000,000 for the year ended June 30, 2017.

Actuarial assumptions – The total pension liabilities in the June 30, 2016 actuarial valuation was determined using the following actuarial assumptions. Total pension liability represents the portion of the actuarial present value projected benefit payments attributable to past periods of service for current and inactive employees.

Inflation	3.25%
Salary increases	4.25 to 9.25%, including inflation
COLA increases	2.50 % (actual increases contingent upon CPI increases with a 2.50% maximum)
Administrative Expenses	0.90 % of payroll allocated to both the employer and member based on the components of the total contribution rate (before expenses) for the employer and member

The total pension liability as of June 30, 2017 was determined by an actuarial valuation as of June 30, 2016. The actuarial assumptions for the June 30, 2016 actuarial report were based on the results of an experience study for the period July 1, 2010 through June 30, 2013.

The Entry Age Normal Actuarial Cost method used in KCERA’s annual actuarial valuation has also been applied in measuring the service cost and TPL with one exception. For purposes of measuring the service cost and TPL, KCERA has reflected the same plan provisions used in determining the member’s actuarial present value of projected benefits. This is different from the version of this method applied in KCERA’s annual funding valuation, where the normal cost and actuarial accrued liability are determined as if the current benefit accrual rate had always been in effect.

Kern County Hospital Authority

Notes to Financial Statements

Note 15 – Pension Plan (continued)

The long-term expected rate of return on pension plan investments was determined using a building-block method in which expected future real rates of return (expected returns net of pension plan investment expenses and inflation) are developed for each major asset class. This data is combined to produce the long-term expected rate of return by weighting the expected future real rates of return by the target asset allocation percentages and by adding expected inflation. The target allocation and projected arithmetic real rates of return for each major asset class, after deducting inflation but before investment expenses, used in the derivation of the long-term expected investment rate of return assumptions are summarized below:

	Target Allocation	Long-term Expected Real Rate of Return
Large Cap U.S. Equity	19.00 %	5.92 %
Small/Mid Cap U.S. Equity	4.00	6.49
Developed International Equity	18.00	6.90
Emerging Markets Equity	4.00	8.34
Core Bonds	18.00	0.73
High Yield Bonds	4.00	2.67
Emerging Market Debt	4.00	4.00
TIPS	3.00	0.35
Real Estate	5.00	4.96
Commodities	6.00	4.35
Hedge Funds	10.00	4.30
Private Equity	5.00	8.10

Discount rate – The discount rates used to measure the total pension liability was 7.50% as of June 30, 2016. The projection of cash flows used to determine the discount rates assumed member contributions would be made at the current contribution rate and that employer contributions would be made at rates equal to the actuarially determined contribution rates.

For this purpose, only employee and employer contributions intended to fund benefits for current plan members and their beneficiaries are included. Projected employer contributions intended to fund the service costs for future plan members and their beneficiaries, as well as projected contributions from future plan members, are not included. Based on those assumptions, the pension plan's fiduciary net position was projected to be available to make all projected future benefit payments for current plan members. Therefore, the long-term expected rate of return on pension plan investments was applied to all periods of projected benefit payments to determine the total pension liability as of June 30, 2016.

The discount rate assumptions have been developed without taking into consideration any impact of the 50/50 allocation of future excess earnings between the retirement and Supplement Retirement Benefit Reserve (SRBR) asset pools.

Note 15 – Pension Plan (continued)

Sensitivity of the net pension liability to changes in the discount rate – The following presents the net pension liability as of June 30, 2016, calculated using a discount rate of 7.50%, and what the net pension liability would be if it were calculated using a discount rate that is one point lower (6.50%) or one point higher (8.50%) than the current rate:

	1% Decrease (6.5%)	Current Discount Rate (7.5%)	1% Increase (8.5%)
Kern Medical's proportionate share of the net pension liability	\$ 435,423,989	\$ 329,935,445	\$ 242,604,158

Pension fund fiduciary net position – Detailed information about the pension fund's fiduciary net position is available in the separately issued KCERA annual report.

**Pension Liabilities, Pension Expenses and Deferred Outflows/Inflows of Resources
Related to Pensions**

Kern Medical's net pension liability for the Plan is measured as the proportionate share of the net pension liability. As of June 30, 2017, Kern Medical reported a liability of \$329,935,445 for its proportionate share of the net pension liability. The net pension liability was measured as of June 30, 2016, and the total pension liability used to calculate the net pension liability was determined by an actuarial valuation as of that date. The net pension liability for each membership class is the total pension liability minus the Plan's Fiduciary Net Position. The total pension liability for each membership class is obtained from internal valuation results based on the actual participants in each membership class. The Plan's Fiduciary Net Position for each membership class was estimated by adjusting the valuation value of assets for each membership class by the ratio of the total KCERA Plan's Fiduciary Net Position (excluding SRBR) to total KCERA valuation value of assets. Based on this methodology, any non-valuation reserves are allocated amongst the membership classes based on each membership class' valuation value of assets. Kern Medical's proportion of the net pension liability was based on a projection of Kern Medical's long-term share of contributions to the pension plan relative to the projected contributions of all participating County departments and agencies, actuarially determined. As of June 30, 2017, Kern Medical's proportion was 15.05 percent, which was a decrease of 2.02 percent from its proportion measured as of June 30, 2016.

Kern County Hospital Authority

Notes to Financial Statements

Note 15 – Pension Plan (continued)

For the fiscal year ended June 30, 2017, Kern Medical recognized pension expense of \$30,519,077. Pension expense represents the change in net pension liability during the measurement period, adjusted for actual contributions and the deferred recognition of changes in investment gain/loss, actuarial gain/loss, actuarial assumptions or methods, and plan benefits. As of June 30, 2017, Kern Medical reported deferred outflows and deferred inflows of resources related to pensions from the following sources:

	Deferred Outflows of Resources	Deferred Inflows of Resources
Differences between expected and actual experience	\$ -	\$ (20,011,206)
Changes of assumptions	10,782,307	-
Net difference between projected and actual earnings on pension plan investments	30,611,259	-
Changes in proportion and differences between Kern Medical contributions and proportionate share of contributions	206,164	(2,227,720)
Kern Medical contributions subsequent to the measurement date	30,152,915	-
Total	<u>\$ 71,752,645</u>	<u>\$ (22,238,926)</u>

Deferred outflows and deferred inflows of resources above represent the unamortized portion of changes to NPL to be recognized in future periods in a systematic and rational manner. \$30,152,934 reported as deferred outflows of resources related to contributions subsequent to the measurement date will be recognized as a reduction of the net pension liability in the fiscal year ended June 30, 2017. Other amounts reported as deferred outflows and deferred inflows of resources related to pension will be recognized as pension expense as follows:

Year ended June 30:

2018	4,032,676
2019	4,032,676
2020	7,509,086
2021	4,061,497
2022	(275,151)
	<u>\$ 19,360,785</u>

Kern County Hospital Authority

Notes to Financial Statements

Note 15 – Pension Plan (continued)

The changes in net pension liability obligation are as follows as of June 30, 2017:

Beginning net pension liability, as restated (see Note 2)	\$ 307,308,399
Pension expense	30,519,077
Employer contributions	(26,222,853)
Deferred outflows of resources - change in Assumptions	10,782,307
Deferred inflows of resources - net difference between projected and actual investment earnings on pension plan investments	29,581,277
Deferred outflows of resources - change in proportion and differences between employer contributions and proportionate share of contributions	206,164
Deferred inflows of resources - Differences between expected and actual experience	(20,011,206)
Deferred inflows of resources - Changes in proportion and differences between employer contributions and proportionate share of contributions	(2,227,720)
Ending net pension liability	<u><u>\$ 329,935,445</u></u>

Note 16 – Physician Employee Retirement Plan

Kern Medical, through the County, contributes to the Kern County Physician Employee Retirement Plan (the Plan), a defined contribution plan. The Plan covers salaried physicians in the employment of the County, except physicians employed under Civil Service and physicians employed and paid on an hourly basis. Kern Medical contributions for each plan year (as defined in the Plan Document) under the amended and restated Plan Document shall be as follows: Kern Medical shall contribute as Kern Medical's required contribution the sum of Seventeen Thousand Five Hundred Dollars (\$17,500) for the account of Core Physician for each completed Plan Year of service (as defined in the Plan Document) by Core Physician. Participants are allowed to make voluntary contributions to the Plan. All amounts contributed are vested immediately. The Kern Medical contributed \$1,147,678 to the Plan for fiscal year ended 2017. Audited financial statements for the Plan may be obtained through the Kern County Auditor-Controller-County Clerk, 1115 Truxtun Avenue, Bakersfield, CA 93301.

Note 17 – Self-Insurance Programs

Medical malpractice claims – Kern Medical is self-insured for medical malpractice claims for the first \$2,500,000 per incident with a \$10,000,000 total maximum policy limitation. Kern Medical also maintains excess liability coverage for claims in excess of total maximum policy limitation. Insurance coverage is on a claims-made basis.

Kern County Hospital Authority

Notes to Financial Statements

Note 17 – Self-Insurance Programs (continued)

Accounting principles generally accepted in the United States of America require a health care provider to accrue the expense of its share of malpractice claim costs, if any, for any reported and unreported incidents of potential improper professional service occurring during the year by estimating the probable ultimate costs of the incidents. Annual estimated provisions are accrued based on Kern Medical's past experience as well as other considerations, including the nature of the claim or incident and relevant trend factors. Losses from asserted and unasserted claims identified under Kern Medical's incident reporting system are actuarially determined based on Kern Medical's past experience as well as other considerations, including the nature of each claim or incident and relevant trend factors. These unpaid claim liabilities were discounted at 4.0% in 2017 to account for the time value of money to determine the current estimated liabilities as reflected below. It is reasonably possible that this estimate could change materially in the near term.

Kern Medical has unlimited retention on most open policy years. Since July 1, 1998, Kern Medical has purchased excess insurance to cover annual claims. Excess insurance was maintained for claims based on the following policy years:

A reconciliation for professional liability claims (including claims incurred but not reported (IBNR)) for the current fiscal year and the past fiscal year is as follows:

Balance, beginning of the year	\$ 4,279,059
Current year claims incurred and changes in estimates for claims incurred in prior periods	1,630,872
Claims and expenses paid	<u>(5,931)</u>
Balance, end of year	<u><u>\$ 5,904,000</u></u>

Workers' compensation claims – Under the California Unemployment and Workers' Compensation Insurance provisions, the Kern Medical has elected to pay the actual claims filed for unemployment and workers' compensation benefits. Reinsurance policies have been purchased by Kern Medical for claims incurred above selected retention levels for a small portion of enrolled members. The liability associated with the self-insurance policies of the Kern Medical is based upon Kern Medical's historical trend analysis and includes amounts for claims incurred but not reported.

A reconciliation for workers' compensation claims (including IBNR claims) for the current fiscal year and the past fiscal year is as follows:

Balance, beginning of the year	\$ 7,748,000
Current year claims incurred and changes in estimates for claims incurred in prior periods	130,638
Claims and expenses paid	<u>(75,638)</u>
Balance, end of year	<u><u>\$ 7,803,000</u></u>

Kern County Hospital Authority

Notes to Financial Statements

Note 18 – Post-Retirement Health Care Benefits

Plan description – In addition to the pension benefits described in Note 15, the County and its Special Districts (including Kern Medical) provide post-retirement health care benefits in accordance with union contracts and Board of Supervisors' order. There are two programs, which contribute funding for retirees' health insurance. The Retiree Health Premium Supplement Program (RHPSP) is available to employees who: a) elect to participate or were required to participate, b) retire on or after July 1, 1990, c) are between the ages of 50 and 64, and d) have at least 20 years of continuous County service as a permanent employee. The supplement amount is permanently fixed once determined and is, depending on years of service, equal to 50% to 100% of the active employee monthly health premium for a single individual at the time of retirement.

The Retiree Health Stipend (RHS) is available to employees who choose continuous health coverage upon retirement. As of June 30, 2017, there were approximately 2,784 retirees receiving the stipend. The monthly stipend paid on behalf of each retiree is a maximum of \$39.75 for single coverage, \$53.69 for two-party coverage, and \$61.50 for family coverage, limited to the cost of the plan selected for 2017. Both the RHPSP and RHS are single-employer benefit plans.

Funding policies (extracted from County CAFR) – County, Special Districts and employee contributions fund the RHPSP and County contributions fund all of the RHS. As of the June 30, 2014 actuary report, the RHPSP was paid on the ARC basis. During the fiscal year ended June 30, 2013, the County entered into a postemployment health benefit (OPEB) trust with the Public Agency Retirement Services (PARS) to accumulate resources to fund future benefit payments of the RHPSP and RHS. The employee contribution for RHPSP is 2.12% of covered payroll for the majority of the employee union contracts. The overall contribution rate is determined to meet the overall rate determined by an independent actuary. The contribution rate is based on the annual required contribution (ARC), an amount that is actuarially determined in accordance with the parameters of GASB Statement No. 45, *Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions*.

	RHPSP	RHS	Total
Annual required contribution	\$ 9,183,000	\$ 2,738,000	\$ 11,921,000
Interest on net OPEB obligation	1,489,000	325,000	1,814,000
Adjustment to annual required contribution	(1,655,000)	(360,000)	(2,015,000)
Annual OPEB cost (expense)	9,017,000	2,703,000	11,720,000
Contributions made	(10,278,000)	(287,000)	(10,565,000)
Increase (decrease) in net OPEB obligation	(1,261,000)	2,416,000	1,155,000
Net OPEB obligation - beginning of year	33,094,000	7,224,000	40,318,000
Net OPEB obligation - end of year	<u>\$ 31,833,000</u>	<u>\$ 9,640,000</u>	<u>\$ 41,473,000</u>
Kern Medical allocation percentage			10.13%
Net OPEB obligation - end of year - Kern Medical portion			<u>\$ 4,201,203</u>

Kern County Hospital Authority

Notes to Financial Statements

Note 18 – Post-Retirement Health Care Benefits (continued)

Funded status and funding progress (extracted from County CAFR) – As of June 30, 2016, the most recent actuarial valuation date, the RHPSP and RHS were funded 58.33% and 5.21%, respectively. The actuarial accrued liability for RHPSP benefits was \$110,247,000, and the actuarial value of the assets was \$64,304,000, resulting in an unfunded actuarial accrued liability (UAAL) of \$45,594,000. The actuarial accrued liability for RHS benefits was \$25,492,000, and the actuarial value of the assets was \$1,328,000, resulting in an UAAL of \$24,164,000. The covered payroll (annual payroll of active employees covered by the plan) was \$506,924,000 for both plans, and the ratio of the UAAL to the covered payroll was 9.06% for RHPSP and 4.77% for RHS.

In fiscal year 2017 contributions for the RHPSP were \$10,278,000, \$4,293,000 of which was from the County and \$5,785,000 was from employee contributions. The RHS is funded by County contributions of approximately \$168 per active employee per year, which totaled \$287,000 for the year ended June 30, 2017.

Actuarial valuations of an ongoing plan involve estimates of the value of reported amounts and assumptions about the probability of occurrence of events far into the future. Examples include assumptions about future employment, annual investment return, mortality, inflation and the healthcare cost trend. Amounts determined regarding the funded status of the plan and the ARC of the employer are subject to continual revision as actual results are compared with past expectations and new estimates are made about the future. The schedule of funding progress, presented as required supplementary information following the notes to the financial statements, presents multiyear trend information that shows whether the actuarial value of plan assets is increasing or decreasing over time relative to the actuarial accrued liabilities for benefits.

Actuarial methods and assumptions (extracted from county CAFR) – Projections of benefits for financial reporting purposes are based on the substantive plan (the plan as understood by the employer and plan members) and include types of benefits provided at the time of each valuation and the historical pattern of sharing of benefits costs between the employer and the plan members to that point. The actuarial methods and assumptions used include techniques that are designed to reduce short-term volatility in actuarial accrued liabilities and the actuarial value of assets, consistent with the long-term perspective of the calculations.

In the June 30, 2016 actuarial valuations for RHPSP and the RHS, the projected unit credit actuarial cost method was used. The amortization period is 20 years closed on a level dollar basis. The actuarial assumptions include a 6.5% investment rate of return, a medical premiums trend rate for the supplement of 6.50% in 2017/2018, grading down 0.25% per year to an ultimate rate of 5.00% and 0.00% for the stipend.

Per the June 30, 2016 actuary report the RHPSP ARC was \$9,183,000, or 1.81% of the estimated annual covered payroll, the RHS was \$2,738,000, or 0.54% of estimated annual covered payroll. This included the normal cost for the year for current active employees of \$4,707,000, and \$3,915,000 for UAAL amortization. The County's contribution to the RHPSP for the fiscal year ended June 30, 2017 was \$9,867,000. The County's contribution to the RHS for the fiscal year ended June 30, 2017 was \$287,000.

Note 19 – Deferred Compensation

Kern Medical offers its employees a deferred compensation plan created by the County in accordance with IRC Section 457. The plan, available to all County employees, permits them to defer a portion of their salary until future years. The deferred compensation is not available to employees until termination, retirement, or unforeseeable emergency. Amounts accumulated under the plan have been invested in several investment options at the direction of the employee.

In accordance with requirements of IRC Section 457 and the Small Business Job Protection Act of 1996, the assets in the plan were transferred to a trust as approved by the County Board of Supervisors. The trust holds the plan assets for the exclusive benefit of the participants and their beneficiaries.

Completed financial statements for the Deferred Compensation Plan may be obtained from the Office of the Kern County Treasurer-Tax Collector located at 1115 Truxtun Avenue, Bakersfield, CA 93301.

Note 20 – Donated Services

Kern Medical receives donated services from unpaid volunteers assisting in the auxiliary coffee shop and gift shop. Additionally, the hospital receives donated services from a variety of unpaid individuals who are under the work release program and are required to complete hours of manual labor at the hospital. No amounts have been recognized in the accompanying Statement of Revenues, Expenses, and Changes in Net Position for those services, since the criteria for recognition of such volunteer effort was not met under FASB Accounting Standards Codification (ASC) 605-10-15.

Note 21 – Commitments and Contingencies

Litigation – Kern Medical is the subject of certain claims and assessments arising in the normal course of its operations. In certain instances, these matters have been tried and awards have been submitted by the respective juries and/or courts.

The County, along with seven other counties, is the plaintiff in a case regarding Medi-Cal outpatient payment rates for current and prior services. The complaint is that the SDHS did not comply with certain Federal and State requirements in setting current and prior outpatient payment rates. The case was settled during the 2005 year in the County's favor and Kern Medical received one half of the settlement amount. The other half is contingent upon the Federal government's provision of Federal financial participation for the settlement. Therefore, Kern Medical has not accrued any amounts as a result of this settlement.

Operating leases – Kern Medical leases certain office space under operating lease agreements. Total lease expense amounted to approximately \$2,900,000 for the year ended June 30, 2017. Minimum future lease payments and sublease rental income offsets on existing non-cancelable leases as of June 30, 2017 are as follows:

Kern County Hospital Authority

Notes to Financial Statements

Note 21 – Commitments and Contingencies (continued)

	Minimum Future Lease Payments
2018	\$ 1,439,526
2019	1,227,985
2020	1,249,261
2021	1,276,458
2022	<u>1,169,817</u>
Total minimum lease payments	<u>\$ 6,363,047</u>

Regulatory matters – The health care industry is subject to numerous laws and regulations of federal, state and local governments. These laws and regulations include, but are not necessarily limited to, matters such as licensure, accreditation, governmental health care program requirements and reimbursements for patient services. Government activity has continued with respect to investigations and allegations concerning possible violations of fraud and abuse statutes and regulations by health care providers. Violations of these laws and regulations could result in expulsion from government health care programs together with the imposition of significant fines and penalties, as well as significant repayments for patient services previously billed. Management believes that Kern Medical is in compliance with fraud and abuse, as well as other applicable government laws and regulations. Compliance with such laws and regulations can be subject to future government review and interpretation as well as regulatory action unknown or unasserted at this time.

In addition, Kern Medical is subject to changes in government legislation that could impact Medicare and Medi-Cal payment levels and is also subject to increased levels of managed care penetration and changes in payer patterns that may impact the level and timing of payments for services rendered.

Final determination of amounts earned under prospective payment and cost reimbursement activities is subject to review by appropriate governmental authorities or their agents. In the opinion of management, adequate provision has been made for any adjustments that could result from such reviews.

Note 22 – Audit of Federal Disproportionate Share Payments

The DSH program was established in 1981 as part of the Medicaid program and requires State Medicaid agencies to make additional payments to hospitals serving disproportionate numbers of low-income patients with special needs. Effective July 1, 1997, the program was amended to limit DSH payments to 100 percent of the amount of incurred uncompensated care costs (UCC) with a special provision that allowed payments of up to 175 percent of UCC to those public hospitals qualifying as “high DSH” hospitals in the State of California.

In 2001, the Office of Inspector General (OIG) of the U.S. Department of Health of Human Services conducted an audit of DSH payments to Kern Medical in order to determine that those payments did not exceed the hospital specific limit for fiscal year 1998. In September 2002, the OIG issued its final report, claiming total overpayments to Kern Medical of approximately \$38,700,000, of which approximately \$19,400,000 represents the Federal share.

Note 22 – Audit of Federal Disproportionate Share Payments (continued)

The report states that Federal law requires the State to recover overpayments, and State law requires that overpayments determined by audit or Federal disallowance should be recouped by the State. However, in its conclusions, the report does not specifically request Kern Medical to refund the overpayment.

The SDHS and Kern Medical generally disagree with the findings of the OIG and maintain that the DSH payments were properly paid in accordance with the approved State plan. Furthermore, both the State and Kern Medical assert that the governing statute, OBRA 1993, does not require retrospective settlement, as these settlements are extremely disruptive and counter-productive to the purposes of the DSH program. No provision has been made in these financial statements to repay the amounts claimed by the OIG in its report.

California State Department of Health Service (DHS) has completed its audit and reconciliation of the 2005-2006 Medi-Cal funds and noted that Kern Medical was overpaid in the total amount of \$2,116,022. Kern Medical paid this amount back to DHS on October 9, 2013. Kern Medical hired a third party consultant to evaluate its outstanding receivables related to the remaining years subject to audit from 2006-2007 through 2013-2014 noting Kern Medical is estimated to have been overpaid by DHS in the amount of approximately \$41,100,000 over the course of these stated 8 years. The amount has been recorded in due to governmental agencies in the accompanying Statement of Net Position and is subject to audit by DHS.

Note 23 – Construction and Seismic Standards

Under current California laws, Kern Medical's facilities must comply with specific provisions related to structural and nonstructural seismic standards. These laws generally required hospitals to retrofit, remodel or upgrade several buildings before 2013, subject to legislative changes and certain available exemptions. Kern Medical received an extension to comply by 2019. Kern Medical is currently working on improvements to noncompliant buildings in order to receive exemptions available under current legislation through 2030. The cost estimates associated with this compliance have not been completed but will likely be significant.

Required Supplementary Information

Kern County Hospital Authority
Other Post-Employment Benefits
Schedule of Funding Progress for The County of Kern

Retiree Health Premium Supplement Program (RHPSP)*
(Amounts in thousands)

Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Accrued Liability (AAL) (b)	Unfunded AAL (UAAL) (b-a) (c)	Funded Ratio (a/b)	Covered Payroll (d)	UAAL as a Percentage of Annual Covered Payroll (c/d)
6/30/2010	\$ -	\$ 133,583	\$ 133,583	0.00%	\$ 481,701	27.73%
6/30/2012	-	132,528	132,528	0.00%	490,762	27.00%
6/30/2012	-	132,528	132,528	0.00%	512,702	25.85%
6/30/2014	46,496	108,976	62,480	42.67%	501,431	12.46%
6/30/2014	46,496	108,976	62,480	42.67%	501,431	12.46%
6/30/2016	64,304	110,247	45,943	58.33%	506,924	9.06%

Retiree Health Stipend (RHS)*
(Amounts in thousands)

Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Accrued Liability (AAL) (b)	Unfunded AAL (UAAL) (b-a) (c)	Funded Ratio (a/b)	Covered Payroll (d)	UAAL as a Percentage of Annual Covered Payroll (c/d)
6/30/2010	\$ -	\$ 16,379	\$ 16,379	0.00%	\$ 487,323	3.36%
6/30/2010	-	16,379	16,379	0.00%	481,701	3.40%
6/30/2012	-	36,525	36,525	0.00%	490,762	7.44%
6/30/2012	-	36,525	36,525	0.00%	512,702	7.12%
6/30/2014	221	28,885	28,664	0.77%	501,431	5.72%
6/30/2014	221	28,885	28,664	0.77%	501,431	5.72%
6/30/2016	1,328	25,492	24,164	5.21%	506,924	4.77%

* These schedules represent the entire County of Kern's (the County) benefits and obligations. The Medical Center's benefits and obligations are allocated as a portion from the County.

Kern County Hospital Authority

Other Post-Employment Benefits

Actuarial Assumptions and Methodology for The County of Kern

Retiree Health Premium Supplement Program (RHPSP) Retiree Health Stipend

Valuation Date:	6/30/2016
Investment Return:	6.5%
General Inflation Rate:	Not used in calculating liability
Mortality:	<p><i>Healthy</i> - RP 2000 Combined Healthy Mortality Table projected with Scale BB to 2023 set forward one year for males and females for General members and set back one year for Safety Members.</p> <p><i>Disabled</i> - RP 2000 Combined Healthy Mortality Table projected with Scale BB to 2023 set forward eight years for General and four years for Safety members.</p>
Medical Plan Premiums (Trend) Stipend:	6.50% in 2017/18, grading down 0.25% per year to an ultimate rate of 5.00%

Retiree Health Premium Supplement Program (RHPSP) Only

Monthly Premium Contributions	\$441.04 - \$882.07 depending on years of service	
Other Factors for Monthly Premium Contributions:	Above premium is for new retirees who are under age 65 and completed 20 or more years of continuous service. Employees who retire with a minimum of 20 years of continuous service only receive a percentage as follows:	
	20 years	441.04
	21 years	529.24
	22 years	617.45
	23 years	705.66
	24 years	793.86
	25 years	882.07

Retiree Health Stipend Only

Monthly Premium Contributions for Future Retirees:	Coverage	Stipend
	Single-Retiree Only	39.75
	Two-Party (retiree plus dependent)	53.69
	Family (retiree plus two or more dependents)	61.50

Kern County Hospital Authority
Other Post-Employment Benefits
Schedule of Contributions for The County of Kern

Retiree Health Premium Supplement Program (RHPSP)*
(Amounts in thousands)

Fiscal Year Ended June 30,	Annual RHPSP Cost	Percentage of Cost Contributed	Net OPEB Obligation
2013	\$ 13,385	100%	\$ 35,015
2014	15,187	97%	35,449
2015	10,257	104%	35,031
2016	10,182	119%	33,094
2017	9,017	114%	31,833

Retiree Health Stipend (RHS)*
(Amounts in thousands)

Fiscal Year Ended June 30,	Annual RHS Cost	Percentage of Cost Contributed	Net OPEB Obligation
2013	\$ 3,486	34%	\$ 2,311
2014	3,490	64%	3,584
2015	3,162	44%	5,339
2016	3,150	40%	7,224
2017	2,703	11%	9,640

* These schedules represent the entire County of Kern's (the County) benefits and obligations. The Medical Center's benefits and obligations are allocated as a portion from the County.

Kern County Hospital Authority
Other Post-Employment Benefits
Schedule of The Proportionate Share
of the Net Pension Liability for the County of Kern

Reporting Date for Employer under GASB 68 as of June 30	Actuarially Determined Contribution	Kern Medical's Contribution	Contribution Deficiency (Excess)	Medical Center's Covered-	Contributions as a percentage of covered-employee
2015	\$ 34,286,046	\$ 34,286,046	\$ -	\$ 77,008,989	44.52%
2016	\$ 30,093,110	\$ 30,093,110	\$ -	\$ 81,925,123	36.73%
2017	\$ 26,222,853	\$ 26,222,853	\$ -	\$ 78,433,199	33.43%

Kern County Hospital Authority
Pension Plan
Schedule of Contributions for the County of Kern

Reporting Date for Employer under GASB 68 as of June 30	Proportion of the Net Pension Liability	Proportionate Share of Net Pension Liability	County's Covered- employee Payroll	Proportionate Share of the Net Pension Liability as Percentage of its Covered- employee Payroll	Plan's Fiduciary Net Position as a Percentage of the Total Pension Liability
2014	16.18%	\$ 343,748,412	\$ 75,331,439	456.31%	59.59%
2015	15.97%	\$ 330,492,938	\$ 77,008,989	429.16%	63.49%
2016	17.17%	\$ 345,262,534	\$ 81,925,123	421.44%	62.20%
2017	15.06%	\$ 329,935,454	\$ 78,433,199	420.66%	59.82%

Report of Independent Auditors on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements in Accordance with *Government Auditing Standards*

The Board of Governors
Kern County Hospital Authority

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of Kern County Hospital Authority (Kern Medical), as of and for the year ended June 30, 2017, and the related notes to the financial statements, which collectively comprise Kern Medical's basic financial statements and have issued our report thereon dated December 21, 2017.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered Kern Medical's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of Kern Medical's internal control. Accordingly, we do not express an opinion on the effectiveness of Kern Medical's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatement on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified. We did identify deficiencies in internal control, described in the accompanying schedule of findings and responses as findings 2016-01, 2016-02, 2016-03 and 2016-04, that we consider to be significant deficiencies.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether Kern Medical's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Audit Standards*.

Kern Medical's Response to Findings

Kern Medical's response to the findings identified in our audit is described in the accompanying schedule of findings and responses. Kern Medical's response was not subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of Kern Medical's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering Kern Medical's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Moss Adams LLP

Los Angeles, California
December 21, 2017

Finding 2017-01 Journal Entry Process

Condition

During fiscal year 2017, Kern Medical did not have a consistent process to document the review of all journal entries and supporting documentation by personnel at a level above the preparer. Additionally, all personnel in the accounting department are able to post journal entries into the system. Without complete separation of duties, particularly between the approval and recording of adjusting journal entries, transactions may be inaccurately recorded in the general ledger through a journal entry and not be detected. The potential result would be that the financial statements may be materially misstated.

Recommendation

We recommend that a process be implemented to properly document review of all journal entries and the supporting documents for all entries posted. We recommend that the list of personnel with the ability to post journal entries be reviewed and a policy implemented to limit access to only the appropriate personnel. We recommend that the reviewer of journal entries does not have access to post entries into the system.

Management Response

Management agrees with the auditor's recommendation regarding the preparation and review of all journal entries. Policies and procedures have been implemented that require adequate supporting documentation to be attached to all journal entries. These policies and procedures also require that personnel a level above the staff preparing the journal entries to review the journal entries. Management will consider the recommendation to have the Information Systems Department block the ability to post journal entries for personnel that review journal entries. New PeopleSoft accounting software that was recently implemented by Kern Medical will allow journal entries to be accounted for more easily each month. Electronic records of all journal entries with proper support documentation and proof of management review attached will be saved and available for management or auditor review each month. This software will also be setup to only allow appropriate accounting staff with the access needed to post journal entries to the general ledger.

Finding 2017-02 Timely Reconciliation of General Ledger Accounts

Condition

Accounting tasks such as monthly reconciliations play a key role in proving the accuracy of accounting data and information included in interim financial statements. During fiscal year 2017, Kern Medical did not consistently complete monthly general ledger account reconciliations on a timely manner. In addition, there was an instance of no evidence of the reconciliation being reviewed by personnel at a level above the preparer of the reconciliation.

Kern County Hospital Authority

Schedule of Findings and Responses

June 30, 2017

Recommendation

In order to provide more accurate and timely accounting information, we strongly recommend that Kern Medical establish more effective review and reconciliation policies and procedures as a customary part of the accounting process. This would involve monthly reconciliations of all accounts, and performing more frequent reviews of the general ledger throughout the year, including making any necessary adjustments. Monthly general ledger account reconciliations should be prepared timely and personnel at a level above the preparer should review the reconciliations and the related support on a timely basis.

Management Response

Management agrees with the auditor's recommendation that account reconciliations should be completed on a monthly basis. Policies and procedures have been implemented that require the monthly reconciliation of all balance sheet accounts. Kern Medical is adhering to these policies and procedures during the current fiscal year. Kern Medical's recent implementation of new PeopleSoft accounting software will allow the monthly financial close process to be completed more quickly and for the corresponding balance sheet account reconciliations to be completed on a timelier basis each month.

Finding 2017-03 Bank Account Reconciliation

Condition

During the audit, we noted that bank statements for Kern Medical's various accounts were not reconciled to the general ledger. Most of the problems generally encountered within the area of cash can be avoided if a proper system of checks and balances is incorporated into the organization's procedures.

Recommendation

We recommend that all of the bank accounts be reconciled monthly to the general ledger and that all reconciling items be promptly investigated and adjusted with adequate explanations. This practice would greatly enforce the checks and balances necessary for strong controls over cash.

Management Response

Management agrees with the recommendation to reconcile bank accounts to the general ledger on a monthly basis. There are policies and procedures currently in place requiring these reconciliations. However, due to a shortage of staff and accounting software system limitations, the reconciliations have not always been completed on a timely basis. New PeopleSoft accounting software has been implemented and became effective on October 1, 2017. In addition, an accounting staff member has also been put in place to focus on cash reconciliations as their main priority. These changes should allow Kern Medical to stay current with their accounting for cash activity.

Finding 2017-04 Purchasing and Disbursements Control Activities

Condition

During our disbursement control testing, we noted there were no restrictions on the number of goods or services that a manager could purchase. We also noted that there were few instances where there was no evidence that managerial level personnel approved the purchase order after the preparer's request. Lastly, we noted two instances where there was no evidence of who performed the three-way match of the purchase order, receiving documents, and invoices and entered the information into the system. A strong and efficient system of controls over purchasing and disbursements is critically important to preventing the possibility of not only unapproved, but also fraudulent purchases.

Recommendation

We recommend that Kern Medical update the purchasing policy that monitors the number of goods that a manager could approve. We also recommend that managers/supervisors approve each purchase order to ensure accuracy and validity of the purchase. We recommend the AP department to collect all of the necessary supporting documents to perform a three-way match and for preparer and approver to sign-off as part of evidence of completion. These procedures will create an effective system of checks and balances in purchasing and disbursements cycles reducing the possibility of unauthorized purchases, and improving control over purchases and disbursements.

Management Response

Management agrees with the auditor's recommendation that purchasing policies should be updated and adhered to each month. Several policies and procedures supporting the procurement to payment system were drafted and implemented upon the transfer of Kern Medical Center to the Kern County Hospital Authority, effective July 1, 2016. Also, throughout fiscal year 2017 Kern Medical engaged consultants that specialize in the procurement to payment process for hospitals. The consultants worked closely with Kern Medical Materials Management and Accounts Payable staff to revise processes as needed to make sure that the entire procurement to payment process conforms to the requirements in the policies. This work included strengthening system infrastructure to support the new PeopleSoft software system that was implemented throughout fiscal year 2017 and became a live, usable system for Kern Medical effective October 1, 2017. The materials management, supply chain, accounts payable, asset management, and general ledger modules within the PeopleSoft software system will allow Kern Medical to properly account for the purchase and payment for goods and services much more accurately and efficiently than in prior years.



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

February 21, 2018

SUBJECT: Update on Kern Medical's Whole Person Care pilot program.

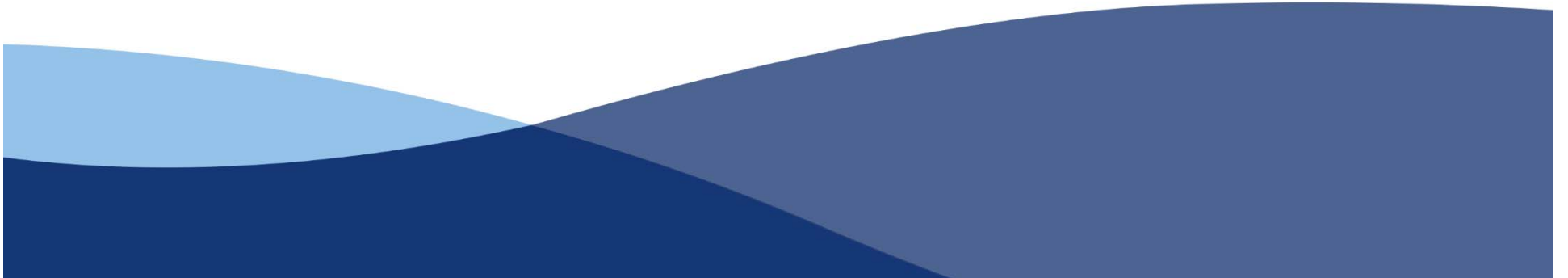
Requested Action: Receive and File

Summary:

An update on Kern Medical's Whole Person Care pilot program after its first year of operation.



Whole-Person Care Program Year 2 Update



Program Overview

- Component of Medi-Cal 2020, California's Section 1115 Medicaid Waiver
- Designed to improve health outcomes for high-risk, high-utilizing patients through coordinated delivery of physical and behavioral health and social services



Partners

- Kern Health Systems
- Health Net
- Kern County Probation
- Kern Behavioral Health and Recovery Services
- Kern County Sheriff's Department
- Kern County Aging and Adult Services
- Kern County Employers' Training Resource
- Kern County Public Health
- Kern County Department of Human Services
- Golden Empire Gleaners
- Housing Authority of the County of Kern
- Community Connection for Childcare



Eligibility Criteria

- Medi-Cal Beneficiary
- 2+ chronic disease diagnoses
- >1 inpatient stay in 12 month time period
And/Or
- 3+ ER visits in 12 month time period
- *Recently Incarcerated*
- *Homeless/At-risk-of homelessness*

Program Update

- 89 Enrollees since August 2017
- Dedicated Physician – Dr. Katayun Saadai
- Dedicated Behavioral Health Staff
- 4 Care Coordinators

Program Education

- **WPC Core Education**
 - Health Literacy
 - Hospital Relapse Prevention
 - Job Readiness Assessment
 - Household Budgeting
 - Life Skills
 - Basic Nutrition Education
- **Employment Education**
 - ServSafe Food Handlers Certificate
 - Resume Builder & Interviewing
 - Job Sustainability & Advancement
 - GED Program – Partner with Bakersfield Adult School
- **Post Incarceration**
 - Crime Theory – Breaking the Cycle
 - Anger Management
 - Coping Skill
 - Co-Dependency
 - Rebuilding Relationships with Family and Friends
 - Recidivism Reduction
- **Housing**
 - Interacting with community resources
 - Budgeting and Utilities
 - Working with Landlords
 - Household Management

Program Successes

- 18 ER visits avoided
- 1 WPC Education Graduate
- Comprehensive Diabetes Care A1c <8 66%
- Controlling High Blood Pressure 63%
- Depression Remission 50%

Patient Successes

- Patient discharged from community hospital assigned a social worker but social worker was unable to link patient to their desired services
- The experience caused the patient to be skeptical when presented with the WPC program, and resistant to the interventions offered
- WPC Care Coordinator persuaded patient to give program a try, explaining it was voluntary and the patient could disenroll at any time
- Patient quickly realized that WPC program followed through with services and resources needed
- Patient has now completed all core education, and is now an advocate for the program

Patient Successes

- Patient was 2 days post-surgery experiencing complications and called care coordinator on way to Emergency Room
- Care coordinator diverted patient from ER to surgery clinic and coordinated with clinical supervisor to have patient seen immediately
- Patient received the appropriate care, addressing the complications while avoiding Emergency Room visit.
- Patient's complications were not appropriate for the ER and concerns were safely and appropriately addressed within clinic.

Patient Successes

- Patient with pre-existing diagnosis of cancer was enrolled in WPC August 2017
- Patient received extensive support from WPC's interdisciplinary team
- Although patient's diagnosis was terminal, behavioral health and care coordinators continued to assist the patient through their medical and social needs
- After the patient's passing, the family reached out to their care coordinator, requesting their presence at the funeral, and expressing their gratitude for all of the support provided

State of California HEALTH AND HUMAN SERVICES AGENCY



DIANA S. DOOLEY
SECRETARY

Aging

Child Support
Services

Community Services
and Development

Developmental
Services

Emergency Medical
Services Authority

Health Care Services

Managed Health Care

Office of Law Enforcement
Services

Office of Patient Advocate

Office of Systems
Integration

Public Health

Rehabilitation

Social Services

State Hospitals

Statewide Health
Planning and
Development

January 31, 2018

Dear Hospital CEO,

On behalf of Smart Care California, I am pleased to recognize your hospital with a 2017 achievement award for achieving the Healthy People 2020 target for low-risk, first-birth Cesarean sections (C-sections). By reaching this target, your team is delivering safer and more affordable care for Californians.

Smart Care California is a public-private partnership that promotes safe and accessible health care. It is co-chaired by the California Department of Health Care Services, Covered California, and the California Public Employees Retirement System. Together, the groups leading and participating in Smart Care California purchase or manage health care for 16 million Californians, or 40 percent of the covered lives in California.

To receive this award, a California hospital must have achieved a C-section rate of 23.9 percent or lower for low-risk, first-birth deliveries. This year, we are recognizing 111 hospitals that have achieved the goal, which is up from the 104 hospitals recognized for the inaugural award last year. In future years, we hope to be able to give this award to all 242 maternity hospitals in California.

Please extend our congratulations to all of your hospital's physicians, nurses, midwives, other clinical staff, and administrators who have made this achievement possible. I also encourage you to share the news of your award with your patients and in your community.

Sincerely,

Diana S. Dooley
Secretary



SMARTCARE
CALIFORNIA

Kern Medical

2017 Achievement Award

**For Meeting or Exceeding the Healthy People 2020 Target
for Low-Risk, First-Birth Cesarean Deliveries**

To receive this award, a California hospital must achieve a Cesarean section (C-section) rate of 23.9 percent or lower for low-risk, first-birth deliveries. The award is based on 2016 data reported by hospitals to the Office of Statewide Health Planning and Development and the California Department of Public Health-Vital Records.

Diana S. Dooley
Secretary, California Health and Human Services Agency



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

February 21, 2018

Subject: Proposed 2017 Comprehensive Annual Financial Report and 2017 Actuarial Valuation from Kern County Employees' Retirement Association (KCERA)

Recommended Action: Receive and File

Summary:

At its December 2017 meeting, the Board of Retirement approved KCERA's Comprehensive Annual Financial Report (CAFR) and its Actuarial Valuation for the fiscal year ended June 30, 2017. KCERA has requested that both enclosed reports be placed on your Board's consent agenda.

The CAFR provides insight into the retirement association. The report is divided into introductory, financial, investment, actuarial and statistical sections.

The actuarial valuation, prepared by The Segal Group, includes information about future employer and employee contribution rates, capital market assumptions, plan experience changes and other plan information. The actuary determined the contribution rates necessary to fully fund the plan over the amortization periods specified in KCERA's funding policy.

On January 23, 2018, the Kern County Board of Supervisors adopted the employer and employee contribution rates for the retirement system for FY 2018-19, as recommended by KCERA and The Segal Group in the actuarial valuation. The impact of the new actuarial assumptions will be phased in over a three-year period. Based on the updated contribution rates, the fiscal impact to Kern Medical is expected to be in the range of an additional \$974,000 to \$1,019,000 per year.

Therefore, IT IS RECOMMENDED that your Board receive and file the reports.

February 8, 2018

Russell Judd
Kern County Hospital Authority
1700 Mt. Vernon Avenue
Bakersfield, CA 93306

Subject: 2017 Comprehensive Annual Financial Report and 2017 Actuarial Valuation

Dear Russell Judd:

At its December 2017 meeting, the Board of Retirement approved KCERA's Comprehensive Annual Financial Report (CAFR) and its Actuarial Valuation for the fiscal year ended June 30, 2017. I am requesting that both enclosed reports be placed on the consent agenda of your next district board meeting.

KCERA's CAFR provides extensive insight into the retirement association. The report is divided into introductory, financial, investment, actuarial and statistical sections. Additionally, actuarial valuations include information about future employer and employee contribution rates, capital market assumptions, plan experience changes and other plan information that your district board might find useful in its planning.

Please contact me with any questions you may have about KCERA's CAFR or Actuarial Valuation.

Sincerely,



Dominic D. Brown
Acting Executive Director

Enclosures

January 23, 2018

Board of Supervisors
County of Kern
1115 Truxtun Avenue
Bakersfield, California 93301

RECOMMENDED RETIREMENT CONTRIBUTION RATES FOR FY 2018-19
Fiscal Impact: \$235.3 Million; County

Pursuant to Government Code §31453, the Board of Retirement engaged The Segal Group, Inc. to perform an actuarial valuation of the retirement plan as of June 30, 2017. The actuary determined the contribution rates necessary to fully fund the plan over the amortization periods specified in the Board of Retirement's funding policy.

Employer contribution rates were impacted this year by the following factors:

1. Capital Markets: KCERA's market value of assets earned a return of 12.00% during the period from July 1, 2016 through June 30, 2017. However, due to the asset-smoothing methodology adopted by the Board of Retirement that recognizes investment gains and losses over a series of five-year periods, most of the year's investment gains and the recognition of prior investment gains and losses resulted in a 7.02% rate of return on the valuation value of assets as compared to the assumed rate of return of 7.5%. This actuarial investment loss increased the Plan's average employer contribution rate by approximately 0.23% of payroll. Attached is the Actuarial Valuation as of June 30, 2017.
2. Experience since Prior Valuation: For the retirement plan as a whole, the average employer contribution rate increased, mainly due to the adoption of new actuarial assumptions, lower than expected total payroll growth, the investment loss on a valuation value of assets basis, and actual contributions less than expected. Additionally, the Actuarial Valuation as of June 30, 2017 reflected a total unrecognized investment loss of \$74 million as compared to an unrecognized loss of \$235 million in the June 30, 2016 valuation. This deferred investment loss will be recognized in the determination of the actuarial value of assets for funding purposes over the next few years.

The combination of the aforementioned factors resulted in a change in the funded percentage of the overall plan from 63.4% as of June 30, 2016 to 63.2% as of June 30, 2017. The Unfunded Actuarial Accrued Liability increased from \$2.13 billion to \$2.28

Retirement Contribution Rates

January 23, 2018

Page 2

billion due to the adoption of new actuarial assumptions, the investment loss on a valuation value of assets basis, and actual contributions less than expected.

The retirement plan provides retirement benefits to nine groups of participants. The County General and Safety groups utilize combined employer contribution rates. Special District (General) employers in Categories I through VI utilize employer contribution rates by individual benefit tier.

The June 30, 2017 Actuarial Valuation includes the recommended employer contribution rates by tier as well as the combined employer contribution rates. All employer contribution rates, whether combined or by benefit tier, are found in Section 2, Chart 14 of the Actuarial Valuation. In addition, the recommended employee contribution rates for members in KCERA prior to implementation of the Public Employees' Pension Reform Act (the "PEPRA"), as well as members in KCERA under the provisions of the PEPRA, are found in Section 4, Appendix A of the Actuarial Valuation.

The Board of Retirement voted to phase-in (over a three-year period) the impact of the new actuarial assumptions on the employer Unfunded Actuarial Accrued Liability (UAAL) contribution rates for County General, Courts and Safety as calculated in the June 30, 2017 Actuarial Valuation. The updated contribution rates can be found in the section entitled Contribution Phase-In Letter.

The table below identifies combined contribution rates for the following groups:

Group	Applicable Period		
	07/01/18 to 06/30/19	07/01/17 to 06/30/18	Difference (New vs. Old)
General County Members - Combined	38.21%	38.29%	-.08%
Safety Members - Combined	67.29%	63.48%	3.81%

Retirement Contribution Rates

January 23, 2018

Page 3

Therefore, IT IS RECOMMENDED that the Board of Supervisors adopt the employer and employee contribution rates for FY 2018-19 as reflected in the Actuarial Valuation prepared by KCERA's actuary, The Segal Group, Inc., and approved by the Board of Retirement.

Sincerely,



Dominic D. Brown
Acting Executive Director

Attachments

cc: County Administrative Office
Participating Kern County Special Districts
Kern County Superior Court
Employee Bargaining Units
Auditor-Controller-County Clerk
Trustees, Board of Retirement (without attachments)
Kern County Department Heads (without attachments)



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

February 21, 2018

SUBJECT: Proposed Amendment No. 10 to Agreement 042-2015 with Cantu Management Group, Inc.

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical requests your Board approve the proposed retroactive Amendment No. 10 to Agreement 042-2015 with Cantu Management Group, Inc., for Chief Financial Officer and healthcare financial management services. The proposed amendment revises the methodology for the monthly staffing fee for additional staff from hourly rates plus 44% to hourly rates plus a percentage of costs (benefits and expenses) not to exceed 44%, and increasing the maximum payable by \$7,500,000, from \$30,038,240 to \$37,538,240, effective January 1, 2018.

**AMENDMENT NO. 10
TO
AGREEMENT FOR PROFESSIONAL SERVICES
INDEPENDENT CONTRACTOR
(Kern County Hospital Authority – Cantu Management Group, Inc.)**

This Amendment No. 10 to the Agreement for Professional Services is made and entered into this ____ day of _____, 2018, between the Kern County Hospital Authority, a local unit of government (“Authority”), which owns and operates Kern Medical Center (“KMC”), and Cantu Management Group, Inc., a California corporation (“Contractor”), with its principal place of business located at 11420 Privet Place, Bakersfield, California 93311.

RECITALS

(a) The parties have heretofore entered into an Agreement for Professional Services (Kern County Agt. #042-2015, dated January 27, 2015), Amendment No. 1 (Kern County Agt. #106-2015, date February 24, 2015), Amendment No. 2 (Kern County Agt. #241-2015, dated May 5, 2015), Amendment No. 3 (Kern County Agt. #778-2015, dated October 13, 2015), Amendment No. 4 (Kern County Agt. #855-2015, dated November 17, 2015), Amendment No. 5 (Kern County Agt. #097-2016, dated March 1, 2016), Amendment No. 6 (Kern County Agt. #608-2016, dated May 24, 2016), Assignment of Agreement (Kern County Agt. #362-2016, dated April 26, 2016; effective July 1, 2016), Amendment No. 7 (Agt. #2016-055, dated August 17, 2016), Amendment No. 8 (Agt. #2016-081, dated November 16, 2016), and Amendment No. 9 (Agt. #062-2017, dated September 20, 2017) (collectively, the “Agreement”), for the period February 9, 2015 through February 8, 2021, whereby Contractor provides supervision and management of the day-to-day financial operations of KMC; and

(b) It is the intent of the parties to have the terms of the Agreement provide for the payment of all reasonably projected costs and expenses related to the services provided by Manager; and

(c) The parties agree to amend certain terms and conditions of the Agreement as hereinafter set forth, effective January 1, 2018;

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

1. Section 5, Payment for Services, paragraph 5.7, Maximum Payable, shall be deleted in its entirety and replaced with the following:

“5.7 Maximum Payable. The maximum payable under this Agreement shall not exceed \$37,538,240 over the six-year Term of this Agreement.”

2. Section 5, Payment for Services, paragraph 5.8, Staffing Fee, shall be deleted in its entirety and replaced with the following:

“5.8 Staffing Fee. Authority shall pay Contractor a monthly staffing fee (the “Staffing Fee”) for additional staff engaged or employed by Contractor pursuant to paragraph 3.12, based on the hourly rates set forth in Authority’s Standardized Salary Schedule plus a percentage of costs (benefits and expenses) not to exceed 44%. Authority shall have no obligation to pay the Staffing Fee set forth in this paragraph until Contractor has incurred such expenses. The Staffing Fee shall be calculated on a prorated basis as positions are filled.”

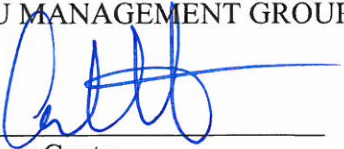
3. Except as otherwise defined herein, all capitalized terms used in this Amendment have the meaning set forth in the Agreement.
4. This Amendment shall be governed by and construed in accordance with the laws of the state of California.
5. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.
6. 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 parties have executed this Amendment No. 10 to the Agreement as of the day and year first written above.

CANTU MANAGEMENT GROUP, INC.

By



Andrew Cantu
Its President

KERN COUNTY HOSPITAL AUTHORITY

By

Chairman
Board of Governors

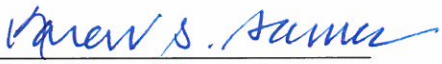
APPROVED AS TO CONTENT:
KERN MEDICAL CENTER

By

Russell V. Judd
Chief Executive Officer

APPROVED AS TO FORM:
LEGAL SERVICES DEPARTMENT

By



VP & General Counsel
Kern County Hospital Authority

Amend10.Cantu Management.012918



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

February 21, 2018

Subject: Proposed Agreement with Arturo Gomez, M.D., a contract employee, for professional medical services in the Department of Surgery, Division of Orthopedic Surgery

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical recommends your Board approve an agreement with Arturo Gomez, M.D., a contract employee, for professional medical services in the Department of Surgery. Dr. Gomez, who is trained as an orthopedic trauma surgeon, has been employed by Kern Medical since 2005, and serves as the Chief of the Kern Medical's very busy Division of Orthopedic Surgery. The proposed agreement is for a term of three years commencing March 16, 2018. Dr. Gomez is paid based strictly on his productivity. The maximum payable under the agreement will not exceed \$3,690,000 over the three-year term.

Therefore, it is recommended that your Board approve the agreement with Dr. Gomez for professional medical services in the Department of Surgery, Division of Orthopedic Surgery from March 16, 2018 through March 15, 2021, in an amount not to exceed \$3,690,000, and authorize the Chairman to sign.

**AGREEMENT FOR PROFESSIONAL SERVICES
CONTRACT EMPLOYEE
(Kern County Hospital Authority – Arturo Gomez, M.D.)**

This Agreement is made and entered into this ____ day of _____, 2018, between the Kern County Hospital Authority, a local unit of government (“Authority”), which owns and operates Kern Medical Center (“KMC”), and Arturo Gomez, M.D. (“Physician”).

**I.
RECITALS**

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

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

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

(d) Authority currently contracts with Physician as a contract employee for the provision of professional medical services in the Department and teaching services to resident physicians employed by Authority (Kern County Agt. #138-2011, dated March 14, 2011, as amended and assigned), for the period March 16, 2011 through March 15, 2018; and

(e) Each party expressly understands and agrees that Kern County Agt. #138-2011 is superseded by this Agreement as of the Commencement Date;

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

**II.
TERMS AND CONDITIONS**

1. **Term.** The initial term of this Agreement (“Initial Term”) shall be for a period of three (3) years, commencing as of March 16, 2018 (the “Commencement Date”). At the end of the Initial Term and each Renewal Term (as hereinafter defined), if any, this Agreement may be renewed for additional terms of two (2) years each (“Renewal Term”), but only upon mutual written agreement of the parties. As used herein, the “Term” of this Agreement shall mean the Initial Term and all Renewal Terms. As used herein, an “Employment Year” shall mean the annual period beginning on the Commencement Date and each annual period thereafter.

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

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

4. **Obligations of Physician.**

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

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

4.3 **Qualifications.**

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

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

4.3.2 Board Certification. Physician shall be board certified by the American Board of Orthopaedic Surgery in orthopedic surgery-general, and maintain such certification at all times during the Term of this Agreement.

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

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

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

4.5 Standards of Medical Practice. The standards of medical practice and professional duties of Physician at designated Practice Sites shall be in accordance with the KMC medical staff bylaws, rules, regulations, and policies, the standards for physicians established by the state Department of Public Health and all other state and federal laws and regulations relating to the licensure and practice of physicians, and The Joint Commission.

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

4.7 Authorization to Release Information. Physician hereby authorizes Managed Care Organizations, government programs, hospitals and other third parties to release to KMC and its agents any information requested by KMC or its agents from time to time relating to

Physician's professional qualifications or competency. Physician agrees to execute the Authorization to Release Information in the form set forth in Exhibit "B," attached hereto and incorporated herein by this reference, and to execute all other documents required by KMC from time to time and to otherwise fully cooperate with KMC to enable KMC and its agents to obtain such information from third parties.

4.8 Medical Records. Physician shall cause a complete medical record to be timely prepared and maintained for each patient seen by Physician. This record shall be prepared in compliance with all state and federal regulations, standards of The Joint Commission, and the KMC medical staff bylaws, rules, regulations, and policies. Documentation by Physician shall conform to the requirements for evaluation and management (E/M) services billed by teaching physicians set forth in the Medicare Carriers Manual, Part 3, sections 15016–15018, inclusive. All patient medical records of Practice Sites, including without limitation, patient medical records generated during the Term of this Agreement, shall be the property of KMC subject to the rights of the respective patients. Upon the expiration or termination of this Agreement by either party for any reason, KMC shall retain custody and control of such patient medical records.

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

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

4.11 Physician Covenants. Physician covenants that from the Commencement Date and continuing throughout the Term of this Agreement, Physician, unless otherwise permitted by the written consent of Authority shall not, on Physician's own account or as an employee, landlord, lender, trustee, associate, consultant, partner, agent, principal, contractor, owner, officer, director, investor, member or stockholder of any other person, or in any other capacity, directly or indirectly, in whole or in part: (i) engage in any activities that are in competition with

KMC, including the operation of any medical practice or offering of any medical services that are similar to services offered at the Practice Sites; (ii) solicit or encourage the resignation of any employee of Authority or KMC with whom Physician had a working relationship during Physician's employment with Authority; (iii) solicit or divert patients with whom Physician had personal contact during such employment; or (iv) influence or attempt to influence any payer, provider or other person or entity to cease, reduce or alter any business relationship with Authority or KMC relating to the Practice Sites.

5. Compensation Package.

5.1 Annual Compensation. Physician shall work full time, which is a minimum of 40 hours per week, and will be compensated with cash and other value as described below in this paragraph 5.1 ("Annual Salary").

5.1.1 Base Salary. Authority shall pay Physician an Annual Salary comprised of the following: (i) a base salary for teaching and administrative services as Chief, Division of Orthopedic Surgery in the amount of \$55,824 per year; and (ii) payment for care of KMC patients using the current Medical Group Management Association Physician Compensation and Production Survey. KMC has chosen to use the full time physician compensation with more than one year in the specialty for all physicians section. A conversion factor will be established by taking each category and dividing the physician compensation in that category by the worked relative value unit ("Worked RVU") in that category. Physician will be compensated for each Worked RVU at the rate of \$69.74 ("RVU Effort").

5.1.2 Salary Adjustment. KMC will establish an estimate ("Estimate") of Physician's RVU Effort using Physician's RVU Effort for the immediately preceding three (3) month period annualized. The Estimate will be divided by the number of Authority payroll periods in a calendar year in order to calculate the amount of RVU Effort to be paid to Physician each payroll period (the "Paycheck Amount"). Within 30 days after the end of each quarter, KMC will calculate the RVU Effort for such immediately preceding quarter, and adjust the payment for RVU Effort accordingly (the "Actual Amount"). If the Estimate is lower than the Actual Amount, then such difference shall be paid to Physician within 30 days after such calculation has been completed, or as of the effective date of any termination of this Agreement, whichever occurs sooner. If the Estimate exceeds the Actual Amount, then Physician shall pay such difference to KMC: (i) in a lump sum within 30 days after such calculation has been completed; or (ii) through a reduction in the Paycheck Amount during the next quarter; or (iii) in a lump sum as of the effective date of any termination of this Agreement, whichever occurs sooner. The Estimate shall be reestablished as of each Employment Year. **Physician hereby expressly grants to KMC the right to offset any amounts owed to KMC against any payment to be made to Physician by KMC pursuant to this paragraph if Physician fails to pay such excess to KMC.**

5.1.3 Biweekly Payment. Physician shall be paid biweekly on the same schedule as regular Authority employees. The exact date of said biweekly payments shall

be at the sole discretion of Authority. All payments made by Authority to Physician shall be subject to all applicable federal and state taxes and withholding requirements.

5.2 Limitations on Compensation. Authority shall exclude from payment for care of KMC patients any Worked RVU that is not reimbursed by Medicare or Medi-Cal, unless authorized in advance by KMC.

5.3 Call Coverage. Authority shall pay Physician for call coverage as follows: (i) Physician shall be paid the greater of a fixed fee amount of \$2,500 or the Worked RVU per 24-hour day for weekend¹ call coverage that exceeds one weekend per month; and (ii) Physician shall be paid the greater of a fixed fee amount of \$2,500 or the Worked RVU per 24-hour day for weekday² call coverage that exceeds one in four weekdays.

5.4 Professional Fee Billing.

5.4.1 Assignment. KMC shall have the exclusive right and authority to set, bill, collect and retain all fees, including professional fees, for all direct patient care services provided by Physician during the Term of this Agreement. All professional fees generated by Physician during the Term of this Agreement, including without limitation, both cash collections and accounts receivable, capitated risk pool fees, professional retainer fees, honoraria, professional consulting and teaching fees, and fees for expert testimony (but excluding Physician's private investment and nonprofessional income), will be the sole and exclusive property of KMC, whether received by KMC or by Physician and whether received during the Term of this Agreement or anytime thereafter. Physician hereby assigns all rights to said fees and accounts to KMC and shall execute all documents required from time to time by KMC and otherwise fully cooperate with KMC to enable KMC to collect fees and accounts from patients and third-party payers.

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

5.4.3 Non-physician Medical Practitioners. KMC shall have the exclusive right and authority to set, bill, collect and retain all fees, including professional fees, for all billable services provided by non-physician medical practitioners (defined as physician assistants, nurse practitioners, and nurse midwives; pharmacists and all other allied health professionals are specifically excluded from the definition of non-physician medical practitioners) employed by Authority during the Term of this Agreement. KMC will pay Physician for supervision of physician assistants, nurse practitioners, and nurse midwives

¹ For purposes of weekend call coverage, a "weekend" is defined as Friday at 5:00 p.m. to Monday at 7:00 a.m. or, in the event of a holiday, Thursday at 5:00 p.m. to Monday at 7:00 a.m. or Friday at 5:00 p.m. to Tuesday at 7:00 a.m.

² For purposes of weekday call coverage, a "weekday" is defined as Monday through Thursday or, in the event of a holiday, Tuesday through Thursday.

at 30% of professional fee net collections for supervision of direct patient care provided by these specific non-physician medical practitioners.

5.5 Maximum Payable. The maximum compensation payable under this Agreement shall not exceed \$3,690,000 over the three-year Initial Term of this Agreement.

6. **Benefits Package.**

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

6.2 Health Care Coverage. Physician shall continue to receive the same health benefits (medical, dental, prescription and vision coverage) as all eligible Authority employees. The employee share of cost is 20% of the current biweekly premium. Physician's initial hire date is the initial opportunity to enroll in the health plan. Physician must work at least 40 hours per biweekly pay period to be eligible for coverage.

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

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

6.5 Sick Leave. Physician shall retain his sick leave credit balance, if any, as of the Commencement Date. Effective with the Commencement Date, Physician shall accrue sick leave in accordance with Authority policy, as amended from time to time. Physician will not be paid for accrued and unused sick leave upon termination of employment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14. **Conflict of Interest.** Physician covenants that he has no interest and that he will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law (Gov. Code, § 81000 et seq.) or that would otherwise conflict in any manner or degree with the performance of his services hereunder. It is understood and agreed that if such a financial interest does exist at the inception of this Agreement, Authority may immediately terminate this Agreement by giving written notice thereof.

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

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

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

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

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

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

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

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

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

24. **Notices.** Notices to be given by one party to the other under this Agreement shall be given in writing by personal delivery, by certified mail, return receipt requested, or express delivery service at the addresses specified below. Notices delivered personally shall be deemed received upon receipt; mailed or expressed notices shall be deemed received four (4) days after deposit. A party may change the address to which notice is to be given by giving notice as provided above.

Notice to Physician:

Arturo Gomez, M.D.
7905 Avenida Derecho
Bakersfield, California 93309

Notice to Authority:

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

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

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

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

28. **Termination.**

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

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

29. **Effect of Termination.**

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

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

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

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

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

[Signatures follow on next page]

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

PHYSICIAN

By


Arturo Gomez, M.D.

KERN COUNTY HOSPITAL AUTHORITY

By

Chairman
Board of Governors

APPROVED AS TO CONTENT:
KERN MEDICAL CENTER

By

Russell V. Judd
Chief Executive Officer

APPROVED AS TO FORM:
LEGAL SERVICES DEPARTMENT

By

VP & General Counsel
Kern County Hospital Authority

Agreement.Gomez.021318

EXHIBIT “A”
Job Description
Arturo Gomez, M.D.

Position: Chief, Division of Orthopedic Surgery.

Position Description: Reports to Chair, Department of Surgery; serves as the chief physician responsible for efficient, key program development, day to day operations and resident education within the Department for the orthopedic surgery division at KMC; serves as a full-time faculty member in the Department.

Essential Functions:

1. **Clinical Responsibilities.**

- Provides service and improves efficiency for orthopedic clinic activities
- Provides service and improves efficiency orthopedic surgery cases
- Provides faculty call coverage for acute trauma and fresh fracture call coverage

2. **Administrative Responsibilities.**

- Serves as Chief, Division of Orthopedic Surgery
- Leads clinical and administrative integration efforts across KMC as appropriate for orthopedic surgery ensuring proper program planning, surgeon recruitment and faculty development, resource allocation, analysis, communication and assessment
- Gathers data through best practices and collaborates with other members of the Department to recommend services that will increase productivity, minimize duplication of services, increase workflow efficiency, and provide the highest quality of care to KMC patients
- Prepares, monitors, reviews, and ensures performance of orthopedic budget and clinical activity
- Oversees the management of the QA divisional work; ensures the orthopedic service is monitored and evaluated for quality and appropriateness of care, and that opportunities for continuous improvements are regularly reviewed and implemented
- Supports the Department chair with development of monitoring tools to measure financial, access, quality and satisfaction outcomes for orthopedic surgery

3. **Teaching Responsibilities.**

- Provides didactic teaching and KMC resident education
- Sets goals and expectations for orthopedic surgery medical student rotations
-

4. **Clinical Assignments.**

- Operating room – three (3) full days per week
- Clinic – one (1) day per week, two (2) clinic sessions per day
- Call coverage – one (1) day per week and one (1) weekend per month

Employment Standards:

One (1) year of post-residency experience in orthopedic surgery

AND

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

AND

Certification by the American Board of Orthopaedic Surgery in orthopedic surgery-general

Knowledge of: The principles and practices of modern medicine; current techniques, procedures, and equipment applicable to the field of orthopedic surgery; principles of effective supervision and program development.

Ability to: Plan, organize, direct and coordinate orthopedic surgery services; perform orthopedic surgery procedures; supervise and instruct professional and technical personnel; develop and present educational programs for interns, residents and ancillary medical staff; maintain records and prepare comprehensive reports; work effectively with staff, patients, and others.

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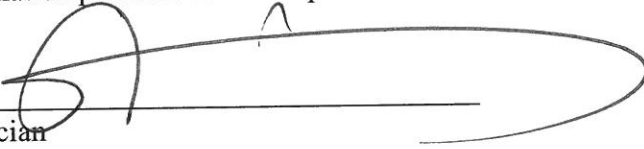
EXHIBIT "B"
AUTHORIZATION TO RELEASE INFORMATION

AUTHORIZATION TO RELEASE INFORMATION

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

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

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



Physician

2/15/18
Date



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

February 21, 2018

Subject: Proposed retroactive Statement of Commitment to Graduate Medical Education

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical Center (KMC) requests your Board retroactively approve a statement of Commitment to Graduate Medical Education. The Accreditation Council for Graduate Medical Education (ACGME) requires a current statement of Board commitment as part of the program and institutional requirements imposed by ACGME.

Hospital teaching programs are accredited by the ACGME. This accreditation means that the overall program structure is in conformance with general standards and is the means by which national oversight agencies are assured that an excellent teaching environment is maintained. Each physician specialty training program is then accredited by another review agency called Resident Review Committee or RRC. This group ensures that the specific content of the specialty training program meets national standards.

KMC has five specialty training programs, including medicine, surgery, obstetrics/gynecology, emergency medicine, and psychiatry, and two fellowship programs in Psychiatry. ACGME accreditation and RRC certification are required for the graduates to receive a valid certification of completion for physician licensing. Accreditation and certification also are required for KMC to be eligible to receive graduate medical education money from the Medicare/Medicaid programs either through direct reimbursement as it relates to patient care or through the disproportionate share hospital program.

The ACGME commitment statement is an expression of interest by your Board in graduate medical education. It is also a statement of commitment that as long as the teaching programs exist at KMC, they will be supported through an investment of people, facilities, and appropriate systems, but it does not commit your Board to any specific allocation of resources. This statement does not contain any meaningful changes from those that have been signed in the past.

Therefore, IT IS RECOMMENDED that your Board retroactively approve the attached statement of Commitment to Graduate Medical Education, effective July 1, 2016, and authorize the Chairman to sign.



**KERN COUNTY HOSPITAL AUTHORITY
KERN MEDICAL CENTER
COMMITMENT TO GRADUATE MEDICAL EDUCATION**

KERN MEDICAL CENTER (KMC) is owned and operated by the Kern County Hospital Authority. The Board of Governors of the Kern County Hospital Authority is held ultimately accountable for all aspects of KMC's operations and has adopted the stated mission. The Board of Governors has delegated to the Medical Staff the responsibility for the quality of medical care and education at KMC. KMC, in conjunction with its Medical Staff, is committed to excellence in residency education within an environment of quality patient care. The Board, through the KMC Administration, provides resources dedicated to maintaining the necessary teaching staff and other financial aspects of sustaining the accredited residency programs. To accomplish this objective, the Kern County Hospital Authority and its Sponsoring Institution through KMC are committed to the following:

1. To provide the leadership and financial and educational resources needed to enable the institution to achieve substantial compliance with the Accreditation Council for Graduate Medical Education (ACGME) Institutional Requirements and Common Program Requirements, and to enable the residency and fellowship programs to achieve substantial compliance with specific program requirements.
2. To provide an organized administrative system to oversee all residency and fellowship programs through the Graduate Medical Education Committee (GMEC) and the Designated Institution Official having authority and responsibility for central administration of the graduate medical education programs.
3. To provide an ethical, professional, and scholarly environment in which to conduct graduate medical education and to promote scholarly activity.
4. To provide an Institutional Review Board as the administrative structure for oversight of all research activities and maintenance of state and federal regulatory compliance.
5. To ensure that each sponsored residency and fellowship program provides an organized educational program with guidance and supervision of the residents/fellows, facilitating their professional and personal development while ensuring safe and appropriate care for patients.
6. To ensure the regular assessment of the educational quality of ACGME-accredited programs and to ensure that these programs are in substantial compliance with ACGME standards.

7. To ensure that when resident/fellow education occurs in a participating institution, that KMC continues to have responsibility for the quality of that educational experience and retains authority over the activities of residents/fellows, and that appropriate letters of agreements exist between KMC and all participating institutions.
8. To maintain KMC's accreditation by The Joint Commission.
9. To provide and maintain facilities to meet the needs of its educational programs and patient care services and to acquire and maintain appropriate medical equipment and technology to support the hospital staff.
10. To develop and maintain a hospital staff with the appropriate range of skills and specialties capable of providing quality patient care, service, and education.
11. To continuously evaluate and improve patient care from a clinical and service perspective and to conduct formal quality assurance programs by reviewing complications and deaths, and to ensure that residents/fellows participate in KMC's performance improvement program and uphold the Clinical Learning Environment Review (CLER) program.
12. To ensure a healthy and safe learning and working environment that promotes resident/fellow wellbeing.

By _____
Amir Berjis, M.D.
Designated Institutional Official

By _____
Russell V. Judd
Chief Executive Officer

By _____
Russell E. Bigler
Chairman, Board of Governors



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

February 21, 2018

SUBJECT: Change Order No. 1 to Construction Contract with JTS Construction, for the Sagebrush NOC IT Hub

Recommended Action: Approve; Authorize Chairman to sign

Summary:

Kern Medical entered in to an agreement with JTS Construction. to complete the Sagebrush NOC IT Hub project. The proposed change order no. one (1) totals \$3,756 for a new contract amount of \$721,256.

This change order will allow the contractor to properly dispose of the unwanted materials that were pulled from the electrical trench. The unwanted materials include large pieces of concrete and asphalt paving that cannot be placed back into the trench, as the required compaction would not be achieved with the added materials.

To mitigate potential delays with future contract changes, we are requesting your Board's approval for Kern Medical Center's Chief Executive Officer, to approve all future change orders in an amount not to exceed 10% of the original contract amount, for a total potential contract amount of \$789,250.

CHANGE ORDER

PROJECT:

Sagebrush NOC IT Hub
1111 Columbus Avenue
Bakersfield, CA 93306

PROJECT NO.:

1250.10938

CONTRACT NO.:

077-2017

CONTRACTOR:

JTS Construction
P.O. Box 41765
Bakersfield, CA 93384

CHANGE ORDER NO.:

ONE (1)

DATE:

January 19, 2018

DESCRIPTION OF CHANGE	ADD	DEDUCT
-----------------------	-----	--------

- | | | |
|----|--|------------|
| 1. | Provide all labor, material and equipment to dispose of debris removed from electrical trench. Contractor shall follow all laws and codes to dispose of contaminated spoils. | \$3,755.88 |
|----|--|------------|

CHANGE ORDER NO. 1	TOTAL (ADD)	\$3,755.88
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ORIGINAL CONTRACT PRICE	\$717,500.00
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NEW CONTRACT AMOUNT	\$721,255.88
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REASON FOR CHANGE

- | | |
|----|---|
| 1. | The dirt that was removed for the exterior electrical trench was full of concrete and asphalt and cannot be used to back-fill the trench, as we could not achieve proper compaction. The spoils must be disposed of properly. |
|----|---|

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

CONFORMANCE WITH SPECIFICATIONS:

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

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

SUBMITTED BY:

JTS Construction

BY: 

Lee Hawkins, President

**APPROVED AS TO FORM:
LEGAL SERVICES DEPARTMENT**

BY: 

Shannon Hochstein
Hospital Counsel

APPROVED AS TO CONTENT:

BY: _____

Russell Judd, Chief Executive Officer

BY: 

Jared Leavitt, Chief Operating Officer

BY: 

Thad Bulkeley, Facility Director

KERN COUNTY HOSPITAL AUTHORITY

BY: _____

Board of Governors - Chairman



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

February 21, 2018

Subject: Proposed Agreement with MedHub, LLC, for purchase of E*Value software license and maintenance to support graduate medical education.

Recommended Action: Approve; Authorize Chairman to Sign; Authorize Chief Executive Officer to sign Sales Orders totaling an Amount not to Exceed \$250,000.

Summary:

Kern Medical requests your Board approve the Proposed Agreement with MedHub, LLC. for the purchase of E*Value software license and maintenance. The agreement is for a term of four years with a total not to exceed of \$63,980.

MedHub, LLC is a company that provides Resident procedure and time tracking software. MedHub, LLC has recently acquired our prior vendor in this space, namely E-Value.

Counsel has been unable to approve the agreement, as to form, due to a limitation of liability up to five times the agreement price and the absence of termination without cause language.



Software as a Service Agreement

This Software as a Service Agreement (this "Agreement") is entered into as of _____, 2018 (the "Effective Date") by and between MedHub, LLC, a Delaware limited liability company ("MedHub"), with offices located at 10 Second Street NE, Suite 300, Minneapolis, MN 55413 and Kern County Hospital Authority, a local unit of government, which owns and operates Kern Medical Center ("Client"), with offices located at 1700 Mount Vernon, Bakersfield, CA 93306.

Recitals

MedHub provides certain computer software programs, and the parties have agreed that MedHub will provide the computer software programs (the "System") selected by Client in the Software as a Service Order Form(s) executed by Client ("Order Form") and certain maintenance and support services related to the System to Client. Therefore, in consideration of the mutual covenants, terms, and conditions set forth below, including those outlined on the appendices hereto (which are incorporated into this Agreement by this reference), the adequacy of which consideration is hereby accepted and acknowledged, the parties agree as set forth below.

Terms and Conditions

1. Use of the System.

1.1. During the Term, MedHub grants to Client and Client accepts from MedHub, a limited, non-exclusive, non-transferable right to access and use, and permit individuals from Client ("Authorized Users") to access and use, the System solely for Client's internal business use. Client shall use its best efforts to ensure that the Authorized Users use the System in accordance with the terms and conditions of this Agreement.

1.2. Client acknowledges that its right to use the System will be web-based only pursuant to the terms of this Agreement and the software will not be installed on any servers or other computer equipment owned or controlled by Client or otherwise provided to Client. The use of the System by Client or any Authorized User pursuant to this Agreement shall be subject to any end user agreement, terms of use, and/or privacy policy applicable to System or any other applicable website used to access the System.

2. Documentation. Client may reproduce and use documentation related to use of the System (the "Documentation") solely as necessary to support Authorized Users' use of the System.

3. Term & Termination.

3.1. Term of the Agreement. Unless earlier terminated as provided in this Agreement, this Agreement commences on the Effective Date and shall continue for as long as any Order Form is in effect ("Term").

3.2. Term of Order Form. The term of each Order Form shall be as set forth in the Order Form.

3.3. Termination as a Result of Breach. If a party breaches any material provision of this Agreement, the non-breaching party may begin the process of terminating this Agreement by giving written notice of termination to the breaching party. If the breach is capable of being cured and is reasonably cured by the breaching party within 45 days after receipt of the notice of termination, the termination will not become effective. If the breach is not capable of being cured or is not reasonably cured by the breaching party within 45 days after receipt of the notice of termination, this Agreement shall be terminated. Notwithstanding the foregoing, a breach that involves failure to make payment as required herein will permit the non-breaching party to terminate this Agreement immediately. Any termination of this Agreement shall automatically terminate all Order Forms then in effect.

3.4. Non-appropriation. Client, as a government entity, reserves the right to terminate this Agreement in the event insufficient funds are appropriated for this Agreement in any fiscal year under the provisions of California Constitution Article 16 section 18a. Client's fiscal year is July 1 to June 30 of each calendar year. Upon such termination, Client will be released from any further financial obligation to MedHub, except for services performed prior to the date of termination or any liability due to any default existing at the time this clause is exercised and MedHub shall be released from any obligation to provide services hereunder; provided, however, that all fees paid are non-refundable notwithstanding anything to the contrary herein and notwithstanding the date of termination. MedHub will be given 30 days' prior written notice in the event that Client requires such an action.

3.5. Effect of Termination. Upon termination of this Agreement or an Order Form, MedHub shall immediately cease providing access to the System and all usage rights granted under this Agreement shall terminate. Provided that Client has paid for all Fees in full as of the date of termination, Client may, upon request promptly following termination of the Agreement, receive from MedHub the most recently completed Client Data in the format that MedHub regularly provides to Client.

4. Service Levels. MedHub shall use commercially reasonable efforts to make the System available for access by Authorized Users for at least ninety-nine point nine nine (99.99%) of the hours during each calendar month of this Agreement ("System Availability"), except for: (i) scheduled system back-up, upgrades, updates or other on-going maintenance as required and scheduled in advance by MedHub, (ii) issues associated with the Client's computing devices, local area networks or internet service provider connections, or inability to deliver services because of acts or omissions of Client or any Authorized User or (iii) for any unforeseen cause beyond MedHub's reasonable control, including but not limited to internet service provider or communications network failures, denial of service attacks or similar attacks, or any force majeure events set forth in this Agreement. MedHub will monitor performance indicators on the systems and network infrastructure (its own and that of third party suppliers) in order to gauge the overall performance of its hosting services, and will take reasonable steps to address systems and network infrastructure as required to maintain satisfactory performance of the System.

5. Maintenance and Support.

5.1. Support Policy. In addition, the obligations set forth in Sections 5.2 and 5.3, maintenance

and support shall be provided as set forth in the then current MedHub Support Policy (“MSP”) available at [INSERT LINK]. MedHub may update the MSP from time to time; provided, however, that MedHub may not materially reduce the maintenance and support provided pursuant to the MSP during the Term of this Agreement.

5.2. Maintenance and Updates. MedHub shall maintain the System and provide all patches and fixes to the System at no additional cost. MedHub shall exercise commercially reasonable efforts promptly to correct any failure of the System to perform according to the Documentation. MedHub shall provide Client with copies of all new versions, updates, or upgrades of the System, in object code format made generally available to all clients (“Upgrades”) without additional charge, promptly after commercial release. Upon delivery to Client, each Upgrade will constitute an element of the System and will thereafter be subject to this Agreement’s terms regarding System, including without limitation, license, warranty, and indemnity terms.

5.3. Support. During the term of this Agreement, MedHub will provide telephone and remote computer support regarding guidance as to operation of the System, explanations of functions and features of the System, and explanations of the Documentation.

5.4. System Revisions. MedHub may revise System features and functions at any time, including without limitation by removing such features and functions or reducing service levels. If any such revision to the System materially reduces features or functionality, Client may within thirty (30) days of notice of the revision terminate the Order Form, without cause.

6. Fees and Payment.

6.1. Fees. Client shall pay MedHub the fees set forth in the Order Form for use of the System by Authorized Users (the “Subscription Fees”) as well as any implementation fees set forth therein (“Implementation Fees”). Subscription Fees may be increased by MedHub upon thirty (30) days advance notice; provided, however, that the Subscription Fees may not be increased by more than five percent (5%) per contract year during the Term.

6.2. Orders. Client shall order the System pursuant to an Order Form. In the event of a conflict between the terms of an Order Form and this Agreement, the terms of the Order Form shall take precedence. At any time during the Term, Client may elect at its discretion to migrate from one System to the other System by executing a new Order Form containing mutually agreed terms.

6.3. Invoicing and Payment. Unless otherwise provided in an Order Form, MedHub shall invoice Client for the applicable Subscription Fees and Implementations Fees upon execution of the Agreement and each year thereafter for the applicable Subscription Fees on the anniversary date of execution of the Agreement. Client shall pay all undisputed invoices within 30 days after Client receives the invoice. Except as expressly provided otherwise, fees are non-refundable.

6.4. Expenses. Client will reimburse MedHub for its reasonable, out-of-pocket travel and related expenses incurred in performing the implementation and other professional services. MedHub shall notify Client prior to incurring any such expense. MedHub shall comply with Client’s travel and expense policy attached as Exhibit “A”..

6.5. Taxes. Client shall pay all applicable sales, use, value added, transfer and any other taxes (other than MedHub's income and payroll taxes), fees, or costs, however designated, which are collected or levied against MedHub pursuant to providing the System under this Agreement. MedHub will collect from Client and transmit to the proper authorities all taxes, which MedHub is required by law to collect from Client in connection with this Agreement or the transactions contemplated by this Agreement. MedHub shall invoice Client for all such taxes, which may be paid by MedHub unless, prior to the commencement of this Agreement, Client provides MedHub with a valid tax-exempt certificate.

6.6. Maximum Payable. The maximum payable for all Order Forms will be \$250,000 per year.

6.7. Suspension for Non-Payment. MedHub reserves the right to suspend access to the System if Client is more than ninety (90) days past due on any undisputed amounts due to MedHub under this Agreement, but only after MedHub notifies Client of such failure in accordance with Section 17.3 and such failure continues for fifteen (15) days after receipt of such notice. Suspension of access to the System shall not release Client of its payment obligations under this Agreement. Client agrees that MedHub shall not be liable to Client or to any third party for any liabilities, claims or expenses arising from or relating to suspension of access to the System resulting from Client's nonpayment.

7. Implementation and Training; Project Management Approach. MedHub will provide implementation and training services related to the System as set forth on Appendix A. In addition, MedHub and Client shall each designate an employee to serve as that party's Project Manager and will follow a structured methodology to assist with coordination and communication regarding the activities of the parties hereunder, as further described in Appendix A.

8. Other Services. During the Term, MedHub may provide certain professional services to Client. Such services will be provided on a time and material basis at such times or during such periods as may be mutually agreed to by the parties. All other services will be provided on a non-work for hire basis, pursuant to a mutually agreed upon statement of work, and will be performed at MedHub's then current rates. Standard statement of work requirements are set forth in Appendix B.

9. Client Data.

9.1. Any and all information submitted to MedHub or submitted to the System by Client, its officers, employees, representatives, doctors, residents or students ("Client Data") shall remain the sole property of Client during and after the Term of this Agreement. MedHub shall use the Client Data submitted by Client for sole purpose of performing its obligations under this Agreement.

9.2. Client represents and warrants that all Client Data is the property of Client, or that Client has the rights to disclose or deliver the Client Data to MedHub, and that the Client Data does not infringe any copyright, trademark, trade secret, patent or other right of any third party. It is the Client's responsibility to vet the accuracy and quality of Client Data. MedHub shall be entitled to rely on the accuracy, truthfulness and completeness of all Client Data. Client agrees that if the Client Data is not provided in the agreed-to format, reformatting may alter time-frames and costs of the implementation.

9.3. MedHub will not and does not populate, edit, manage, modify, delete or otherwise directly handle any Client Data without the express written consent and instruction of the Client project sponsor.

9.4. MedHub may compile statistical information related to the performance of the System, and may make such information publicly available, provided that such information does not incorporate Client Data and/or identify Client Confidential Information or include Client's name. MedHub retains all intellectual property rights in such information.

10. **CLIENT'S RESPONSIBILITIES & RESTRICTIONS.**

10.1. **Unauthorized Access.** Client shall take reasonable steps to prevent unauthorized access to the System, including without limitation by protecting its passwords and other log-in information. Client shall notify MedHub immediately of any known or suspected unauthorized use of the System or breach of its security and shall use best efforts to stop said breach.

10.2. **Compliance with Laws.** In its use of the System, Client shall comply with all applicable laws, including without limitation laws governing the protection of personally identifiable information and other laws applicable to the protection of Client Data.

10.3. **Users & System Access.** Client is responsible and liable for: (a) Authorized Users' use of the System, including without limitation unauthorized Authorized User conduct and any Authorized User conduct that would violate the requirements of this Agreement applicable to Client; (b) any use of the System through Client's account, whether authorized or unauthorized; and (c) the acts and omissions of each Client employee designated by Client to serve as technical administrator of the System on Client's behalf ("**Administrative Users**"). MedHub shall not be liable for any loss of data or functionality caused directly or indirectly by the Administrative Users.

11. **IP & FEEDBACK.**

11.1. **IP Rights to the System.** MedHub retains all right, title, and interest in and to the System, including without limitation all software used to provide the System and all graphics, user interfaces, logos, and trademarks reproduced through the System, and anything developed and delivered under the Agreement, including without limitation, all work performed pursuant to Section 8. This Agreement does not grant Client any intellectual property license or rights in or to the System or any of its components. Client recognizes that the System and its components are protected by copyright and other laws.

11.2. **Feedback.** MedHub has not agreed to and does not agree to treat as confidential any suggestion, enhancement request, customization request, recommendation or idea for improving or otherwise modifying any of MedHub's products or services ("**Feedback**") Client or Authorized Users provide to MedHub. Nothing in this Agreement or in the parties' dealings arising out of or related to this Agreement will restrict MedHub's right to use, profit from, disclose, publish, keep secret, or otherwise exploit Feedback, without compensating or crediting Client or the Authorized User in question.

12. **CONFIDENTIAL INFORMATION; SECURITY.**

12.1. **MedHub's Confidential Information.** Client agrees that any information Client receives or reviews concerning MedHub, including, but not limited to, any information concerning MedHub's past, present and future research, marketing, development, operations and business activities, information regarding the System, methods of database creation, MedHub's translation, standardization, enhancement, and data analysis techniques, MedHub's data reporting methods and formats, MedHub's software tools for report creation, distribution and retrieval, associated algorithms, tools, programs, software architecture and technology, and any other information or material proprietary to MedHub of which the Client may obtain knowledge or access from MedHub during MedHub's performance hereunder (hereinafter "**MedHub Confidential Information**") is proprietary and confidential to MedHub. Client agrees, on behalf of itself and all of its agents, to hold in confidence and not to directly or indirectly reveal, report, publish, disclose or transfer any of the MedHub Confidential Information to any person or entity, or utilize any of the MedHub Confidential Information except as otherwise agreed to in writing by MedHub and Client. MedHub 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. For purposes of such Act, the System should be considered a trade secret.

12.2. **Client's Confidential Information.** MedHub agrees that any information MedHub receives or reviews concerning Client, including, but not limited to, any information concerning Client's past, present and future research, marketing, development, operations and business activities, all Client Data input by or for Client, all reports generated using such Client Data, information regarding Client's users and evaluation results, information regarding the Client's products and services, documentation and reports generated by or for Client and any other information or material proprietary to Client of which the MedHub may obtain knowledge or access from Client during MedHub's performance hereunder (hereinafter "**Client Confidential Information**") is proprietary and confidential to Client. MedHub agrees, on behalf of itself and all of its agents, to hold in confidence and not to directly or indirectly reveal, report, publish, disclose or transfer any of the Client Confidential Information to any person or entity, or utilize any of the Client Confidential Information except as otherwise agreed to in writing by MedHub and Client.

12.3. **Use of Confidential Information.** Except as otherwise permitted herein, each party agrees that, with respect to the Confidential Information of the other party, (i) it will use such information only as may be necessary in the course of performing duties, receiving services or exercising rights under this Agreement, and (ii) it will not otherwise appropriate such information to its own use or to the use of any other person or entity. Each party agrees to take at least such precautions to protect the other party's Confidential Information as it takes to protect its own confidential information, but in no event less than reasonable precautions.

12.4. Disclosure of Confidential Information. If either party believes it is required by law, by a subpoena or by court order to disclose any of the other party's Confidential Information, it shall promptly notify the other party prior to any disclosure and shall make all reasonable efforts to allow the other party an opportunity to seek a protective order or other judicial relief.

12.5. Information Not Deemed Confidential. Nothing in this Agreement shall be construed to restrict disclosure or use of information that (i) was in the possession of or rightfully known by the recipient, without an obligation to maintain its confidentiality, prior to receipt from the other party, (ii) is or becomes generally known to the public without violation of this Agreement, (iii) is obtained by the recipient in good faith from a third party having the right to disclose it without an obligation of confidentiality, or (iv) is independently developed by the receiving party without the participation of individuals who have had access to the other party's confidential or proprietary information.

12.6. Security. MedHub shall take commercially reasonable security precautions to prevent unauthorized access to, use of, disruption to, and/or modification of, the System, and to its materials, facilities, software, hardware, server, and/or communication lines related to the System as further described in Appendix C. Client acknowledges and agrees that no network security system can guarantee complete network security or prevent all unauthorized network access. Client will be responsible for maintaining access to the System server, which will include tracking log-in accounts and ensuring that adequate security precautions are in place to protect username and password information for such accounts.

13. REPRESENTATIONS & WARRANTIES.

13.1. Warranty. MedHub represents and warrants that it will provide the System in a professional manner consistent with general industry standards and that the System will perform substantially in accordance with the Documentation. If Client notifies MedHub of a breach of this warranty in writing, MedHub shall correct such breach in accordance with its maintenance obligations. In conjunction with Client's right to terminate for breach where applicable, the preceding sentence states MedHub's sole obligation and liability, and Client's sole remedy, for breach of the warranty in this Section 13.1. The warranties set forth in this Section 13.1 apply only to use of the System in accordance with this Agreement and the Documentation, and do not apply if the software code for the System has been subject to accident, misuse, or modification (other than by MedHub), and only if the nonconformance can be demonstrated on an unmodified version of the System.

13.2. Warranty Disclaimers. EXCEPT TO THE EXTENT SET FORTH IN SECTION 13.1 ABOVE, CLIENT ACCEPTS THE SYSTEM "AS IS" AND AS AVAILABLE, WITH NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, OR ANY IMPLIED WARRANTY ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. MEDHUB DOES NOT GUARANTEE THAT THE SYSTEM WILL MEET CLIENT'S SPECIFIC REQUIREMENTS OR THAT THE SYSTEM WILL BE ERROR-FREE OR OPERATE WITHOUT INTERRUPTION, NOR SHALL MEDHUB BE LIABLE FOR UNAUTHORIZED ALTERATION, THEFT OR DESTRUCTION OF CLIENT DATA, FILES, OR PROGRAMS. WHEN MEDHUB MAKES THE SYSTEM AVAILABLE FOR INSTITUTION USE, CLIENT UNDERSTANDS AND ACKNOWLEDGES THAT THE SYSTEM IS NOT INTENDED TO SUGGEST OR REPLACE ANY

PROFESSIONAL MEDICAL JUDGMENT, DECISIONS OR ACTIONS WITH RESPECT TO A PATIENT'S MEDICAL CARE, AND THAT CLIENT IS SOLELY AND EXCLUSIVELY RESPONSIBLE FOR MONITORING AND VERIFYING THE INPUT TO THE SYSTEM, AND FOR DETERMINING THE ACCURACY, COMPLETENESS OR APPROPRIATENESS OF ANY FINANCIAL, CLINICAL OR MEDICAL INFORMATION, OR OTHER OUTPUT PROVIDED BY THE SYSTEM.

14. INDEMNIFICATION.

14.1. Indemnification by MedHub. If a third party makes a claim against Client (i) that the System infringes any patent, copyright or trademark, or misappropriates any trade secret, (ii) that MedHub's negligent act or omission has caused bodily injury or death, or (iii) arising from or related to any unauthorized use or disclosure of Client Confidential Information by MedHub, its employees or any other authorized person to whom MedHub has disclosed the Client Confidential Information, MedHub shall indemnify, defend, and hold harmless Client and its directors, officers, employees, and authorized agents against the claim at MedHub's expense and MedHub shall pay all losses, damages and expenses (including reasonable attorneys' fees) finally awarded against such parties or agreed to in a written settlement agreement signed by MedHub, to the extent arising from the claim. MedHub shall have no liability for any claim based on (a) Client Data, (b) modification of the System not authorized by MedHub, or (c) use of the System other than in accordance with the Documentation and this Agreement. With respect to a claim under (i), MedHub may, at its sole option and expense, procure for Client the right to continue use of the System, modify the System in a manner that does not materially impair the functionality, or terminate the Agreement and repay to Client any amount paid by Client with respect to the Term following the termination date.

14.2. Indemnification by Client. If a third party makes a claim against MedHub (i) that the Client Data infringes any patent, copyright or trademark, or misappropriates any trade secret or (ii) arising from or related to any unauthorized use or disclosure of MedHub Confidential Information by Client, its employees or any other authorized person to whom Client has disclosed the MedHub Confidential Information, Client shall defend MedHub and its directors, officers and employees against the claim at Client's expense and Client shall pay all losses, damages and expenses (including reasonable attorneys' fees) finally awarded against such parties or agreed to in a written settlement agreement signed by Client, to the extent arising from the claim.

14.3. Conditions for Indemnification. A party seeking indemnification under this section shall (a) promptly notify the other party of the claim, (b) give the other party sole control of the defense and settlement of the claim, and (c) provide, at the other party's expense for out-of-pocket expenses, the assistance, information and authority reasonably requested by the other party in the defense and settlement of the claim.

15. LIMITATION OF LIABILITY. NEITHER PARTY (NOR ANY LICENSOR OR OTHER SUPPLIER OF MEDHUB) SHALL BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST BUSINESS, PROFITS, DATA OR USE OF ANY SERVICE, INCURRED BY EITHER PARTY OR ANY THIRD PARTY IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF THE NATURE OF THE CLAIM (INCLUDING NEGLIGENCE), EVEN IF FORESEEABLE OR THE OTHER PARTY HAS BEEN ADVISED OF THE

POSSIBILITY OF SUCH DAMAGES. NEITHER PARTY'S (NOR ANY LICENSOR'S OR OTHER SUPPLIER'S OF MEDHUB) AGGREGATE LIABILITY FOR DAMAGES UNDER THIS AGREEMENT, REGARDLESS OF THE NATURE OF THE CLAIM (INCLUDING NEGLIGENCE), SHALL EXCEED THE FEES PAID OR PAYABLE BY CLIENT UNDER THIS AGREEMENT DURING THE 12 MONTHS PRECEDING THE DATE THE CLAIM AROSE ("DAMAGES CAP"). NOTWITHSTANDING ANYTHING TO THE CONTRARY, (i) THE DAMAGES CAP SHALL NOT APPLY TO, AFFECT, OR LIMIT ANY THIRD PARTY CLAIMS DIRECTLY AGAINST A PARTY AND (ii) THE DAMAGES CAP SHALL BE RAISED TO AN AMOUNT EQUAL TO 5X FEES FOR ANY OF A PARTY'S DUTIES TO INDEMNIFY THE OTHER PARTY IN ACCORDANCE WITH THIS AGREEMENT.

16. **INSURANCE.** During the Term of this Agreement, MedHub will maintain in effect the following minimum levels of insurance coverage:

16.1. **Commercial General Liability.** Standard Commercial General Liability or equivalent form providing combined bodily injury and property damage limits of liability coverage of at least \$1,000,000 per occurrence, \$2,000,000 general aggregate.

16.2. **Professional Liability.** Professional or Errors & Omissions Liability coverage with limits of at least \$1,000,000 per claim and \$3,000,000 aggregate.

16.3. **Commercial Umbrella Liability.** Umbrella Liability coverage providing for a combined bodily injury and property damage limit of at least \$5,000,000 each occurrence and \$5,000,000 general aggregate.

16.4. **Network Security and Privacy Liability.** Coverage with limits of at least \$5,000,000 per claim and \$5,000,000 aggregate.

16.5. The Parties hereby grant a waiver of any right to subrogation which any insurer of said Parties may acquire against the other Party by virtue of the payment of any loss under such insurance.

17. **MISCELLANEOUS.**

17.1. **Non-Exclusive Service.** Client acknowledges that the System is provided on a non-exclusive basis. Nothing shall be deemed to prevent or restrict MedHub's ability to provide the System or other technology, including any features or functionality first developed for Client, to other parties.

17.2. **Independent Contractors.** The parties are independent contractors and will so represent themselves in all regards. Neither party is the agent of the other, and neither may make commitments on the other's behalf. The parties agree that no MedHub employee or contractor will be an employee of Client.

17.3. **Notices.** Except as otherwise permitted in this Agreement, notices under this Agreement shall be in writing and shall be deemed to have been given (a) five (5) business days after mailing if sent by registered or certified U.S. mail, (b) when transmitted if sent by facsimile, provided that a copy of the notice is promptly sent by another means specified in this section, or (c) when delivered if delivered personally or sent by express courier service. All notices shall be sent to the other party

at the address set forth on the cover page of this Agreement, to the attention of the individual who executed this Agreement.

17.4. Force Majeure. No delay, failure, or default, other than a failure to pay fees when due, will constitute a breach of this Agreement to the extent caused by acts of war, terrorism, hurricanes, earthquakes, other acts of God or of nature, strikes or other labor disputes, riots or other acts of civil disorder, embargoes, or other causes beyond the performing party's reasonable control.

17.5. Assignment & Successors. Neither party may assign this Agreement or any right under this Agreement, without the consent of the other party, which consent shall not be unreasonably withheld or delayed; provided however, that either party may assign this Agreement to an acquirer of all or substantially all of the business of such party to which this Agreement relates, whether by merger, asset sale or otherwise. This Agreement shall be binding upon and inure to the benefit of the parties' successors and permitted assigns.

17.6. Severability. To the extent permitted by applicable law, the parties hereby waive any provision of law that would render any clause of this Agreement invalid or otherwise unenforceable in any respect. In the event that a provision of this Agreement is held to be invalid or otherwise unenforceable, such provision will be interpreted to fulfill its intended purpose to the maximum extent permitted by applicable law, and the remaining provisions of this Agreement will continue in full force and effect.

17.7. No Waiver. Neither party will be deemed to have waived any of its rights under this Agreement by lapse of time or by any statement or representation other than by an authorized representative in an explicit written waiver. No waiver of a breach of this Agreement will constitute a waiver of any other breach of this Agreement.

17.8. Choice of Law & Jurisdiction: This Agreement will be governed solely by the internal laws of the State of California, without reference to: (a) any conflicts of law principle that would apply the substantive laws of another jurisdiction to the parties' rights or duties; (b) the 1980 United Nations Convention on Contracts for the International Sale of Goods; or (c) other international laws. The parties consent to the personal and exclusive jurisdiction of the federal and state courts of California.

17.9. Construction. The parties agree that the terms of this Agreement result from negotiations between them. This Agreement will not be construed in favor of or against either party by reason of authorship.

17.10. Technology Export. Client shall not: (a) permit any third party to access or use the System in violation of any U.S. law or regulation; or (b) export any software provided by MedHub or otherwise remove it from the United States except in compliance with all applicable U.S. laws and regulations. Without limiting the generality of the foregoing, Client shall not permit any third party to access or use the System in, or export such software to, a country subject to a United States embargo (as of the Effective Date, Crimea Region of the Ukraine, Cuba, Iran, North Korea, Sudan, and Syria).

17.11. Customer Reference. Neither party may advertise or promote itself using the name, mark or description of the other party, without the written consent of the other party in the case of each such use. Notwithstanding the foregoing, Client agrees that MedHub may identify Client as a recipient of services in sales presentations and marketing materials, provided that this Agreement is then in effect and that Client's name is not given more prominence than any other name on that list.

17.12. Confidentiality of Agreement. Client will not disclose any of the terms of this Agreement or any appendix or exhibit to this Agreement (including without limitation the Order Form) to any other party, except as authorized by MedHub in writing or to the extent required pursuant to applicable law, see Section 12.1.

17.13. Entire Agreement. This Agreement (including all appendices and exhibits) contains the entire agreement of the parties and supersedes all previous oral and written communications by the parties concerning the subject matter of this Agreement. This Agreement may be amended solely in a writing signed by both parties. Standard or printed terms contained in any purchase order or sales confirmation are deemed rejected and shall be void unless specifically accepted in writing by the party against whom their enforcement is sought; mere commencement of work or payment against such forms shall not be deemed acceptance of the terms. In the event of any conflict between this Agreement and any MedHub policy posted online, the terms of this Agreement will govern.

[Signature Page Follows]

IN WITNESS THEREOF, the parties have executed this Agreement as of the Effective Date.

KERN COUNTY HOSPITAL AUTHORITY

MEDHUB

By: _____
(signature)

By: _____
(signature)

Name: _____
Russell E. Bigler
(print)

Name: _____
(print)

Title: Chairman, Board of Governors

Title: _____

Date: February 21, 2018

Date: _____

**REVIEWED ONLY
NOT APPROVED AS TO FORM**

By 
Legal Services Department

Appendix A

Implementation Services and Project Management Approach

This Appendix A, effective upon the Effective Date, documents the implementation services and project management responsibilities of the parties under the Agreement. Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Agreement.

1. Implementation Services.

MedHub will provide initial coordinator training for the System using a “train the trainer” approach. Client will pay the regular daily training rate per trainer, per day, per trainer as set forth in the Order Form. In the event that such training occurs at Client’s location, Client shall reimburse MedHub for any travel related expenses (travel, lodging & meals).

2. Project Management Approach.

Upon execution of this Agreement, the parties shall each designate an employee to serve as that party’s point of contact for implementation services and/or professional services under this Agreement (each, a “Project Manager”). Each party will provide written notice of any change of its designated Project Manager. Each Project Manager will follow a structured methodology to assist with the coordination, communication, and Project progress, status and control activities across the project.

Status Reporting

- Each party’s Project Manager will support and participate in the following activities:
 - Participate in periodic Project review meetings by teleconference.
 - Provide status reports if appropriate.
 - Define any issues/risks associated with project deployment relating to resource availability, information availability, etc.
- Each party must notify the other when deliverables or critical Project milestones are risk or will be missed no later than a week prior to the estimated completion date.

Change Order Process

- Both parties agree to follow a Change Order Process as it exists on the date of this Agreement to formally manage and control responses to proposed Changes and Changes that have occurred.
 - Will utilize a mutually agreed upon Change Control form and process
 - Will identify the impact of the change including estimated cost, delivery schedule and benefit
 - Approved changes shall be agreed to in writing before work begins.
- Change Orders will be agreed and approved by the party initiating the Change
 - Provide written acknowledgement that a change is proposed

- Will approve a change order scope document which will include nature of change and costs.

Issue/Risk Management Process

- Both parties agree to follow an Issue/Risk management process.
 - Both parties' Project Managers are responsible for identifying issues and risks
 - Issues will be prioritized (Critical, High, Medium & Low) and should take the following considerations when setting priority:
 - Cost of the impact
 - Number of people impacted
 - Breadth of the functional or technical scope
 - Immediacy of the issue
 - Amount of lead-time required for issue resolution
 - Impact on other Project efforts

Client Project Manager Responsibilities

- Be the primary point of contact for all internal users and the project team
- Schedule, organize and direct internal resources to provide vital data, be present at and prepared for all training all sessions
- Document issues, risks, concerns and requests and bring them to the project team
- Handle all internal training of new users after the go-live phase or appoint an institutional trainer and transfer knowledge to this user
- Maintain the internal institutional requests for enhancements list
- Communicate to internal users the fact that MedHub Support cannot:
 - Populate, modify, delete or otherwise manage Client Data
 - Grant or rescind user profiles in MedHub
 - Instruct, interpret or train users around internal institution-specific requirements, process and regulations
 - Configure settings for any user other than the project sponsor. MedHub will describe the purpose and impact of any setting but will not actually configure that setting.

Appendix B

In the event that Client and MedHub mutually agree that MedHub shall provide professional services under this Agreement, the parties shall collaborate on a written statement of work which shall contain a description of one or more of the following, as applicable:

- Any and all documents, summaries, reports, analysis, studies or other written materials to be created and/or delivered by MedHub ("Written Materials");
- All services to be provided by MedHub;
- The functional specifications ("Specifications") for custom computer software to be created and delivered by MedHub ("Custom Software");
- Milestone and completion dates for each Written Material, service and/or Custom Software;
- The amount and timing of fees and expenses to be paid by Client to MedHub for each Written Material, Service and/or Custom Software; and
- All information and materials to be provided by Client as necessary for MedHub to complete each Written Material, service and/or Custom Software.

All services will be billed at MedHub's then current rates.

Appendix C

This Appendix addresses MedHub's responsibility for safeguarding Client Confidential Information. During the Term, MedHub agrees to maintain the following security and data protocols:

- a. MedHub shall maintain a formal written information security program, with a named individual responsible for its overall execution. Such program shall include documented security plans, policies and procedures designed to protect the confidentiality, integrity and availability of its information assets. MedHub shall provide formal security training to all employees on its security program annually.
- b. MedHub shall develop, implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all electronically maintained or transmitted Client Data received from, or on behalf of Client or its Authorized Users.
- c. MedHub agrees that it will protect the data according to commercially acceptable standards and no less rigorously than it protects the MedHub Confidential Information, but in no case less than reasonable care.
- d. All access to Client Confidential Information electronically shall be via a unique user ID and unique password that is not shared with others.
- e. MedHub agrees that any transfer of data between Client and MedHub, or within MedHub's computing environment, will take place using encrypted protocols (AES_128_CBC encryption).
- f. MedHub shall backup systems or media stored at a separate location with incremental back-ups at least daily and full back-ups at least weekly. MedHub certifies that all data backups of the Client's data will be stored and maintained in an encrypted format using at least a 128 bit key.
- g. MedHub will use only secure methods to access and electronically transfer Client Data files such as or comparable to Secure or Securest to or from the Client location and/or the MedHub location.
- h. MedHub servers shall be housed in secure areas that have adequate walls and entry control such as card controlled entry or staffed reception desk. Only authorized personnel shall be allowed to enter and visitor entry will be strictly controlled.

- i. MedHub's servers are located in a secure network zone with network and/or host-based and firewalls. System hardening procedures are used to disable or remove unnecessary network services, applications, and data.
- j. MedHub will maintain formally documented security patch management procedures and will evaluate security patches for applicability and impact within 15 calendar days of release. MedHub will test and implement critical, high, and/or important patches within 60 to 90 calendar days unless an emergency hotfix patched immediately.
- k. MedHub shall maintain a documented business continuity plan to address disaster recovery of Client Data and emergency mode operation.
- l. On an annual basis, MedHub will engage an independent, qualified third-party to perform attest services resulting in a SOC-2 attestation report completed for its third party data center provider.
- m. MedHub will promptly notify Client of any breach of security resulting in the unauthorized disclosure, misappropriation, or unauthorized access of Client Confidential Information that comes to MedHub's attention. MedHub will promptly investigate any such breach and will take reasonable measures to identify the breach's root cause and mitigate its effects. Unless prohibited by law, MedHub will provide Client with a detailed description of the breach, the type of data that was involved, and the identity of each affected person. The parties shall coordinate in good faith regarding developing the content of any required notices to affected persons.
- n. To the extent and educational records are received from Client, MedHub agrees to comply with all applicable provisions of The Family Educational Rights and Privacy Act (FERPA) with respect to such information.

EXHIBIT A
KERN COUNTY HOSPITAL AUTHORITY
Reimbursable Travel Expense Guidelines

As a Government Entity, Kern County Hospital Authority (KCHA) follows the U.S. General Services Administration (GSA) per diem rates for lodging, meals, and incidental expenses.

KCHA **shall** reimburse Consultant for all necessary and reasonable actual costs or travel expenses incurred on behalf of KCHA in an amount not to exceed \$ _____.

The travel expenses must be reasonable and necessary, approved in advance by the Responsible KCHA Department, and shall not exceed the following KCHA per diems: Lodging, \$221.00 per night plus tax; breakfast, \$13.00; lunch, \$15.00; dinner, \$26.00; economy rental car; and mileage, if by private automobile, at \$.54 per mile; and by common carrier at actual fare charged for economy or coach class.

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“BAA”) is entered into by and between the Kern County Hospital Authority on behalf of Kern Medical Center (“**Covered Entity**”) and MedHub, LLC (“**Business Associate**”) (each a “**Party**” and collectively the “**Parties**”), effective as of _____ (the “**Effective Date**”).

RECITALS

WHEREAS, Covered Entity is a “Covered Entity” as that term is defined under the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-91), as amended, (“**HIPAA**”), and the regulations promulgated thereunder by the Secretary of the U.S. Department of Health and Human Services (“**Secretary**”), including, without limitation, the regulations codified at 45 C.F.R. Parts 160, 162, and 164 (“**HIPAA Rules**”);

WHEREAS, Business Associate does not process, store, or otherwise maintain Protected Health Information (“**PHI**”), but may be provided incidental access to PHI in the course of Business Associate’s provision of technical services to Covered Entity (“**PHI**”);

WHEREAS, the Parties intend to protect the privacy and provide for the security of PHI Disclosed by Covered Entity to Business Associate, or received or created by Business Associate, when providing Services in compliance with HIPAA, the Health Information Technology for Economic and Clinical Health Act (Public Law 111-005) (the “**HITECH Act**”) and its implementing regulations and guidance issued by the Secretary; and

WHEREAS, the Privacy and Security Rules (defined below) require Covered Entity and Business Associate to enter into a BAA that meets certain requirements with respect to the Use and Disclosure of PHI, which are met by this BAA.

AGREEMENT

NOW THEREFORE, in consideration of the Recitals and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

ARTICLE I DEFINITIONS

1.1 “**Breach**” shall have the meaning given under [45 C.F.R. § 164.402](#).

1.2 “**Breach Notification Rule**” shall mean the Breach Notification for Unsecured Protected Health Information interim final rule at 45 C.F.R. Parts 160 and 164, Subpart D, as may be amended from time to time.

1.3 “**Designated Record Set**” shall have the meaning given such term under [45 C.F.R. § 164.501](#).

1.4 “**Disclose**” and “**Disclosure**” mean, with respect to PHI, the release, transfer, provision of access to, or divulging in any other manner of PHI outside of Business Associate or to other than members of its Workforce, as set forth in [45 C.F.R. § 160.103](#).

1.5 “**Electronic PHI**” or “**e-PHI**” means PHI that is transmitted or maintained in electronic media, as set forth in [45 C.F.R. § 160.103](#).

1.6 “**Protected Health Information**” and “**PHI**” mean any information created, received or maintained by Business Associate on behalf of Covered Entity, whether oral or recorded in any form or medium, that: (a) relates to the past, present or future physical or mental health or condition of an Individual; the provision of health care to an Individual, or the past, present or future payment for the provision of health care to an individual; (b) identifies the Individual (or for which there is a reasonable basis for believing that the information can be used to identify the Individual); and (c) shall have the meaning given to such term under the Privacy Rule at [45 C.F.R. § 160.103](#). Protected Health Information includes e-PHI.

1.7 “**Privacy Rule**” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Parts 160 and 164, Subparts A and E, as may be amended from time to time.

1.8 “**Security Rule**” shall mean the Security Standards at 45 C.F.R. Parts 160 and 164, Subparts A and C, as may be amended from time to time.

1.9 “**Services**” shall mean the services for or functions on behalf of Covered Entity performed by Business Associate pursuant to any service agreement(s) between Covered Entity and Business Associate which may be in effect now or from time to time (the “**Underlying Agreement**”), or, if no such agreements are in effect, then the services or functions performed by Business Associate that constitute a Business Associate relationship, as set forth in [45 C.F.R. § 160.103](#).

1.10 “**SubContractor**” shall have the meaning given to such term under [45 C.F.R. § 160.103](#).

1.11 “**Unsecured PHI**” shall have the meaning given to such term under [42 U.S.C. § 17932\(h\)](#), [45 C.F.R. § 164.402](#), and guidance issued pursuant to the HITECH Act including, but not limited to the guidance issued on April 17, 2009 and published in 74 Federal Register 19006 (April 27, 2009) by the Secretary.

1.12 “**Use**” or “**Uses**” mean, with respect to PHI, the sharing, employment, application, utilization, examination or analysis of such PHI within Business Associate’s internal operations, as set forth in [45 C.F.R. § 160.103](#).

1.13 “**Workforce**” shall have the meaning given to such term under [45 C.F.R. § 160.103](#)

Capitalized terms not otherwise defined in this Agreement shall have the meanings given to them in HIPAA or the HITECH Act, as applicable.

ARTICLE II OBLIGATIONS OF BUSINESS ASSOCIATE

2.1 Permitted Uses and Disclosures of Protected Health Information. Business Associate shall not Use or Disclose PHI other than as permitted or required by any Underlying Agreement, this BAA, or as Required by Law. Business Associate shall not Use or Disclose PHI in any manner that would constitute a violation of the Privacy Rule if so Used or Disclosed by Covered Entity, except that Business Associate may Use or Disclose PHI (i) for the proper management and administration of Business Associate; (ii) to carry out the legal responsibilities of Business Associate, provided that with respect to any such Disclosure either: (a) the Disclosure is Required by Law; or (b) Business Associate obtains a written agreement from the person to whom the PHI is to be Disclosed that such person will hold the PHI in confidence and shall not Use and further Disclose such PHI except as Required by Law and for the purpose(s) for which it was Disclosed by Business Associate to such person, and that such person will notify Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been breached. Business Associate may perform Services, including Data Aggregation for the Health Care Operations purposes of Covered Entity and de-identification of PHI in accordance with 45 C.F.R. § 164.514, if required by any Underlying Agreement or with the advance written permission of Covered Entity.

2.2 Adequate Safeguards of PHI. Business Associate shall implement and maintain appropriate safeguards to prevent Use or Disclosure of PHI other than as provided for by this BAA. Business Associate shall reasonably and appropriately protect the confidentiality, integrity, and availability of e-PHI that it creates, receives, maintains or transmits on behalf of Covered Entity and shall comply with Subpart C of 45 C.F.R. Part 164 to prevent Use or Disclosure of PHI other than as provided for by this BAA.

2.3 Reporting Non-Permitted Use or Disclosure.

2.3.1 Reporting Security Incidents and Non-Permitted Use or Disclosure. Business Associate shall report to Covered Entity in writing each Security Incident or Use or Disclosure that is made by Business Associate, members of its Workforce, or SubContractors that is not specifically permitted by this BAA no later than three (3) business days after becoming aware of such Security Incident or non-permitted Use or Disclosure, in accordance with the notice provisions set forth herein. Notwithstanding the foregoing, Business Associate and Covered Entity acknowledge the ongoing existence and occurrence of attempted but ineffective Security Incidents that are trivial in nature, such as pings and other broadcast service attacks, and Covered Entity acknowledges and agrees that no additional notification to Covered Entity of such ineffective Security Incidents is required, as long as no such incident results in unauthorized access, Use or Disclosure of PHI. Business Associate shall investigate each Security Incident or non-permitted Use or Disclosure of Covered Entity's PHI that it discovers to determine whether such Security Incident or non-permitted Use or Disclosure constitutes a reportable Breach of Unsecured PHI and shall provide a summary of its investigation and risk assessment to Covered Entity. Business Associate shall document and retain records of its investigation of any suspected Breach, including its reports to Covered Entity under this Section 2.3.1. Business Associate shall take prompt corrective action and any action required by applicable state or federal laws and regulations relating to such Security Incident or non-permitted disclosure. If Business Associate or Covered Entity, in its review of this initial report, determines that such Security Incident or non-permitted Use or Disclosure constitutes a reportable Breach of Unsecured PHI, then Business Associate shall comply with the additional requirements of Section 2.3.2 below.

2.3.2 Breach of Unsecured PHI. If Business Associate or Covered Entity determines that a reportable Breach of Unsecured PHI has occurred, Business Associate shall provide a written report to Covered Entity without unreasonable delay but no later than five (5) calendar days after discovery of the Breach. To the extent that information is available to Business Associate, Business Associate's written report to Covered Entity shall be in accordance with 45 C.F.R. §164.410(c). Business Associate shall cooperate with Covered Entity in meeting Covered Entity's obligations under the HIPAA Rules with respect to such Breach. Covered Entity shall have sole control over the timing and method of providing notification of such Breach to the affected individual(s), the Secretary and, if applicable, the media. Business Associate shall reimburse Covered Entity for its reasonable and actual costs and expenses in providing the notification, including, but not limited to, any administrative costs associated with providing notice, printing and mailing costs, public relations costs, and costs of mitigating the harm (which may include the costs of obtaining credit monitoring services and identity theft insurance) for affected individuals whose PHI has or may have been compromised as a result of the Breach.

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

2.4 Mitigation. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of PHI by Business Associate in violation of the requirements of this BAA.

2.5 Use of SubContractors. Business Associate shall require each of its SubContractors that creates, maintains, receives, or transmits PHI on behalf of Business Associate, to execute a Business Associate Agreement that imposes on such SubContractors substantially the same restrictions, conditions, and requirements that apply to Business Associate under this BAA with respect to PHI.

2.6 Access to Protected Health Information. To the extent that Business Associate maintains a Designated Record Set on behalf of Covered Entity and within fifteen (15) days of a request by Covered Entity, Business Associate shall make the PHI it maintains (or which is maintained by its SubContractors) in Designated Record Sets available to Covered Entity for inspection and copying, or to an Individual to enable Covered Entity to fulfill its obligations under 45 C.F.R. § 164.524. If Business Associate maintains PHI in a Designated Record Set electronically, Business Associate shall provide such information in the electronic form and format requested by the Covered Entity if it is readily reproducible in such form and format, and, if not, in such other form and format agreed to by Covered

Entity to enable Covered Entity to fulfill its obligations under 45 C.F.R. § 164.524(c)(2). Business Associate shall notify Covered Entity within five (5) days of receipt of a request for access to PHI from an Individual.

2.7 Amendment of Protected Health Information. To the extent that Business Associate maintains a Designated Record Set on behalf of Covered Entity and within fifteen (15) days of a request by Covered Entity, Business Associate shall amend the PHI it maintains (or which is maintained by its SubContractors) in Designated Record Sets to enable the Covered Entity to fulfill its obligations under 45 C.F.R. § 164.526. Business Associate shall notify Covered Entity within five (5) days of receipt of a request for amendment of PHI from an Individual.

2.8 Accounting. Within thirty (30) days of receipt of a request from Covered Entity or an Individual for an accounting of disclosures of PHI, Business Associate and its SubContractors shall make available to Covered Entity the information required to provide an accounting of disclosures to enable Covered Entity to fulfill its obligations under 45 C.F.R. § 164.528 and 42 U.S.C. § 17935(c). Business Associate shall notify Covered Entity within five (5) days of receipt of a request by an Individual or other requesting party for an accounting of disclosures of PHI from an Individual.

2.9 Delegated Responsibilities. To the extent that Business Associate carries out one or more of Covered Entity's obligations under Subpart E of 45 C.F.R. Part 164, Business Associate must comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

2.10 Availability of Internal Practices, Books, and Records to Government. Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, created, maintained, or transmitted by Business Associate on behalf of Covered Entity promptly available for inspection and copying to the Secretary, in a time and manner designated by the Secretary, for purposes of the Secretary determining Covered Entity's or Business Associate's compliance with the HIPAA Rules. In addition, Business Associate agrees that Covered Entity shall have the right to audit and monitor all applicable activities and records of Business Associate to determine Business Associate's compliance with the HIPAA Rules and shall promptly make available to Covered Entity such books, records, or other information relating to the Use and Disclosure of PHI provided, created, received, maintained or transmitted by Business Associate on behalf of Covered Entity for such purpose.

2.11 Minimum Necessary. Business Associate (and its SubContractors) shall, to the extent practicable, limit its request, Use, or Disclosure of PHI to the minimum amount of PHI necessary to accomplish the purpose of the request, Use or Disclosure, in accordance with 42 U.S.C. § 17935(b) and 45 C.F.R. § 164.502(b)(1) or any other guidance issued thereunder.

2.12 Acknowledgement. Business Associate acknowledges that it is obligated by law to comply, and represents and warrants that it shall comply, with HIPAA, the HITECH Act, and the HIPAA Rules to the extent it receives PHI under the Underlying Agreement. Business Associate shall comply with all applicable state privacy and security laws, to the extent that such state laws are not preempted by HIPAA or the HITECH Act.

ARTICLE III

OBLIGATIONS OF COVERED ENTITY

3.1 Covered Entity's Obligations.

3.1.1 Covered Entity shall notify Business Associate of any limitation(s) in the Notice of Privacy Practices of Covered Entity under 45 C.F.R. 164.520, to the extent that such limitation may affect Business Associate's Use or Disclosure of PHI.

3.1.2 Covered Entity shall notify Business Associate of any changes in, or revocation of, the permission by an individual to Use or Disclose his or her PHI, to the extent that such changes may affect Business Associate's Use or Disclosure of PHI.

3.1.3 In the event Covered Entity agrees with an Individual to any restrictions on Use or Disclosure of PHI pursuant to 45 C.F.R. § 164.522(a) or if Covered Entity determines that it is obligated to accommodate a reasonable request of an Individual to receive communications of PHI pursuant to 45 C.F.R. § 164.522(b), Covered Entity promptly shall notify Business Associate of the same, as well as any revocation or modification of the same, and Business Associate thereupon shall observe such restriction or accommodation (or revocation or modification, if any, thereof) to the extent applicable to its Use or Disclosure of PHI hereunder, notwithstanding any other provision hereof, except as otherwise required by law.

3.1.4 Covered Entity agrees to obtain any consent or authorization that may be required under HIPAA or any other applicable law and/or regulation prior to furnishing Business Associate with PHI.

3.1.5 Covered Entity shall not request Business Associate to make any Use or Disclosure of PHI that would not be permitted under HIPAA if made by Covered Entity. Covered Entity agrees to fulfill its obligations under this BAA in a timely manner.

ARTICLE IV TERM AND TERMINATION

4.1 Term. Subject to the provisions of Section 4.1, the term of this BAA shall be the term of any Underlying Agreement.

4.2 Termination of Underlying Agreement.

4.2.1 A breach by Business Associate of any provision of this BAA, as determined by Covered Entity, shall constitute a material breach of the Underlying Agreement and shall provide grounds for termination of the Underlying Agreement in accordance with the terms set forth therein.

4.2.2 Covered Entity may terminate the Underlying Agreement, effective immediately, if: (i) Business Associate is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Rules or other security or privacy laws or (ii) a finding or stipulation that the Business Associate has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Rules or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.

4.3 Termination for Cause. In addition to and notwithstanding the termination provisions set forth in any Underlying Agreement, upon Covered Entity's knowledge of a material breach or violation of this BAA by Business Associate, Covered Entity shall either:

4.3.1 Notify Business Associate of the breach in writing, and provide an opportunity for Business Associate to cure the breach or end the violation within ten (10) business days of such notification; provided that if Business Associate fails to cure the breach or end the violation within such time period to the satisfaction of Covered Entity, Covered Entity may terminate this BAA and any Underlying Agreement upon thirty (30) calendar days written notice to Business Associate; or

4.3.2 Upon thirty (30) calendar day written notice to Business Associate, immediately terminate this BAA and any Underlying Agreement if Covered Entity determines that such breach cannot be cured.

4.4 Disposition of Protected Health Information Upon Termination or Expiration.

4.4.1 Upon termination or expiration of this BAA, Business Associate shall return or destroy all PHI received from, or created or received by Business Associate on behalf of Covered Entity, that Business Associate still maintains in any form and retain no copies of such PHI. If Covered Entity requests that Business Associate return PHI, PHI shall be returned in a mutually agreed upon format and timeframe.

4.4.2 If return or destruction is not feasible, Business Associate shall: (a) retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities; (b) return to Covered Entity the remaining PHI that the Business Associate still maintains in any form; (c) continue to extend the protections of this BAA to the PHI for as long as Business Associate retains the PHI; (d) limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction of the PHI not feasible and subject to the same conditions set out in Sections 2.1 and 2.2 above, which applied prior to termination; and (e) return to Covered Entity the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

ARTICLE V MISCELLANEOUS

5.1 Regulatory References. A reference in this BAA to a section or other part of HIPAA, the HIPAA Rules, or the HITECH Act means, as of any point in time, the section or part as it may be amended or in effect at such time.

5.2 Amendment. The Parties agree to take such action as is necessary to amend this BAA from time to time as necessary for Covered Entity to implement its obligations pursuant to HIPAA, the HIPAA Rules, or the HITECH Act.

5.3 Relationship to Underlying Agreement Provisions. In the event that a provision of this BAA is contrary to a provision of an Underlying Agreement, the provision of this BAA shall control.

Otherwise, this BAA shall be construed under, and in accordance with, the terms of such Underlying Agreement, and shall be considered an amendment of and supplement to such Underlying Agreement.

5.4 Headings. The headings of the paragraphs and sections of this BAA are inserted solely for convenience of reference and are not a part or intended to govern, limit or aid in the construction of any term or provision hereof.

5.5 Equitable Relief. Business Associate understands and acknowledges that any Disclosure or misappropriation of any PHI in violation of this BAA will cause Covered Entity irreparable harm, the amount of which may be difficult to ascertain, and therefore agrees that Covered Entity shall have the right to apply to a court of competent jurisdiction for specific performance and/or an order restraining and enjoining any such further Disclosure or Breach and for such other relief as Covered Entity shall deem appropriate. Such right of Covered Entity is to be in addition to the remedies otherwise available to Covered Entity at law or in equity. Business Associate expressly waives the defense that a remedy in damages will be adequate and further waives any requirement in an action for specific performance or injunction for the posting of a bond by Covered Entity.

5.6 Insurance. In addition to any general and/or professional liability insurance required of Business Associate, Business Associate agrees to obtain and maintain, at its sole expense, liability insurance on an occurrence basis, with coverage limits reasonably expected to cover any and all claims, liabilities, demands, damages, losses, costs and expenses arising from a breach of the security or privacy obligations of Business Associate, its officers, employees, and agents under this BAA. Such insurance coverage will be maintained for the term of this BAA, and a copy of such policy or a certificate evidencing the policy shall be provided to Covered Entity at Covered Entity's request.

5.7 Assistance in Litigation or Administrative Proceedings. Business Associate shall make itself and any SubContractors or members of its Workforce assisting Business Associate in the performance of its obligations under this BAA available to Covered Entity, at no cost to Covered Entity, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against Covered Entity, its directors, officers or employees based upon a claim of violation of the HIPAA or other applicable laws relating to privacy or security to the extent related to the Underlying Agreement.

5.8 Indemnification. Subject to the terms and conditions of the Underlying Agreement, Business Associate hereby agrees to indemnify and hold harmless Covered Entity and its respective officers, directors, managers, members, employees and agents from and against any and all losses, damages, fines, penalties, claims or causes of action and associated expenses (including, without limitation, costs of judgments, settlements, court costs and attorney's fees) resulting from Business Associate's (including its employees, directors, officers, agents, or other members of its Workforce, and its SubContractors) breach of PHI or violation of the terms of this BAA, including but not limited to failure of Business Associate to perform its obligations under this BAA, or to comply with HIPAA or applicable state privacy or security law.

5.9 Legal Actions. Promptly, but no later than five (5) business days after notice thereof, Business Associate shall advise Covered Entity of any actual or potential action, proceeding, regulatory or governmental orders or actions, or any material threat thereof that becomes known to it that may affect the interests of Covered Entity or jeopardize this BAA, and of any facts and circumstances that

may be pertinent to the prosecution or defense of any such actual or potential legal action or proceeding, except to the extent prohibited by law.

5.10 Notice of Request or Subpoena for Data. Business Associate agrees to notify Covered Entity promptly, but no later than five (5) business days after Business Associate's receipt of any request or subpoena for PHI or an accounting thereof. Business Associate shall promptly comply with Covered Entity's instructions for responding to any such request or subpoena, unless such Covered Entity instructions would prejudice Business Associate. To the extent that Covered Entity decides to assume responsibility for challenging the validity of such request, Business Associate agrees to reasonably cooperate with Covered Entity in such challenge. The provisions of this Section shall survive the termination of this BAA.

5.11 Requests from Secretary. Promptly, but no later than five (5) calendar days after notice thereof, Business Associate shall advise Covered Entity of any inquiry by the Secretary concerning any actual or alleged violation of the Privacy Rule or the Security Rule.

5.12 Notices. Any notices required or permitted to be given hereunder by either Party to the other shall be given in writing: (1) by personal delivery; (2) by electronic mail or facsimile with confirmation sent by United States first class registered or certified mail, postage prepaid, return receipt requested; (3) by bonded courier or by a nationally recognized overnight delivery service; or (4) by United States first class registered or certified mail, postage prepaid, return receipt, in each case, addressed to a Party on the signature page(s) to this BAA, or to such other addresses as the Parties may request in writing by notice given pursuant to this Section 5.12. Notices shall be deemed received on the earliest of personal delivery; upon delivery by electronic facsimile with confirmation from the transmitting machine that the transmission was completed; twenty-four (24) hours following deposit with a bonded courier or overnight delivery service; or seventy-two (72) hours following deposit in the U.S. mail as required herein.

Covered Entity's Notice Address:

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

Business Associate's Notice Address:

MedHub, LLC
510 Marquette Avenue S.
3rd Floor
Minneapolis, MN 55402
Attn: General Manager

5.13 Relationship of Parties. Notwithstanding anything to the contrary in any Underlying Agreement, Business Associate is an independent Consultant and not an agent of Covered Entity under this BAA. Business Associate has the sole right and obligation to supervise, manage, contract, direct, procure, perform or cause to be performed all Business Associate obligations under this BAA.

5.14 Survival. To the extent that Business Associate retains PHI, the respective rights and obligations of the Parties set forth in Sections 2.3, 4.4, 5.8, and 5.10 of this BAA shall survive the termination, expiration, cancellation, or other conclusion of the BAA or any Underlying Agreement.

5.15 Interpretation. Any ambiguity in this BAA shall be interpreted to permit the Parties to comply with HIPAA, the HITECH Act, and the HIPAA Rules.

5.16 Governing Law; Applicable Law and Venue. This BAA shall be construed in accordance with the laws of the State of California applicable to agreements made and to be performed in such state. Any dispute between the Parties shall be brought before the Superior Court of Kern County, California, which shall have jurisdiction over all such claims.

5.17 Waiver of Provisions. Any waiver of any terms and conditions hereof must be in writing and signed by the Parties hereto. A waiver of any of the terms and conditions hereof shall not be construed as a waiver of any other term or condition hereof.

5.18 Assignment and Delegation. Neither this BAA nor any of the rights or duties under this BAA may be assigned or delegated by either Party hereto.

5.19 Disclaimer. Neither Party represents or warrants that compliance by the other Party with this BAA, HIPAA, the HIPAA Rules, or the HITECH Act will be adequate or satisfactory for the other Party's own purposes. Each Party is solely responsible for its own decisions regarding the safeguarding of PHI.

5.20 Counterparts. This BAA may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement, binding on both Parties hereto.

The Parties hereto have executed this BAA as of the Effective Date.

COVERED ENTITY:

The Kern County Hospital Authority on
behalf of Kern Medical Center

BUSINESS ASSOCIATE:

MedHub, LLC

Title: Chairman, Board of Governors

Date: February 21, 2018

Title: _____

Date: _____



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

February 21, 2018

Subject: Proposed Agreement with Siemens Healthcare Diagnostics, Inc., for the acquisition of chemistry analyzers and the purchase of services and reagents

Recommended Action: Approve; Authorize Chairman to Sign

Summary:

Kern Medical requests your Board approve the Proposed Agreement with Siemens Healthcare Diagnostics, Inc., for the acquisition of two Vista 500 and one Centaur XP chemistry analyzers and the purchase of services for the units and supplies, including reagents. The agreement is for a term of seven years and provides for two years of free service on one Vista unit, five years of free service on the other Vista unit, and five years of free service on the Centaur unit. The agreement includes necessary supplies, including reagents, and service for all three units. The total cost of the 7-year agreement will not exceed \$2,826,913.

Counsel is unable to approve the agreement, as to form, due to language in the Addendum to the Supplement to Master Products Agreement that limits the ability of Kern Medical to terminate the agreement.

MASTER PRODUCTS AGREEMENT

Legal Name: KERN COUNTY HOSPITAL AUTHORITY
 Customer Name: KERN COUNTY HOSPITAL AUTHORITY
 Address: 1700 MOUNT VERNON AVE
 City, State, Zip: BAKERSFIELD, CA 93306

Sold to Customer #: 7265

This Master Products Agreement ("Agreement") by and between Siemens Healthcare Diagnostics Inc. ("Siemens"), and the party identified under "Legal Name" (or "Customer Name" if no "Legal Name") in the heading above ("Customer") is effective as of the date of Siemens' execution ("Effective Date").

1) PURPOSE. The purpose of this Agreement is to provide general terms and conditions under which Siemens and Customer will enter into one or more individual Agreement supplements (each a "Supplement") for the purchase of reagents (or panels), consumables and supplies ("Products") for use with equipment acquired separately ("Equipment"). Equipment is not included within the scope of this Agreement except as set forth in Section 11 (Equipment Maintenance and Service). Each Supplement shall incorporate the terms and conditions of this Agreement as well as additional terms and conditions relevant to the business transaction between the parties, including the term of the Supplement ("Supplement Term").

2) TERM OF AGREEMENT. This Agreement shall commence on the Effective Date and shall remain in effect until terminated by either party with at least thirty (30) days prior written notice to the other party, provided that termination of this Agreement is not permitted while any Supplement is in effect.

3) COMMITMENT. Customer agrees to make sufficient purchases on a periodic basis during each year of the Supplement Term to meet the minimum annual purchase commitment identified in each Supplement ("Commitment Amount"). Customer will make purchases to meet the Commitment Amount by ordering a minimum dollar amount of the Products identified on each Supplement or, if cost-per-patient-reported (CPR) pricing is applicable, by generating a minimum number of results. Pricing is set forth in each Supplement and includes a discount based on Customer's Commitment Amount.

4) SHIPPING. Product deliveries will be FOB destination and subject to Siemens' standard delivery terms. Each Supplement shall identify shipping and handling charges and shipping policy. Siemens' standard delivery terms and shipping policy can be found at <http://usa.healthcare.siemens.com/services/laboratory-diagnostics/service-and-support/shipping/healthcare-shared-network>. Customer shall pay all applicable shipping and handling charges for the Products to be delivered to the Customer.

5) WARRANTY. Siemens warrants to Customer that Products will be free from patent and latent defects in material and workmanship and will conform to the applicable manufacturer's specifications until the date appearing on the applicable packaging. The foregoing warranty does not apply to conditions resulting from use or storage not in accordance with the manufacturer's instructions or other external causes or from operation outside the environmental parameters specified for the Products. Customer's exclusive remedy for breach of this warranty shall be the replacement of such Products.

Siemens also warrants that the use of the Products in the form delivered to Customer and in accordance with the instructions and manufacturer's specifications will not infringe the U.S. patent of any third party. This warranty does not cover the use of Products in combination with any other product or equipment not approved by Siemens. Customer's exclusive remedy for breach of this warranty shall be the intellectual property indemnification forth in Section 12(c) below.

THE ABOVE ARE THE SOLE WARRANTIES PROVIDED BY SIEMENS UNDER THIS AGREEMENT. SIEMENS MAKES NO OTHER WARRANTIES, EXPRESS, STATUTORY OR IMPLIED, IN CONNECTION WITH THE PRODUCTS INCLUDING, WITHOUT LIMITATION, ANY WARRANTY AS TO DESIGN, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

No oral or written promises as to the Products which conflict with this warranty will bind Siemens unless signed by an authorized representative of the party to be bound.

6) TAXES. Customer is responsible for and will pay all sales and use taxes assessed on the sale of the Products under a Supplement (collectively, "Taxes"). If Siemens is billed directly by the taxing authority for such Taxes, Siemens shall initially pay such Taxes and subsequently re-bill Customer. If Customer pays such Taxes directly, then copies of the receipted tax bills or other evidence of payment shall be provided to Siemens upon request.

In the event that Customer is exempt from certain Taxes pursuant to a tax exemption certificate (the "Exempt Taxes"), and provided that (i) Customer maintains a valid tax exemption certificate throughout the term of this Agreement; (ii) Customer provides Siemens with a copy of such certificate; and (iii) such tax exemption is allowable and transferable to Siemens, then Siemens will not pay the Exempt Taxes and will not seek reimbursement from Customer for the Exempt Taxes. In the event that any Taxes are outside the scope of the tax exemption certificate, Customer will remain responsible for such Taxes.

7) PAYMENT. All invoices are due and payable within thirty (30) days of the date of invoice.

8) PRICE ADJUSTMENTS. Siemens may increase the prices for Products as specified in the Supplement.

9) COMPLIANCE. At Siemens' discretion, Siemens may periodically review whether Customer has made sufficient purchases to meet the pro-rata portion of the minimum Commitment Amount associated with the period under review. If Customer's purchases for the period under review are insufficient to satisfy the minimum Commitment Amount, then such deficit will be considered a "Shortfall" to meeting the Commitment Amount. In the event of a Shortfall, Siemens, in addition to such other rights as are available by law, reserves the right to compensate for the Shortfall by taking one or more of the following actions: a) immediately implement a price increase for any and all Products for any subsequent period and/or b) invoice Customer for all or part of the Shortfall and/or c) extend the Supplement Term and/or d) terminate the Supplement pursuant to Section 10.

10) TERMINATION. If either Party violates any of the terms of this Agreement or a Supplement, the other Party may in its discretion and without further liability, terminate the applicable Supplement or may terminate this Agreement together with all Supplements. Termination does not relieve Customer of any of its obligations under this Agreement or any Supplement.

11) EQUIPMENT MAINTENANCE AND SERVICE. Siemens may be providing Service (as defined below) in conjunction with Customer's purchase of Products under a Supplement. If so, such Service (as defined below) will be identified on an Attachment A to a Supplement and the following shall apply: (a) Equipment Maintenance. Customer is responsible for performing all maintenance requirements described in

the operating manuals provided by the manufacturer and to keep the Equipment in good repair, condition and working order, ordinary wear and tear excepted. Additionally, Customer shall (i) not relocate or make alterations to the Equipment without the prior written consent of Siemens, (ii) use the Equipment solely for Customer's business purposes and own use, and (iii) provide reasonable access to Siemens and its agents to inspect the Equipment. (b) Equipment Service. In addition to the operator maintenance responsibilities identified in the operating manual, the Equipment also requires periodic servicing, including preventative maintenance visits ("Service"). If Service is specified on a Supplement, Siemens will provide Service in accordance with the type of service and for the period of time (the "Service Period") that is specified on the Supplement. Such Service shall provide all labor and parts (excluding consumables, electrodes and certain other parts) as are necessary to keep the Equipment in good working order. Service does not cover: (i) failure due to accident, neglect, or operation not set forth in the operating manuals; (ii) Customer's failure to properly maintain the Equipment in accordance with the applicable operating manuals; (iii) use of unauthorized reagents or disposables that may result in damage to or abnormal wear of the Equipment's internal components; or (iv) damage resulting from operating in environmental conditions outside those specified by the applicable operating manuals. For any time when Siemens is not responsible for providing Service, Customer will be responsible for all Service, and for any damage resulting from such Service. Customer is required to pay for the cost of any repairs to the Equipment caused by Customer's negligence, abuse or alteration of the Equipment. Siemens is not required to add any design, engineering, or performance change or development into the Equipment after it is delivered to Customer.

12) LIMITATION OF LIABILITY AND INDEMNIFICATION.

(a) Limitation of Liability. In no event shall Siemens' liability during each year of this Agreement exceed the actual loss or damage sustained by Customer or participant under the particular Supplement by line giving rise to such loss or damage, up to the amount of fees payable to Siemens under such Supplement during the year in which the loss or damage occurred, however, liability for intentional misbehavior and personal injury will not be limited. **SIEMENS SHALL NOT BE LIABLE TO CUSTOMER FOR ANY LOSS OF USE, REVENUE OR ANTICIPATED PROFITS, COST OF SUBSTITUTE PRODUCTS OR SERVICE (UNLESS OTHERWISE AGREED TO BY SIEMENS), OR LOSS OF STORED, TRANSMITTED OR RECORDED DATA. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, UNFORESEEN, SPECIAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY SUPPLEMENT.** The limitations of Siemens' liability contained herein shall apply to Siemens and Siemens' employees, agents and subcontractors performing under this Agreement, regardless of whether such liability is based on breach of contract, tort, strict liability, breach of warranties, failure of essential purpose or otherwise, and even if Siemens or its employees, agents or subcontractors are advised of the likelihood of such damages.

The limitations of Customer's liability set forth herein do not affect Customer's liability for Claims (as defined herein) arising out of the negligent or wrongful acts or omissions of Customer or participant, its employees or agents in connection with this Agreement or any Supplement or Customer's indemnification obligations for Claims arising from infringement of intellectual property rights, to the extent set out in this Agreement. The limitations of Siemens' liability set forth herein do not affect Siemens' liability for Claims arising as a result of Siemens' negligence or product defect, or Siemens' indemnification obligations for Claims arising from infringement of intellectual property rights, to the extent set out in this Agreement.

THE FOREGOING IS A SEPARATE, ESSENTIAL TERM OF THIS AGREEMENT AND SHALL BE EFFECTIVE UPON THE FAILURE OF ANY REMEDY, EXCLUSIVE OR NOT.

(b) General Indemnification. Each party agrees to indemnify, defend and hold the other party and its employees, directors, officers and

agents (collectively the "Indemnitees") harmless from and against any and all third party claims and associated liabilities, obligations, damages, judgments, penalties, causes of action, costs and expenses (including, without limitation, reasonable attorney's fees) imposed upon or incurred by or asserted against any of the Indemnitees ("Claims") for bodily injuries (including death) or damages to or loss of real or tangible personal property, to the extent that any such Claim arises out of the negligent or wrongful acts or omissions of Siemens, its employees or agents in connection with this Agreement or any Supplement, provided that the Indemnitee provides the indemnifying party with prompt notice of the Claim, reasonable cooperation in the defense and /or settlement of the Claim and all right and power to defend and/or settle such Claim.

(c) Intellectual Property Indemnification. If Customer receives notice that any of the Products, or parts thereof, violates the infringement warranty set forth in Section 5 herein, then Customer shall promptly notify Siemens in writing and give Siemens information, assistance and exclusive authority to evaluate, defend or settle such Claim. Siemens shall then, at its own expense, defend and settle the Claim, procure for the Customer the right to use the Products, or remove or modify them to avoid infringement. If none of these alternatives are available on terms reasonable to Siemens, then Customer shall, at Siemens' direction, either return the Products to Siemens or destroy the Products and Siemens shall refund to Customer the purchase price paid by the Customer for the Products. The foregoing states Siemens' entire obligation and liability, and the Customer's sole remedy, for Claims of infringement. Siemens will not defend or indemnify Customer, however, if any such Claim results from (i) use of other than the most recent version of the Products made available to Customer by Siemens; (ii) Customer's alteration of the Products without Siemens' written authorization; (iii) use of the Products in combination with equipment not provided by Siemens; or (iv) use of the Products in a manner that is not in accordance with the manufacturer's manual, specifications and other accompanying documentation or other instruction from Siemens.

The obligations of indemnity shall survive the expiration or termination of the Agreement.

13) APPLICATION LAW; JURISDICTION. THIS AGREEMENT AND ALL SUPPLEMENTS SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REFERENCE TO CONFLICTS OF LAW PROVISIONS. EACH OF THE PARTIES CONSENTS TO THE JURISDICTION AND VENUE OF FEDERAL AND STATE COURTS IN CALIFORNIA FOR THE DETERMINATION OF ALL DISPUTES ARISING UNDER THIS AGREEMENT.

14) ASSIGNMENT. Customer may not assign either this Agreement, or any Supplement, or any right or obligation arising out of this Agreement or any Supplement, without the express written consent of Siemens, and such consent shall not be unreasonably withheld, provided that Customer agrees to remain primarily responsible under the Supplement. Customer must provide Siemens with prompt written notice of any change in ownership, change in control or operations or any other change which would affect the ordering, shipment, invoicing or payment of Products.

15) DISCLOSURE OF DISCOUNTS. Customer acknowledges that discounts, rebates, credits, free goods or services, coupons or other things of value which Customer may receive from Siemens under this Agreement or any Supplement constitute a discount or reduction in price for purposes of 42 U.S.C. paragraph 1320a-7b(b)(3)(A) ("Discounts"). Customer agrees to file all appropriate reports and to properly disclose and reflect all Discounts in any report filed in connection with state or federal cost reimbursement programs.

16) ENTIRE AGREEMENT; AMENDMENTS. Each Supplement (as incorporating the terms and conditions of this Agreement) sets forth the entire agreement between the parties relating to the subject matter herein and there are no understandings, agreements, or representations expressed or implied not stated herein and therein,

including by reason of any terms or conditions of any agreement ("Group Purchasing Agreement") between Siemens and a group purchasing organization ("GPO"). Notwithstanding the foregoing, as between Customer and Siemens, Customer may still be entitled to certain benefits pursuant to the terms of a Group Purchasing Agreement between Siemens and a GPO by virtue of Customer's membership in such GPO provided Customer is an active member of the GPO and the Group Purchasing Agreement is in full force and effect. To that end, in the event of any conflict or inconsistency between the terms of any Supplement (as incorporating the terms and conditions of the Agreement) and the terms of such Group Purchasing Agreement, (a) if the conflict or inconsistency is regarding payment or financial obligation, then the terms of this Agreement shall control and (b) if the conflict or inconsistency is regarding any other term or condition (not regarding a payment or financial obligation), then the terms and conditions of the Group Purchasing Agreement shall control. Any modifications contained or incorporated into a Supplement that in any way alter the terms of the Agreement shall be effective only with respect to that Supplement and shall be ineffective with respect to any other Supplement. Any term or condition contained in a Customer purchase order relating to Products supplied under a Supplement shall be null and void.

17) MISCELLANEOUS. (a) If Siemens fails to enforce its rights against Customer at any time, it may enforce those rights later without waiver or at such other time that Customer fails to perform any of Customer's obligations.

(b) Customer agrees not to disclose the prices or the terms and conditions of Customer's purchases under this Agreement to any person except as required by law.

(c) Intentionally omitted.

(d) Customer and Siemens will send any required notices to the other party by registered or certified mail or by recognized overnight courier service. All notices will be sent to the applicable party at the address set forth herein. A party may designate an alternate address for notices by giving written notice thereof in accordance with the provisions of this Section.

18. Excluded Provider Siemens Healthcare Diagnostics Inc. ("Siemens") certifies that Siemens, its employees, agents or representatives providing services hereunder are not suspended or excluded from participation in any federal health care programs, as defined under 42 U.S.C. § 1320a-7b(f), or any form of state Medicaid program (collectively, "Government Payor Programs"). Siemens hereby represents and warrants that Siemens is not and at no time has been excluded from participation in any federally funded health care program, including Medicare and Medicaid. Siemens hereby agrees to promptly notify Customer of any exclusion from any federally funded health care program, including Medicare and Medicaid. In the event that Siemens is excluded from participation in any federally funded health care program during the term of this Agreement, or if at any time after the effective date of this Agreement it is determined that Siemens is in breach of this provision, then Customer may terminate this Agreement upon written notice to Siemens.

18. Corporate Compliance. Each of the Parties acknowledges that it has adopted its own corporate compliance program and code of conduct with which it expects its officers, directors, employees and agents to comply, and that it is responsible for monitoring and enforcing observance of its own compliance program and taking prompt action to resolve any non-compliance. A copy of each Party's compliance program and code of conduct is available upon request.

IN WITNESS HEREOF, each party has caused its duly authorized representative to execute this Agreement as of the Effective Date.

Customer:

By: _____
Name (print): Russell E. Bigler
Title: Chairman, Board of Governors
Date: February 21, 2018

Siemens Healthcare Diagnostics Inc.:

By: _____
Name (print): _____
Title: _____
Date: _____
Address: 115 Norwood Park South, Norwood, MA 02062
AND
By: _____
Name (print): _____
Title: _____
Date: _____
Address: 115 Norwood Park South, Norwood, MA 02062

REVIEWED ONLY
NOT APPROVED AS TO FORM

By [Signature]
Legal Services Department

SUPPLEMENT TO MASTER PRODUCTS AGREEMENT

Product Line: Centaur, Dimension, Vista

Billing Option: Cost Per Result

Legal Name:	<u>KERN COUNTY HOSPITAL AUTHORITY</u>	Group Purchasing Organization:	<u>HEALTHTRUST PURCHASING GROUP</u>
Customer Name:	<u>KERN COUNTY HOSPITAL AUTHORITY</u>	Sold to Customer #:	<u>7265</u>
Address:	<u>1700 MOUNT VERNON AVE</u>		
City, State, Zip:	<u>BAKERSFIELD, CA 93306</u>		

THIS SUPPLEMENT ("Supplement") to the Master Products Agreement (the "Agreement") dated _____ is by and between Siemens Healthcare Diagnostics Inc. ("Siemens") and the party identified under "Legal Name" (or "Customer Name" if no "Legal Name") in the heading above ("Customer") and incorporates the terms and conditions of the Agreement. Capitalized but undefined terms will have the meanings ascribed to them in the Agreement. Attachment A and all terms included therein are incorporated by reference into this Supplement. For all purposes hereof, this Supplement is effective as of the date of Siemens' execution ("Supplement Effective Date").

1) PRODUCTS. Customer agrees to purchase from Siemens on a periodic basis during each year of the Supplement Term, the Products listed on Attachment A at the prices specified on Attachment A.

2) PRODUCT INVOICING. Customer will be invoiced upon shipment of the Products.

3) COMMITMENT. The Commitment Amount is specified on Attachment A. The Commitment Amount and pricing are determined by tiers under the Group Purchasing Agreement. At Siemens' discretion, Siemens may periodically review whether Customer has made sufficient purchases to meet the pro-rata portion of the Commitment Amount associated with the period under review during the Supplement Term.

4) TERM. This Supplement is effective as of the Supplement Effective Date. The Supplement Term is 84 months beginning thirty (30) days after the Supplement Effective Date. Upon completion of the initial Supplement Term, the Supplement may renew on a month-to-month basis until either party provides the other with thirty (30) days written notice of termination. In the event that Customer and Siemens enter into a subsequent Supplement for the provision of the same Products as these herein, then this Supplement shall automatically terminate upon the Effective Date, as defined therein, of such subsequent Supplement. This Supplement may be terminated in accordance with the Agreement.

5) PRICING TERMS. The pricing under this Supplement applies only to the Products that are used by Customer. The pricing and other terms stated in this Supplement supersede any previous price arrangements Customer has with Siemens or any Group Purchasing Agreements. The pricing set out on Attachment A will be firm through the date set forth in the current Group Purchasing Agreement between Siemens and the GPO identified in this Supplement and thereafter may be increased as permitted under such Group Purchasing Agreement. In the event there is no Group Purchasing Agreement in effect or Customer changes its GPO designation during the Supplement Term, pricing may be increased by no more than three percent (3%) during any calendar year. All such increases and any other price increases permitted under the terms of this Supplement are referred to herein as "Price Increases."

6) TRAINING. Siemens will provide training at the location and for the number of people specified on Attachment A. The training slots shall remain available for two years from the date of Equipment delivery.

7) SERVICE. If Service is specified on Attachment A, a Siemens appointed service representative will provide Service in accordance with the type of service and for the Service Period specified on Attachment A.

8) ENTIRE AGREEMENT; AMENDMENTS. All of the terms, covenants and conditions set forth in the Agreement are incorporated herein by reference as if the same had been set forth herein. There are no understandings, agreements, or representations expressed or implied not stated herein (as incorporating the terms, covenants and conditions set forth in the Agreement). If there is a conflict between the terms of this Supplement and the Agreement, the terms of this Supplement (including any Attachment(s) and Exhibit(s)) shall prevail.

IN WITNESS HEREOF, each party has caused its duly authorized representative to execute this Supplement as of the Supplement Effective Date.

CUSTOMER:

By: _____
Name (print): Russell E. Bigler
Title: Chairman, Board of Governors
Date: February 21, 2018

SIEMENS HEALTHCARE DIAGNOSTICS INC.:

By: _____
Name (print): _____
Title: _____
Date: _____
Address: 115 Norwood Park South, Norwood, MA 02062

AND

By: _____
Name (print): _____
Title: _____
Date: _____
Address: 115 Norwood Park South, Norwood, MA 02062

REVIEWED ONLY
NOT APPROVED AS TO FORM

By 
Legal Services Department

**Addendum
to SUPPLEMENT TO MASTER PRODUCTS AGREEMENT**

Legal Name: KERN COUNTY HOSPITAL Customer Name: KERN MEDICAL CENTER Address: 1700 MOUNT VERNON AVE City, State, Zip: BAKERSFIELD, CA 93306 Subgroup: QUORUM PURCHASING ADVANTAGE Effective Date: _____	Federal ID #: _____ Ship to Customer #: _____ Sold to Customer #: 7265 Supplement Term: 84 Months
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This ADDENDUM to the terms and conditions of the Supplement to Master Products Agreement (the "Agreement") is between the party identified under "Legal Name" (or "Customer Name" if no "Legal Name") in the heading above ("Customer") and Siemens Healthcare Diagnostics Inc. ("Siemens"). Upon the parties signing this Addendum, the additional/modified terms listed below will apply.

1. **NON-APPROPRIATION OF FUNDS.** To the extent that Customer is either a state or a political subdivision for purposes of Section 103 of the Internal Revenue Code of 1986, as amended, if insufficient funds are appropriated by Customer governing body during any fiscal year, Customer may elect to discontinue this Supplement on the last day of the fiscal period for which appropriations are available. To discontinue this Supplement, Customer must (i) notify Siemens in writing of the non-appropriation of funds within ten (10) days of the date upon which Customer becomes aware that insufficient funds will be available; (ii) provide Siemens with a certified statement of an authorized official to the effect that conditions permitting discontinuance of this Supplement have occurred, and (iii) return the Equipment, maintained in accordance with Paragraph 4 of this Supplement, to a destination designated by SIEMENS, properly crated and shipped in accordance with manufacturer's recommendations, freight prepaid and insured.

Customer may not discontinue this Supplement if any funds are appropriated to Customer by the governing body for the acquisition, retention or operation of the Equipment or other equipment or services performing functions similar to the Equipment for the remaining term of this Supplement.

Customer agrees to take all necessary action during the term of this Supplement to obtain adequate funds to satisfy Customer's obligations under this Supplement and will provide for such obligations in each applicable budget submitted to obtain appropriations, use Customer's best efforts to obtain approval of such budget, and exhaust all available appeals if an appropriation sufficient to satisfy such obligations is not made.

2. **Reagent Incentive Program.**

- a. **Reagent Incentive Program.** Customer's pricing in this Supplement reflects certain discounts because Customer qualifies for and has chosen to participate in the Siemens Reagent Incentive Program (the "Program").
- b. **Disease State Categories.** Siemens offers the Program for two disease state categories (each a "Disease State Category"): Cardiac and Diabetes.
- c. **Qualifications for Participation.**
 - i. **Qualifying Tests.** For each Disease State Category, Siemens has designated one or more qualifying tests ("Qualifying Test(s)") that Customer must run on Siemens equipment in order to participate in the Program. When the Customer runs at least one thousand (1000) annual patient tests of the relevant Qualifying Test(s) then they will receive a seven percent (7%) discount on the reagent pricing of the Participating Tests in that Disease State Category. If Customer is an integrated delivery network or health system, then Customer must average one thousand (1000) annual patient tests of the relevant Qualifying Test(s) per site. The following identifies the Qualifying and Participating Test(s) for each Disease State Category:

Disease State Category	Qualifying Test(s)	Participating Tests (Tests Receiving an additional 7% Discount)
Cardiac	BNP and/or NT-pro BNP,	BNP and/or NT-pro BNP, Troponin, CK-MB Mass, Myoglobin, MPO
Diabetes	Hemoglobin A1C	Hemoglobin A1C, C- Peptide, Insulin, Urinary Albumin, Microalbumin

- d. **Chosen Disease State Categories.** Customer qualifies to participate in the Program for the following Disease State Categories (initial the qualifying categories):

 X Cardiac
 Diabetes

- e. **Discounts.** The pricing in this Supplement reflects a seven percent (7%) discount off all Disease State Tests that Customer runs on qualifying Siemens instruments.

All of the terms, covenants and conditions set forth in the Agreement are incorporated herein by reference as if the same had been set forth herein. There are no understandings, agreements, or representations expressed or implied not stated herein. Except as expressly modified hereby, all other terms and conditions of the Supplement shall remain in full force and effect. If there is a conflict between the terms of this Supplement, the GPO Agreement, and the Agreement, the terms of this Supplement (including any Attachments and Addenda) prevail.

CUSTOMER-HealthTrust Member Facility:

By: _____ By: _____
(Authorized Signature Authority for Facility) (Facility Department Director)
Name (print): Russell E. Bigler Name (print): _____
Title: Chairman, Board of Governors Title: _____
Date: February 21, 2018 Date: _____

Siemens Healthcare Diagnostics Inc:

By: _____ By: _____
Name (print): _____ Name (print): _____
Title: _____ Title: _____
Date: _____ Date: _____

REVIEWED ONLY
NOT APPROVED AS TO FORM

By: [Signature]
Legal Services Department

Attachment A
to the Supplement
to the Master Products Agreement

Quote #: 1-J11SD0-17
Approved: 02/02/2018

Legal Name:	KERN COUNTY HOSPITAL AUTHORITY	Purchasing Group:	HEALTHTRUST
Customer Name:	KERN COUNTY HOSPITAL AUTHORITY	Sold To Customer #:	PURCHASING GROUP
Product Line:	Multiple		7265

Product Line	Total annual minimum Commitment Amount
Centaur	\$181,869.44
Vista	\$194,982.99
Contract Total	\$376,852.43

(Remainder of page intentionally left blank.)

Legal Name: KERN COUNTY HOSPITAL AUTHORITY
 Customer Name: KERN COUNTY HOSPITAL AUTHORITY
 Product Line: Centaur

Purchasing Group: HEALTHTRUST
 Purchasing Group: PURCHASING GROUP
 Sold To Customer #: 7265

Equipment Information - Centaur

Part #	Onsite	Quantity	Comments
ADVIA Centaur XPT	N	1	

Service

Service Level	Quantity	Start Year	# of Years	Comments
Warranty Service	1	1	2	Included
Extended Service	1	3	3	Included

Financial Adjustments - Centaur

LIS Allowance:

Centaur - Siemens will issue Customer an LIS reagent credit up to **\$10,000.00** upon receipt of the paid interface invoice.

Reagent Credit:

Centaur - Siemens will issue a reagent credit of **\$6,319.00** for year 1.

Products: Reagents Pricing - Centaur

Reagent	Part #	Total Tests / Yr	Test/Kit	Total Kits/Yr	CPR	Cost/Kit	Total Annual
Bone Metabolism							
Vitamin D 25-OH - 100 tests	10699201	5,900	100	59	\$5.630	\$563.00	\$33,217.00
Cardiac Markers							
BNP - 500 tests	10309045	2,000	500	4	\$9.728	\$4,863.90	\$19,455.60
Fertility - Function Proteins							
FSH - 500 tests	10309974	1,000	500	2	\$0.830	\$414.93	\$829.86
LH - 60 tests	10309971	900	60	15	\$0.857	\$51.43	\$771.45
Prolactin - 50 tests	10309975	1,050	50	21	\$0.830	\$41.49	\$871.29
Fertility - Function Proteins Total Annual		2,950					\$2,472.60
Hep/Aids							
CENTAUR CHIV2(US) 100T	10696880	5,700	100	57	\$5.366	\$536.60	\$30,586.20
HBs Ag II - 200 tests	10492138	5,200	200	26	\$2.681	\$536.15	\$13,939.90
Hep/Aids Total Annual		10,900					\$44,526.10
Hepatitis A							
HAV IgM Ab - 100 tests	10309083	2,600	100	26	\$5.383	\$538.31	\$13,996.06
Hepatitis B							
HBc IgM Ab - 100 tests	10308978	2,700	100	27	\$5.477	\$547.69	\$14,787.63
Hepatitis C							
HCV Ab - 200 tests	10309061	4,000	200	20	\$6.252	\$1,250.40	\$25,008.00
IDD - Rubella Virus							
Rubella IgG Ab - 100 tests	10310283	2,100	100	21	\$1.245	\$124.48	\$2,614.08
IDD - Syphilis							
Syphilis - 200 tests	10492493	7,800	200	39	\$2.220	\$443.92	\$17,312.88
Metabolics							
Cortisol (ECOR2) - 250 tests	10994926	1,000	250	4	\$0.839	\$209.74	\$838.96
Thyroid							
Intact PTH - 100 Tests	10699154	1,400	100	14	\$1.824	\$182.39	\$2,553.46

Products: Reagents Pricing - Centaur

Reagent	Part #	Total Tests / Yr	Test/Kit	Total Kits/Yr	CPR	Cost/Kit	Total Annual
Tumor Marker							
CEA - 100 tests	10309977	1,300	100	13	\$1.824	\$182.39	\$2,371.07
PSA Total - 100 tests	10310292	1,400	100	14	\$1.940	\$194.00	\$2,716.00
Tumor Marker Total Annual		2,700					\$5,087.07

Products: Supplies - Centaur

	Part #	Annual # of Kits	Total Annual
AFP/CEA - CAL - 2x2x2mL	10311569	7	Included
Acid/Base 1&2 IATA - 2x1500mL	10310026	19	Included
Ancillary Probe Wash 1 2 pack - 2x25mL	10309060	14	Included
BNP - CAL - 2x2x2mL	10309047	4	Included
BNP - CTL - 3x3x2mL	10309046	11	Included
CEA Dil.RP (2PK) - CAL - 2x5mL	10309950	7	Included
CENTAUR CHIV2 QC KIT	10697214	10	Included
Cleaning solution - 12 Bottles	10310041	10	Included
Cortisol (2PK) - CAL - 2x2x2mL	10309079	14	Included
Cuvettes - 3000 Pieces	10309546	20	Included
HAV IgM - CTL - 2x2x7mL	10309084	5	Included
HBc IgM - CTL - 2x2x7mL	10308979	6	Included
HBsAg - CTL - 2x2x10mL	10309059	5	Included
HCG Total - CAL - 2x2x5mL	10308986	7	Included
HCV - CTL - 2x2x7mL	10309062	5	Included
Intact PTH - CTL - 3x2x1mL	10699156	46	Included
Multidil 1 Readypack(2PK) - 2x25mL	10309941	7	Included
Multidil 2 Readypack (2PK) - 2x10mL	10309943	26	Included
Multidil3Readypack (2PK) - 2x5mL	10309944	7	Included
PSA - CAL - 2x2x2mL	10310295	7	Included
Probe Wash 3 Kit - 1x50mL	10334314	4	Included
Rubella IgG - CTL - 3x2x2,7mL	10310284	13	Included
Sample Cups - 1500 Pieces	10309545	2	Included
Sample Tips - 6480 Pieces	10309547	7	Included
Syphilis - CTL - 2x2x7mL	10492616	10	Included
Vit.D - CTL - 2x3x2mL	10699200	11	Included
Vitamin D Diluent (2PK) - 2x25mL	10494100	7	Included
Vitamin D Diluent Bottle - 1x25mL	10632114	2	Included
Wash 1 - 2x2500mL	10319550	27	Included
Wash 1 Reagent - 2x1500mL	10310032	2	Included

Prices for Reagents and Supplies not listed above will be according to the tier pricing in effect at the time of shipment.

Prices for Reagents and Supplies not yet commercially available will be determined at the time of introduction and are not covered by this Agreement.

Legal Name: KERN COUNTY HOSPITAL AUTHORITY
 Customer Name: KERN COUNTY HOSPITAL AUTHORITY
 Product Line: Dimension

Purchasing Group: HEALTHTRUST
 PURCHASING GROUP
 Sold To Customer #: 7265

Equipment Information - Dimension

Seismic UPS Kit Dimension @ Vista 500/1500 ACC

Part #
10801970

Onsite
N

Quantity
2

Comments

Products: Supplies - Dimension

Cup/Lid - 1000 Pieces

Enzyme Diluent 790035901 - CAL - 10x10mL

Part #

10445041

10444870

Annual # of Kits

9

6

Total Annual

Included

Included

Prices for Reagents and Supplies not listed above will be according to the tier pricing in effect at the time of shipment.

Prices for Reagents and Supplies not yet commercially available will be determined at the time of introduction and are not covered by this Agreement.

Legal Name: KERN COUNTY HOSPITAL AUTHORITY
 Customer Name: KERN COUNTY HOSPITAL AUTHORITY
 Product Line: Vista

Purchasing Group: HEALTHTRUST
 Purchasing Group: PURCHASING GROUP
 Sold To Customer #: 7265

Equipment Information - Vista

	Part #	Onsite	Quantity	Comments
DIMENSION® VISTA® 500 Instrument	10284473	N	1	
DIMENSION® VISTA® 500 Instrument	10284473	N	1	
Seismic Anchor Kit Dimension® Vista ACC	10459331	N	2	
BARCODE LABEL PRINTER	10459332	N	1	

Service

Service Level	Quantity	Start Year	# of Years	Comments
Warranty Service DIMENSION VISTA 500 TOP 2	2	1	2	Included
Extended Service DIMENSION VISTA 500 TOP 2	1	3	3	Included

Training

	Total Training	Training Site	Air Paid By	Comments
Dim Vista 500_ClassTraining	2	Siemens	Siemens	Included
Dim Vista 500_ClassTraining	2	Siemens	Siemens	Included

Financial Adjustments - Vista

LIS Allowance:

Vista - Siemens will issue Customer an LIS reagent credit up to **\$10,000.00** per instrument for 2 instruments upon receipt of the paid interface invoice(s).

Reagent Credit:

Vista - Siemens will issue a reagent credit of **\$19,498.00** for year 1.

Products: Reagents Pricing - Vista

Reagent	Part #	Total Tests / Yr	Test/Kit	Total Kits/Yr	CPR	Cost/Kit	Total Annual
Anemia							
Ferritin - 320 tests	10445136	1,920	320	6	\$0.955	\$305.46	\$1,832.76
Folic Acid - 120 tests	10445138	1,680	120	14	\$0.936	\$112.32	\$1,572.48
Anemia Total Annual		3,600					\$3,405.24
Cardiac Markers							
CKMB Mass - 100 tests	10445097	900	100	9	\$0.918	\$91.77	\$825.93
Troponin I - 120 tests	10445098	8,280	120	69	\$1.841	\$220.93	\$15,244.17
Cardiac Markers Total Annual		9,180					\$16,070.10
Clinical Chemistry Assays							
ALT/GPT - 480 tests	10635565	38,400	480	80	\$0.064	\$30.85	\$2,468.00
AST/GOT - 1600 tests	10445148	38,400	1,600	24	\$0.044	\$70.35	\$1,688.40
HDL Cholesterol - 480 tests	10464340	9,600	480	20	\$0.257	\$123.39	\$2,467.80
Clinical Chemistry Assays Total Annual		86,400					\$6,624.20
DAU							
Ethanol - 200 tests	10445109	3,000	200	15	\$0.608	\$121.61	\$1,824.15
Drugs of Abuse							
Amphetamines - 120 tests	10445112	6,120	120	51	\$0.527	\$63.29	\$3,227.79
Barbiturates - 120 tests	10445117	6,120	120	51	\$0.527	\$63.29	\$3,227.79
Benzodiazepines - 120 Tests	10445118	6,120	120	51	\$0.527	\$63.29	\$3,227.79
Cannabinoids - 120 tests	10445116	6,000	120	50	\$0.527	\$63.29	\$3,164.50
Cocaine Metabolites - 120 tests	10445113	4,920	120	41	\$0.527	\$63.29	\$2,594.89
Methadone - 120 tests	10445111	960	120	8	\$0.527	\$63.29	\$506.32
Opiates - 120 tests	10445114	6,120	120	51	\$0.527	\$63.29	\$3,227.79
Phencyclidine - 120 tests	10445115	6,120	120	51	\$0.527	\$63.29	\$3,227.79
Drugs of Abuse Total Annual		42,480					\$22,404.66
Electrolytes Reagents (excludi							
Ammonia - 120 Tests	10711992	2,160	120	18	\$0.346	\$41.56	\$748.08
CO2 enzymatic - 3360 Tests	10445163	73,920	3,360	22	\$0.039	\$132.40	\$2,912.80

Products: Reagents Pricing - Vista

Reagent	Part #	Total Tests / Yr	Test/Kit	Total Kits/Yr	CPR	Cost/Kit	Total Annual
Calcium - 1320 tests	10445160	73,920	1,320	56	\$0.046	\$60.47	\$3,386.32
Lithium - 180 tests	10635870	1,080	180	6	\$0.982	\$176.80	\$1,060.80
Magnesium - 360 tests	10445158	33,120	360	92	\$0.267	\$96.02	\$8,833.84
Phosphorus inorganic - 1200 tests	10445144	32,400	1,200	27	\$0.047	\$56.24	\$1,518.48
Electrolytes Reagents (excludi		216,600					\$18,460.32
Enzymes							
Alkaline Phosphatase - 1600 tests	10642444	36,800	1,600	23	\$0.044	\$70.91	\$1,630.93
Amylase - 360 tests	10445154	2,520	360	7	\$0.267	\$95.98	\$671.86
CK - 800 Tests	10464356	4,800	800	6	\$0.245	\$196.27	\$1,177.62
LDH L->P - 800 Tests	10464323	3,200	800	4	\$0.053	\$42.14	\$168.56
Lipase - 480 tests	10461745	9,120	480	19	\$0.259	\$124.48	\$2,365.12
Enzymes Total Annual		56,440					\$6,014.09
Fertility - Pregnancy Rapid Te							
b-HCG - 160 tests	10445107	4,160	160	26	\$0.907	\$145.11	\$3,772.86
Metabolics							
V-Lyte sensor Na/K/Cl - 24000 tests	10484429	216,000	24,000	9	\$0.036	\$860.17	\$7,741.53
Plasma Proteins - Transport							
Microalbumin - 400 Tests	10445905	4,400	400	11	\$1.107	\$442.74	\$4,870.14
Pre-Albumin - 200 Tests	10445906	1,400	200	7	\$1.225	\$245.00	\$1,715.00
Plasma Proteins - Transport Total Annual		5,800					\$6,585.14
Rheumatoid Marker							
CRP - 400 Tests	10445893	5,200	400	13	\$0.605	\$241.91	\$3,144.83
RF - 400 Tests	10445908	2,400	400	6	\$1.456	\$582.25	\$3,493.50
Rheumatoid Marker Total Annual		7,600					\$6,638.33
Substrates / Metabolites / Ion							
Albumin - 1200 tests	10445165	38,400	1,200	32	\$0.047	\$56.24	\$1,799.68
Bilirubin Direct - 480 tests	10445152	21,600	480	45	\$0.064	\$30.85	\$1,388.25
Bilirubin Total - 640 Tests	10445146	42,880	640	67	\$0.057	\$36.50	\$2,445.50
Cholesterol - 600 tests	10445143	10,200	600	17	\$0.058	\$35.09	\$596.53
Creatinine enzymatic - 800 Tests	10700444	78,400	800	98	\$0.171	\$136.93	\$13,419.14
Glucose - 4800 tests	10445162	76,800	4,800	16	\$0.038	\$183.18	\$2,930.88
HbA1c - 240 tests	10470481	12,000	240	50	\$1.864	\$447.36	\$22,368.00
IBCT - 160 Tests	10445134	1,760	160	11	\$0.317	\$50.79	\$558.69
Iron - 240 tests	10445135	1,920	240	8	\$0.288	\$69.21	\$553.68
Lactate - 80 tests	10445153	9,440	80	118	\$0.405	\$32.36	\$3,818.48
Total Protein - 1560 tests	10445167	39,000	1,560	25	\$0.044	\$68.94	\$1,723.50
Triglyceride - 600 tests	10445093	10,200	600	17	\$0.251	\$150.68	\$2,561.56
Urea Nitrogen - 1680 Tests	10445159	73,920	1,680	44	\$0.044	\$73.17	\$3,219.48
Uric Acid - 560 tests	10445145	2,800	560	5	\$0.060	\$33.68	\$168.40
Substrates / Metabolites / Ion Total Annual		419,320					\$57,551.77
TDM - Antibiotic / Antivirus							
Gentamicin - 40 tests	10445120	2,240	40	56	\$1.253	\$50.12	\$2,806.72
Vancomycin - 80 tests	10445128	3,440	80	43	\$1.079	\$86.31	\$3,711.33
TDM - Antibiotic / Antivirus Total Annual		5,680					\$6,518.05
TDM - Cardiovascular							
Digoxin - 200 tests	10488927	800	200	4	\$0.975	\$194.90	\$779.60
TDM - Central Nervous Systems							
Carbamazepine - 80 tests	10445129	1,520	80	19	\$1.079	\$86.31	\$1,639.89
Phenobarbital - 80 tests	10445124	800	80	10	\$1.079	\$86.31	\$863.10

Products: Reagents Pricing - Vista

Reagent	Part #	Total Tests / Yr	Test/Kit	Total Kits/Yr	CPR	Cost/Kit	Total Annual
Phenytoin - 120 tests	10445125	1,800	120	15	\$1.021	\$122.51	\$1,837.65
Valproic Acid - 80 tests	10445127	1,520	80	19	\$1.079	\$86.31	\$1,639.89
TDM - Central Nervous Systems Total Annual		5,640					\$5,980.53
Thyroid							
Free T4 - 200 tests	10445103	6,600	200	33	\$0.817	\$163.35	\$5,390.55
TSH - 960 Tests	10445104	10,560	960	11	\$0.789	\$757.33	\$8,330.63
Thyroid Total Annual		17,160					\$13,721.18
Toxicology							
Acetaminophen - 80 tests	10445110	2,240	80	28	\$0.713	\$57.00	\$1,596.00
Salicylate - 80 tests	10445108	1,920	80	24	\$0.713	\$57.00	\$1,368.00
Toxicology Total Annual		4,160					\$2,964.00
Tumor Marker - Other							
AFP - 120 Tests	10463378	2,160	120	18	\$2.142	\$257.09	\$4,627.62
Vitamins							
Vitamin B12 - 120 tests	10475489	3,480	120	29	\$0.948	\$113.78	\$3,299.62

Products: Supplies - Vista

	Part #	Annual # of Kits	Total Annual
Acid Clean - 4 flexes	10712182	2	Included
Aliquot Plate - 30x12 Pieces	10445210	13	Included
Alkaline Phosphatase - CAL	10714029	12	Included
Barcode Label Kit - 4 Rolls	10464353	4	Included
Beta HCG - CAL - 2x4x1mL / 2x2mL	10445192	12	Included
Bilirubin - CAL - 3x2,5mL	10460279	10	Included
CK-MB Mass /M-CKMB - CAL - 2x4x1mL / 2x2x1,5mL	10445195	9	Included
CK/CKMB - CAL - 3x2,0mL	10464509	12	Included
Check - 4 Flex	10481508	4	Included
Chem 3 Calibrator - CAL - 3x2x2,5mL	10711579	16	Included
Chemistry 1 (2 Levels) - CAL - 2x3 1.5mL	10716281	32	Included
Chemistry 2 - CAL - 3x2x2mL	10445170	12	Included
Chemistry 4 - CAL - 3x1,5mL	10445172	10	Included
Creatinine Enzymatic - CAL - 3x2x2,5mL	10464578	4	Included
Cuvette Waste Container Liner - 40 Pieces	10445214	4	Included
Cuvette wash solution - 2x1,5 l	10445207	24	Included
Cuvettes - 20x240 Pieces	10445211	14	Included
DAT Con N Neg - CTL - 6x2,5mL	10445199	9	Included
DAT Con P Pos - CTL - 6x2,5mL	10445198	9	Included
Drug 1 - CAL - 3x2x2,5mL	10445183	24	Included
Drug 2 - CAL - 3x2x2,5mL	10445184	24	Included
Drug 4 - CAL - 2x5x2,5mL	10476171	8	Included
Drugs of Abuse (Urine) - CAL - 4x2,5ml / 2x2,6mL	10445187	24	Included
Empty Vial Kit - 357 Bottles, 375 Caps, 550 BC Labels	10445213	10	Included
Enzyme 1 - CAL - 3x2x2,5mL	10445179	16	Included
Enzyme 2 - CAL - 3x2x1,5mL	10475527	8	Included
Flex Waste Container - 30 Pieces	10445216	2	Included
Iron - CAL - 3x1,2mL	10445176	8	Included
Iron Binding Capacity - CAL - 3x1mL	10445175	8	Included
LOCI 1 - CAL - 2x4x1,5mL / 2x2x2mL	10445194	24	Included
LOCI 4 - CAL	10476172	24	Included
LOCI 6 - CAL - 2x5x2mL	10488444	12	Included
LOCI Reaction Vessel - 1000 Pieces	10445212	43	Included
Lactate Dehydrogenase - CAL - 3x1,5mL	10464346	12	Included
Lipid (revised) - CAL - 3x2x1,5mL	10464345	10	Included
Loci Sample Diluent 2 - CAL - 6x2,5mL	10445205	4	Included
Multi 2 sample diluent - CAL - 6x2,5mL	10483586	4	Included
N Diluent - 6 x 5 ml	10469513	3	Included
PROT 1 CAL (US) - CAL - 6x2mL	10465664	4	Included
PROT 1 High - CTL - 6x2mL	10445921	7	Included
PROT 1 Low - CTL - 6x2mL	10445919	7	Included
PROT 2 - CAL - 6x2mL	10445935	10	Included
PROT 2 High - CTL - 6x2mL	10445937	11	Included
PROT 2 Low - CTL - 6x2mL	10445936	11	Included
Protein3 (US) - CTL - 4x1mL	10465668	17	Included
Reagent Probe Cleaner - 2x1,5 l	10445208	40	Included
Sample Probe Cleaner - 2x1,5 l	10445209	100	Included
Small Sample Container - 1000 Pieces	10472099	6	Included
System Diluent 2 - CAL - 2x1,5 l	10445206	12	Included
Troponin I - CAL - 2x6x1mL	10445197	18	Included
V-Lyte Diluent - CON- 2x1,5 l	10445202	23	Included
V-Lyte Diluent Check VLDILC - CAL - 6x2mL	10445203	8	Included
V-Lyte Standard A - 2x1,5 l	10445200	28	Included
V-Lyte Standard B - 2x125mL	10445201	26	Included

Prices for Reagents and Supplies not listed above will be according to the tier pricing in effect at the time of shipment.

Prices for Reagents and Supplies not yet commercially available will be determined at the time of introduction and are not covered by this Agreement.



CUSTOMER:

By: _____
Name (print): Russell E. Bigler
Title: Chairman, Board of Governors
Date: February 21, 2018

SIEMENS HEALTHCARE DIAGNOSTICS INC.:

By: _____
Name (print): _____
Title: _____
Date: _____
Address: 115 Norwood Park South, Norwood, MA 02062

AND

By: _____
Name (print): _____
Title: _____
Date: _____
Address: 115 Norwood Park South, Norwood, MA 02062



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

February 21, 2018

Subject: Proposed Agreement with Hitachi Capital America Corporation for the capital lease with option to purchase three chemistry analyzers from Siemens Healthcare Diagnostics Inc.

Recommended Action: Approve; Authorize Chairman to Sign; Authorize Chief Executive Officer to Sign Supporting Documentation

Summary:

Kern Medical requests your Board approve the Proposed Agreement with Hitachi Capital America Corporation for the capital lease with option to purchase two Vista 500 and one Centaur XP chemistry analyzers from Siemens Healthcare Diagnostics Inc. The proposed agreement is for a term of 60 months, commencing upon receipt of equipment, in an amount not to exceed \$534,332.

Counsel is unable to approve the agreement, as to form, due to included late and other fees and no warranty and/or indemnification language.

HITACHI

Hitachi Capital America Corp.
7808 Creekridge Circle, Suite 250
Edina, MN 55439
Phone: 877-996-0270

MASTER AGREEMENT NO. 2914601

USER INFORMATION			
User Legal Name Kern County Hospital Authority		Address 1700 Mount Vernon Avenue	
City Bakersfield	State CA	Zip 93306	Phone

AGREEMENT: This is a Master Agreement dated as of February 16, 2018 between User and Hitachi Capital America Corp. ("Provider"), the terms of which shall be incorporated into each Schedule now or hereafter executed pursuant to the terms hereof. Each such Schedule shall constitute a separate and enforceable agreement. In the event of a conflict between the terms of the Agreement and any Schedule, the terms of the Schedule shall prevail. User agrees to utilize all of the equipment, software and services described on any Schedule or similar document (the "Equipment") according to the terms and conditions of this Master Agreement (these documents are collectively the "Agreement").

TERM: The Agreement term will commence on the first day of the month following Provider's receipt of written and/or verbal acceptance for all the Equipment (the "Commencement Date") and will continue for the number of months specified on any Schedule (the "Initial Term") and for any successive Renewal Periods. For each item of Equipment, there shall also be an interim term ("Interim Term") beginning on the earlier of (1) the date any advance monies are released by Provider or (2) on the date of User's written and/or verbal acceptance and continuing through the Commencement Date. The Interim Term and the Initial Term are collectively referred to as the "Term".

PAYMENTS: User agrees to make payments in accordance with the Term and payment schedule outlined on any Schedule ("Rent"). There shall also be an interim payment ("Interim Rent") computed for the Interim Term. The Interim Rent for each item of Equipment, or advance monies released, will be calculated by multiplying the cost of that item of Equipment or advance by the Monthly Rent Payment and divided by the total cost of all Equipment, prorated on a daily basis. Interim Rent will be due upon receipt of an invoice from Provider. Monthly Rent will be due on the first day of the month (or such other time period specified in any Schedule). In addition, if required by Provider, User agrees to pay a documentation fee, any applicable freight charges, a security deposit and any other fees assessed by Provider. USER'S OBLIGATION TO PAY RENT AND ALL OTHER OBLIGATIONS HEREIN ARE ABSOLUTE AND UNCONDITIONAL AND ARE NOT SUBJECT TO ANY ABATEMENT, SET-OFF, DEFENSE OR COUNTERCLAIM FOR ANY REASON WHATSOEVER.

DELIVERY, INSTALLATION AND ACCEPTANCE: User is solely responsible for arranging the delivery and installation of the Equipment. Upon receipt, User agrees to inspect the Equipment to determine whether it is in good working order. After inspection, User agrees to sign and send Provider a Certificate of Acceptance. In any event, this Agreement will commence no later than 7 days after receipt of the Equipment.

EQUIPMENT LOCATION, USE AND REPAIR: User will maintain and use the Equipment only at the location shown on any Schedule. User agrees that the Equipment cannot be moved from that location without Provider's advance written approval. Notwithstanding the prohibition from removing the Equipment from that location, in the event that User contemplates any exporting of the Equipment (including any technology supplied as part of the Equipment), User shall follow all procedures as required by the U.S. Export Administration Regulations and any related export controls, laws and regulations promulgated and administered by the government of any country having jurisdiction over the parties hereto or the transactions contemplated herein. User is solely responsible for maintaining the Equipment in good repair and condition, and in proper working order. User is responsible for protecting the Equipment from damage of any kind whatsoever and will continue to make payments if any damage occurs, even if the Equipment is completely destroyed. User will not modify or alter the Equipment, attach anything to the Equipment or attach the Equipment to assets not owned by Provider, without Provider's prior written consent. Any such pre-approved modifications or alterations shall be made at User's sole expense. Any such modification or alteration shall not interfere with the normal operation of the Equipment. All such alterations and attachments shall become part of the Equipment and shall be owned by Provider. User acknowledges, warrants and agrees that Provider or its agents shall have the right to inspect the Equipment from time to time during reasonable business hours at its then current location.

INDEMNIFICATION: Provider is not responsible for any losses or damages caused by the installation or use of the Equipment, or from any other kind of loss while User is in possession of the Equipment. User agrees to indemnify and hold Provider harmless from any and all losses, claims, liabilities, demands and expenses whatsoever that may arise from User's use of the Equipment or from defects in the Equipment.

END OF TERM AND RENEWAL: Provider must receive notice from User in writing, certified mail, return receipt requested, at least 120 days prior to the expiration of the Initial Term or any Renewal Period of a Schedule, of User's intention to return the Equipment to

Provider or to exercise the purchase option indicated on the Schedule. User's obligation to pay Rent will continue until the Equipment is returned to Provider's designated return location. User is responsible for all expenses incurred in returning the Equipment to Provider and agrees to pay Provider a Restocking Fee in an amount equal to one additional Rent payment. Such notice may only be given if User is not currently in Default. Upon the termination of this Agreement, User warrants that the Equipment shall be eligible for the manufacturer's standard maintenance agreement upon delivery to the Provider.

LATE FEES AND COLLECTION CHARGES: If any Rent payment or other amount payable to Provider is not paid within 10 days of its due date, User shall, to the extent permitted by law, pay on demand, as a late charge, an amount equal to the greater of \$25.00 or 5% of the amount then due for each 30 days or portion thereof that said overdue payments are not made (but in no event to exceed the highest late charge permitted by applicable law). User also agrees to pay any fees assessed for each check or ACH returned unpaid.

NO WARRANTY: User acknowledges that Provider does not manufacture the Equipment and that User has selected the Equipment and the vendor based on User's own judgment.

PROVIDER IS RENTING THE EQUIPMENT TO USER "AS IS." PROVIDER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE IN CONNECTION WITH THE EQUIPMENT. PROVIDER SHALL NOT BE RESPONSIBLE FOR ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES. PROVIDER SHALL NOT BE LIABLE FOR ANY LOSS OR INJURY TO USER OR TO ANY THIRD PERSON OR PROPERTY, INCLUDING DIRECT, INDIRECT, CONSEQUENTIAL, INCIDENTAL AND SPECIAL DAMAGES CAUSED BY THE USE, OWNERSHIP OR POSSESSION OF THE EQUIPMENT. IF THE EQUIPMENT DOES NOT OPERATE AS REPRESENTED BY THE VENDOR OR IS UNSATISFACTORY FOR ANY REASON WHATSOEVER, USER WILL NOT MAKE ANY CLAIM AGAINST PROVIDER FOR DAMAGES.

User agrees to continue making payments to Provider under this Agreement, regardless of any claims User may have against the manufacturer or vendor. Provider transfers to User for the term of this Agreement any warranties made by the manufacturer or the vendor. No representation or warranty by the manufacturer or vendor is binding on Provider nor shall breach of such warranty relieve User of User's obligation to Provider as provided herein.

SOFTWARE: User agrees that any software included in the Equipment is subject to the following: (1) Provider disclaims all warranties and obligations in regard to the software other than Provider's obligation to pay the invoiced price of the software to the software vendor; (2) Provider will not be liable to User for (a) the inadequacy of the software for any purpose; (b) any deficiency or defect in the software; (c) the performance of the software; or (d) any interruption or loss of service, use or performance of the software; (3) User agrees to deal directly with the software vendor for any problems, deficiencies or inadequacies relating to the Software; (4) User shall remain responsible for all software maintenance and enhancement costs; (5) User acknowledges and agrees that any Default under this Agreement shall constitute a breach of the software license agreement and upon the occurrence of any Default, Provider may require the vendor, and vendor shall be authorized, to immediately terminate the software license agreement; (6) if Provider repossesses the Equipment under the terms of this Agreement, User agrees immediately to assign to Provider all of User's rights in the software and to take all such acts as are necessary to cause such an assignment.

INSURANCE: During the term of this Agreement, User will procure and maintain at User's expense, property insurance for the full replacement value of the Equipment, and general liability insurance in an amount acceptable to Provider, but in no event shall it be less than \$1,000,000, covering any personal injury, death or third-party property damage arising out of or relating to the use or operation of the Equipment. User will furnish Provider with evidence of such insurance when requested. If User does not furnish Provider such evidence, Provider may at its option purchase such insurance for the Equipment and add the cost of such insurance to the amounts due from User under this Agreement. If Provider purchases such insurance on User's behalf, it shall not relieve User of any of its obligations under this Agreement or release User from any claims Provider may have against User. All such insurance shall provide for thirty (30) days' prior written notice to Provider of cancellation, restriction, or reduction of coverage.

OWNERSHIP, TAXES AND UCCs: Provider is the owner of the Equipment and holds title to the Equipment. User must keep the Equipment free and clear from any lien, levy, attachment or encumbrance, and User understands that the Equipment is not User's to

pledge or grant security interests in, with the exception of the security interest granted Provider herein. In addition to the payment set forth on any Schedule, User shall be responsible for the timely payment, reporting and/or discharge of all license or registration fees, assessments, sales and use taxes, rental taxes, gross receipts taxes, personal property taxes and other taxes now or hereafter imposed by any federal, state or local government upon the Equipment, the Rent or the ownership, leasing, renting, purchase, possession or use of the Equipment (whether the same be assessed on Provider or User). User shall indemnify Provider to the extent of any such unpaid taxes or fees (including penalties and interest) and Provider's costs associated therewith. User further grants to Provider a security interest in the Equipment and authorizes Provider to record UCC financing statements to indicate its interest in the Equipment.

DEFAULT: Each of the following is a "Default" under this Agreement: (a) User does not pay its monthly Rent payment or any other amount payable to Provider within 10 days of its due date; (b) User fails to perform any of User's non-monetary obligations under this Agreement and such failure is not cured within 10 days after Provider's notice of that failure to User; (c) any representation or warranty User makes to Provider in, or in connection with, this Agreement shall prove to have been false in any material respect; (d) any execution or writ of process is issued in any action to seize or detain the Equipment; (e) User defaults under or otherwise has accelerated any material obligation, credit agreement, loan agreement, conditional sales contract, lease, indenture or debenture; or User defaults under any other agreement now existing or hereafter made with Provider; (f) User's financial condition changes to the point where it reasonably causes Provider to be insecure about User's ability to perform User's obligations under this Agreement or any other agreement with Provider; or (g) User becomes insolvent or unable to pay debts when they become due; files a voluntary petition in bankruptcy, is subject to an involuntary petition in bankruptcy, files or has filed against it a petition seeking any reorganization, arrangement or composition, under any present of future statute, law or regulation; stops doing business as a going concern; merges, has a change of control through a sale of all or substantially all of its equity; sells all or substantially all of its assets; makes an assignment for the benefit of creditors; or has a trustee or receiver appointed for it.

PROVIDER'S REMEDIES: If a Default occurs, Provider may, but shall not be obligated to, do one or any combination of all of the following: (1) require User to immediately pay all sums already due under this Agreement plus any and all other sums becoming due (including an acceleration of remaining Rent payments), or the value of the Equipment, if any, as determined by Provider in Provider's sole discretion; (2) cancel all of User's rights, but not User's obligations, under this Agreement; (3) require User to promptly return all of the Equipment; and/or (4) repossess, re-lease and/or dispose of the Equipment. In addition, Provider is permitted to use any and all remedies available to Provider under the Uniform Commercial Code or any other applicable law. Provider may accept past due payments without modifying the terms of this Agreement and without waiving any of Provider's rights under this Agreement. USER AGREES TO PAY ALL OF PROVIDER'S COSTS OF ENFORCING PROVIDER'S RIGHTS AGAINST USER, INCLUDING ATTORNEYS' FEES. If it is necessary for Provider to take possession of the Equipment, User agrees to pay the cost of repossession, re-leasing and/or disposing of the Equipment. Additionally, if there is a Default, Provider may retain any security deposits to insure User's performance under this Agreement.

ASSIGNMENT: USER HAS NO RIGHT TO SELL, TRANSFER, ASSIGN OR SUBLET THE EQUIPMENT OR THIS AGREEMENT WITHOUT THE PRIOR WRITTEN CONSENT OF PROVIDER. Provider may sell, assign or transfer this Agreement or its rights in the Equipment without notice to User. If Provider sells, assigns or transfers this Agreement, the new owner will have the same rights or benefits Provider has now. User agrees that the rights of the new owner will not be subject to any claim, defense or setoff that User may have against Provider. In connection therewith, User agrees to acknowledge in writing any such assignment upon receipt of written notice thereof.

USER/PROVIDER SIGNATURE

User Legal Name Kern County Hospital Authority	Provider Name Hitachi Capital America Corp.
By	By
Print Name Russell E. Bigler	Print Name
Title Chairman, Board of Governors February 21, 2018	Title Date

© Hitachi Capital America Corp.

ARTICLE 2A RIGHTS AND REMEDIES: User agrees that this Agreement is a "finance lease" as that term is defined in Article 2A of the Uniform Commercial Code ("UCC"). User acknowledges that either (i) User has reviewed and approved any written contract covering the Equipment, or (ii) Provider has advised User of the identity of the vendor, that User may have rights under the supply contract, and that User may contact the vendor for a description of any rights User may have. USER HEREBY AGREES TO WAIVE ANY AND ALL RIGHTS AND REMEDIES GRANTED TO USER BY SECTIONS 2A-508 THROUGH 2A-522 OF THE UCC.

CHOICE OF LAW: THIS AGREEMENT WILL BE GOVERNED BY, ENFORCED IN AND INTERPRETED ACCORDING TO THE LAWS OF THE STATE OF CALIFORNIA. USER CONSENTS TO EXCLUSIVE JURISDICTION IN THE STATE OR FEDERAL COURTS OF CALIFORNIA.

FURTHER ASSURANCES: User shall, at User's expense, from time to time execute and deliver such further documents and assurances and take such further actions as Provider may reasonably request (a) in order to carry out the intent and purposes of this Agreement and each Schedule or (b) to establish and protect Provider's title to the Equipment or the rights and remedies granted or intended to be granted in favor of Provider under the terms of this Agreement or any Schedule.

SUCCESSORS; SURVIVAL: Each Schedule and this Agreement shall be binding upon and inure to the benefit of the heirs, administrators, successors and assigns of the parties hereto. User's representations, warranties, indemnities and reimbursement obligations shall survive the termination, cancellation or expiration of each Schedule and this Agreement.

MISCELLANEOUS: This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof and incorporates all representations made in connection with negotiation of the same. The terms hereof may not be terminated, amended, supplemented or modified orally, but only by a written instrument.

In case any provision in this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability.

From time to time additional parties may become obligated under this Agreement as a User by signing a Joinder Agreement or similar document referring to this Agreement. The addition of any party pursuant to a Joinder Agreement shall not release or limit the obligations of any party to this Agreement.

Upon request, User agrees to provide Provider, and any assignee or potential assignee of Provider, with such documentation as Provider may request to evidence User's compliance with its obligations hereunder, including evidence of payment of all applicable taxes, and User's most recent annual financial statement (audited, if available) and its most current interim financial statements.

User agrees that any delay or failure to enforce Provider's rights under this Agreement does not prevent Provider from enforcing any such rights at a later time.

FAXED AND COPIED DOCUMENTS: A facsimile copy of this Agreement with facsimile signatures may be treated as an original and will be admissible as evidence of this Agreement between the parties.

THIS AGREEMENT IS EFFECTIVE ONLY WHEN SIGNED BY BOTH PARTIES. THIS AGREEMENT IS NON-CANCELLABLE. USER REPRESENTS THAT ALL ACTIONS REQUIRED TO AUTHORIZE THE EXECUTION OF THIS AGREEMENT ON ITS BEHALF HAVE BEEN TAKEN AND THAT ANY MANAGER, PURCHASING AGENT OR PERSON OF SIMILAR AUTHORITY IS AUTHORIZED TO SIGN ANY OTHER DOCUMENTATION NECESSARY BY USER IN REGARDS TO THIS AGREEMENT.

REVIEWED ONLY
NOT APPROVED AS TO FORM

By 
Legal Services Department

HITACHI

7808 Creekridge Circle, Suite 250, Edina, MN 55439
Phone: 877-996-0270

SCHEDULE NO. 001

This Schedule is issued pursuant to the Master Agreement No. 2914601 by and between Kern County Hospital Authority ("User") and Hitachi Capital America Corp. ("Provider"). All terms and conditions of the Master Agreement are incorporated herein and made part hereof as if such terms and conditions were set forth in this Schedule. Capitalized terms used herein shall have the same meaning as in the Master Agreement.

EQUIPMENT DESCRIPTION AND LOCATION	
See Attached Exhibit A	
TERM AND PAYMENT SCHEDULE	
Initial Term in Months: 60	User Tax Exempt Number _____
Monthly Rent Payments: \$8,382.63 (plus applicable taxes)	
<p>If prior to the Commencement Date there shall be any material adverse change in the User's or Guarantor's financial condition, or any material change in the Equipment configuration or any material delay in the delivery and acceptance of any material portion of the Equipment, Provider may, at its option, (i) discontinue funding on this Schedule and/or (ii) require User to purchase the Equipment delivered to that point and/or repay Provider a price equal to the full amount funded by Provider to that point, together with any unpaid Interim Rent. User's obligation to purchase is subject to the manufacturers / supplier's standard terms and conditions of sale.</p> <p>Upon receipt of evidence of acceptance for all of the items of Equipment described herein, Provider shall update this Schedule to identify the actual Equipment and the actual Monthly Rent Payments. At Provider's option, Provider may also adjust the actual payment by the percentage increase or decrease occurring between the date hereof and the Commencement Date in the like-term London Interbank Offered Rate ("LIBOR") Swaps as stated in the <i>Wall Street Journal</i> and any change in Provider's cost of borrowing over LIBOR Swaps.</p> <p>For each item of Equipment, there shall also be an interim rent payment ("Interim Rent") computed for the period beginning on the earlier of (1) the date any advance monies are released by Provider or (2) on the date of User's written and/or verbal acceptance through the Commencement Date. The Interim Rent for each item of Equipment, or advance monies released, will be calculated by multiplying the cost of that item of Equipment or advance by the Monthly Rent Payment and divided by the total cost of all Equipment, prorated on a daily basis for periods less than one full month.</p> <p>Purchase Option: At the expiration of the Initial Term or any Renewal Period of this Schedule, User will have the option to purchase all, but not less than all of the Equipment for one dollar (\$1.00).</p>	

THE SIGNER ASSERTS THAT ALL ACTIONS REQUIRED TO AUTHORIZE THE EXECUTION OF THIS SCHEDULE ON BEHALF OF THE USER HAVE BEEN TAKEN AND THAT ANY MANAGER, PURCHASING AGENT OR PERSON OF SIMILAR AUTHORITY IS AUTHORIZED TO SIGN ANY OTHER DOCUMENTATION NECESSARY BY PROVIDER IN REGARDS TO THIS AGREEMENT.

USER/PROVIDER SIGNATURE	
User Legal Name Kern County Hospital Authority	Provider Name Hitachi Capital America Corp.
By	By
Print Name Russell E. Bigler	Print Name
Title Chairman, Board of Governors	Title
Date February 21, 2018	Date

REVIEWED ONLY
NOT APPROVED AS TO FORM

By 
Legal Services Department

Exhibit A

Equipment Description

<u>Manufacturer</u>	<u>Qty</u>	<u>Machine/Model</u>	<u>Equipment Description</u>	<u>Serial Number</u>
	1		(1) ADVIA Centaur XPT Immunoassay System (2) Dimension Vista 500 Chemistry System	

Location: Kern County Hospital Authority
1700 Mount Vernon Avenue
Bakersfield, CA 93306

Agreement No. 2914601

Schedule No. 001

CERTIFICATE OF AUTHORITY

I, Russell E. Bigler, do hereby certify: that I am a qualified and acting attesting Officer of Kern County Hospital Authority (the "Organization"); that the individuals whose names, titles, and signatures appear below are authorized to execute, on behalf of the Organization, an Agreement and all other supporting documentation, including, estoppel letters, notices of assignments and any amendments to any of the foregoing, in connection with the use of equipment; and, that the signatures appearing on the said documents, and below, are the signatures of the persons so identified.

Name	Title	Signature
Russell V. Judd	Chief Executive Officer	

IN WITNESS WHEREOF, I have set my hand this 21 day of February, 2018.

OFFICER:

Name: Russell E. Bigler

Title: Chairman, Board of Governors

HITACHI

Hitachi Capital America Corp.
7808 Creekridge Circle, Suite 250
Edina, MN 55439
877-996-0270

Invoice No: 25138.-99
Invoice Date: 2/16/2018

Agreement/Schedule No: 2914601/001

BILL TO:

Kern County Hospital Authority
Accounts Payable
1700 Mount Vernon Avenue
Bakersfield, CA 93306

Due Date: Due upon receipt
*PO No:

If incorrect, please indicate correction on the remittance below.

Description	Period	Late Charges	Amount	Tax*	Total
First Monthly Payment			\$8,382.63	\$0.00	\$8,382.63
Documentation/Processing Fee			\$400.00		\$400.00
Total Due:					\$8,782.63

*If tax exempt, short pay the tax and return a completed Exemption Certificate with your payment. Taxes will continue to be billed until Exemption Certificate is received.

*If applicable, provide a copy of the Purchase Order with your payment.

Return this portion with your check payable to:

Hitachi Capital America Corp.
7808 Creekridge Circle, Suite 250
Edina, MN 55439

Payments:	\$8,382.63
Taxes:	\$0.00
Other:	<u>\$400.00</u>
Total Due:	\$8,782.63

BILL TO:

Kern County Hospital Authority
Accounts Payable
1700 Mount Vernon Avenue
Bakersfield, CA 93306

Invoice No: 25138.-99
Invoice Date: 2/16/2018
Agreement/Schedule No: 2914601/001



Hitachi Capital America Corp.
7808 Creekridge Circle, Suite 250
Edina, MN 55439

**Authorization for
Automatic Payment Plan
under
Master Agreement No. 2914601**

Kern County Hospital Authority ("*User*") hereby authorizes and directs the *Provider* and the Bank named below to initiate entries to the checking or savings account designated below for the purposes of making payments due from the *User* to the *Provider* pursuant to this Master Agreement. *User* hereby represents and agrees that such checking or savings account is and will continue to be maintained primarily for business purposes. *User* further agrees that it will maintain at all times sufficient balances in such account to allow *Provider* and the Bank named below to charge such account for the charges due from the *User* under the Master Agreement referred to above and all Schedules delivered as part to such Master Agreement.

Kern County Hospital Authority
User Name

1700 Mount Vernon Avenue
Bakersfield, CA 93306
User Address

Bank Name City State Zip Phone Number

Checking Account Number Savings Account Number

ABA/Bank Routing Number (located between the symbols :000000000: on the bottom of your check)

Authorized Signator(s) and Title (please print)

User Signature

PLEASE ATTACH A VOIDED CHECK AND RETURN ALL ORIGINALS

FOR OFFICE USE ONLY

CCAN Number _____ Payment Due Date(s) _____



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

February 21, 2018

Subject: Proposed Agreement with Charter Communications Operating, LLC on behalf of its operating subsidiary Spectrum for the purchase of cable TV, phone, internet, and related services.

Recommended Action: Approve; Authorize Chairman to sign; Authorize Chief Executive Officer to Sign Service Orders Each Totaling an Amount Not to Exceed \$250,000

Summary:

Kern Medical requests your Board approve the Proposed Agreement with Charter Communications Operating, LLC on behalf of its operating subsidiary Spectrum for the purchase of cable TV, phone, internet, and related services. The agreement is tied to the Order Term or Service Period that will be established in each approved Service Order. Each Service Order will be governed under the terms and conditions of the proposed agreement.

Counsel is unable to approve the agreement, as to form, due to the limitation of liability to only the previous six months of Kern Medical's costs, early termination charges, late fees, and mandatory arbitration and waiver of jury trial.



SPECTRUM ENTERPRISE SERVICE AGREEMENT

The customer identified below ("Customer") hereby acknowledges and agrees to the Commercial Terms of Service ("Terms of Service") with respect to any service order(s) placed by Customer and accepted by Spectrum hereafter (each, a "Service Order"), and this Agreement constitute the "Service Agreement" by and between the Customer and Charter Communications Operating, LLC on behalf of those operating subsidiaries providing the Service(s) hereunder ("Spectrum"). This Service Agreement is executed and effective upon the latest date of signature set forth in the signature block below.

Spectrum Contact Information					
Spectrum Enterprise 12405 Powerscourt Drive St. Louis, MO 63131			Contact: Telephone: Facsimile:		
Customer Information					
Customer Name (Exact Legal Name): Kern County Hospital Authority					
Street Address: 1700 Mt. Vernon Ave.		Suite:	City: Bakersfield	State: CA	Zip Code: 93306
Customer's Main Tel. No.: 661-326-2000			Fax. No.: 661-326-2100		
Customer Contact Name: Russell V. Judd		Tel. No.: 661-326-2102		E-mail:	
Billing Address:		Suite:	City:	State:	Zip Code:
Billing Contact Name:		Tel. No.:		E-mail:	

Unless earlier terminated in accordance with the Terms of Service, the Service Agreement shall remain in effect until the expiration or termination of all Service Order(s) entered into under this Service Agreement.

Agreement

THIS SERVICE AGREEMENT HEREBY INCORPORATES THE TERMS OF SERVICE ATTACHED HERETO. BY EXECUTING THIS SERVICE AGREEMENT BELOW, CUSTOMER ACKNOWLEDGES THAT: (1) CUSTOMER ACCEPTS AND AGREES TO BE BOUND BY THE TERMS OF SERVICE, INCLUDING THE ARBITRATION SECTION THEREOF, WHICH PROVIDES THAT THE PARTIES DESIRE TO RESOLVE ANY CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING TO THE SERVICE AGREEMENT THROUGH ARBITRATION; AND (2) BY AGREEING TO ARBITRATION, CUSTOMER IS GIVING UP VARIOUS RIGHTS, INCLUDING THE RIGHT TO TRIAL BY JURY.

Customer	Charter Communications Operating, LLC
By:	By: Charter Communications, Inc. its Manager
Name (printed):	Name (printed):
Title:	Title:
Date:	Date:

REVIEWED ONLY
NOT APPROVED AS TO FORM

By 
Legal Services Department

COMMERCIAL TERMS OF SERVICE

These Commercial Terms of Service, including all Attachments, Service Orders and other documents identified hereunder, each of which are incorporated herein by reference (collectively, the "Service Agreement" or "Master Agreement") by and between Customer and Charter Communications Operating, LLC on behalf of those operating subsidiaries providing the Service(s) hereunder ("Spectrum") (collectively, the "Parties" or each individually a "Party") for the services specified (the "Services") in each respective service order (each a "Service Order"). The Attachments to these Commercial Terms of Service ("Attachments") further describe Spectrum's Services.

Customer should consult Spectrum's website <https://enterprise.spectrum.com/> to be sure Customer is aware of and remains in compliance with the Service Agreement, including all incorporated documents governing the services provided to the Customer ("Service" or "Services") by Spectrum. Customer's continued use of the Services shall be deemed acknowledgment that Customer has read and agreed to the provisions set forth in this Service Agreement.

Customer understands and agrees that certain Services may not be available in all Spectrum service areas and that upon entering into a Service Order with Customer, Spectrum, at its discretion, may utilize one or more third parties to deliver the Services (the latter, "Third Party Services"). The Third Party Services may be subject to additional terms and conditions.

GENERAL

1. **SERVICE AGREEMENT TERM.** This Service Agreement shall be effective upon the latest date of the signatures required hereto. This Service Agreement shall terminate upon the lawful termination of the final existing Service Order entered into under this Service Agreement.
2. **SERVICES.** Customer shall request Services hereunder by submitting orders in a manner required by Spectrum which may include orders placed via telephone, online or paper. Upon Spectrum's acceptance of a service order(s), as indicated either by Spectrum's written acceptance or by Spectrum's delivery of the Services, such service order(s) shall be deemed an "Order" (or Service Order) hereunder and shall be deemed incorporated into this Service Agreement.
3. **ORDER TERM.** "Order Term" (or "Service Period") is the time period starting on the date the Services are functional in all material respects and available for use (the "Turn-up Date"), and continuing for the number of months specified in the Service Order(s).

Unless otherwise set forth in an accepted Service Order, the initial (or minimum) term for Service is one (1) month from the Turn-up Date and the minimum charge is the established MRC (defined below) for one (1) month.

Upon expiration of the initial Order Term, the applicable Service Order shall automatically renew for a successive one-month term unless either (i) a new Service Order is executed by the Parties prior to the end of the initial Order Term, or (ii) Spectrum or Customer elects not to renew the Order Term by written notice provided to the other at least 30 days in advance of the expiration of the then-current Order Term.

4. **SERVICE LOCATION.** Spectrum shall provide the Services to Customer at the Service address ("Service Location").
5. **AVAILABILITY OF FACILITIES.** Services and associated products, facilities, equipment, features and functions will be available in accordance with the Service Agreement, where technically and operationally feasible. Spectrum's obligation to furnish Services is dependent upon its ability to secure and retain, without unreasonable expense, suitable facilities and rights for the construction and maintenance of the necessary facilities, pole lines, circuits and equipment and to provide for the installation of those facilities required incident to the furnishing and maintenance of that Service.

Spectrum may limit communications, refuse to provide Services or discontinue Services when necessary because of (i) the lack of transmission medium, transmission capacity or any other facilities or equipment, (ii) the lack of available services from or interconnection with the services or facilities of other providers, (iii) any cause beyond Spectrum's

control, (iv) any order, law, rule, regulation or ordinance that in any way restricts the provision or operation of the Services or (v) in the event of any prohibited use, as described herein or in any Attachment.

6. SERVICE LOCATION ACCESS AND INSTALLATION.

- (a) Access. Spectrum will require reasonable access to each Service Location as necessary for Spectrum to review, install, inspect, maintain or repair any Spectrum-provided equipment ("Equipment") necessary to provide the Services.
- (b) If Customer owns or controls the Service Location(s), Customer grants Spectrum permission to enter the Service Location(s) for the exercise of such right. If a Service Location is not owned and/or controlled by Customer, Customer will obtain, with Spectrum's reasonable assistance, appropriate right of access. If such right of access for Spectrum is not obtained by either Party, then Spectrum's obligations with respect to such Service Location shall terminate and be considered null and void. Customer shall perform interconnection of the Services and Spectrum Equipment with any Customer or End User equipment, unless otherwise set forth in an Attachment or agreed in writing between the Parties.
- (c) Installation Review. Spectrum may perform an installation review of each Service Location prior to installation of the Services. Upon request, Customer shall provide Spectrum with accurate site and/or physical network diagrams or maps of a Service Location, including electrical and other utility service maps, prior to the installation review.

If Spectrum determines that safe installation and/or activation of one or more of the Services will have negative consequences to Spectrum's personnel or communications network ("Network") or otherwise cause technical difficulties to Spectrum or its customers, Spectrum may terminate the respective Service(s) effective upon written notice to Customer or may require Customer to correct the situation before proceeding with installation or activation of the Services.

- (d) Subsequent Interference. If during the initial or any renewal Order Term, (i) proper operation of Equipment or provision of a Service is no longer unhindered or possible as a result of interference or obstruction due to any cause other than Spectrum or (ii) such interference/obstruction or its cause may endanger, hinder, harm or injure Spectrum's personnel, Equipment, or Network and/or cause technical difficulties to Spectrum or its customers, Spectrum may terminate the affected Service Order(s) without liability upon written notice to Customer.
- (e) Site Preparation. Customer shall be responsible for necessary preparations at its location(s) for delivery and installation of Equipment and the installation and ongoing provision of Services, including the relocation of Customer's equipment, furniture and furnishings as necessary to access the Equipment or Services. Upon request, Customer shall provide any available electrical, utility service, and/or general physical network diagrams or maps prior to installation or maintenance work to be undertaken by Spectrum.

Customer shall not charge Spectrum, and shall ensure that Spectrum does not incur, any fees or expenses whatsoever in connection with Customer's provision of space, power, or access as described herein, or otherwise in connection with Customer's performance of its obligations pursuant to this section; and any such fees or expenses charged by any other end user accessing or using the Services ("End User") shall be borne solely by Customer.

- (f) Installation. Spectrum will schedule one or more installation visits with Customer. Customer's authorized representative must be present during installation.

If during the course of installation Spectrum determines additional work is necessary to enable Spectrum to deliver the Services to the Service Location, Spectrum will notify Customer of any one time charges ("OTC"). If Customer does not agree to pay such OTC by executing a revised Service Order within five business days of receiving the same, Customer and Spectrum shall each have the right to terminate the applicable Service Order. OTC may include construction costs, additional Service installation charge(s), repair, replacement, and/or any other nonrecurring costs or charges.

Customer shall connect Customer's computer or network to applicable Equipment to enable access to the Services.

Spectrum shall be responsible for reasonable restoration efforts necessary to address any displacement resulting from excavation and for those damages directly caused by Spectrum's faulty workmanship or installation of the Service, provided that the boring of holes or insertion of fasteners through the surface of walls for attachment of peripheral equipment will not be deemed damages but rather part of normal workmanship.

At the Customer's request, Spectrum may perform installation or maintenance on weekends or times other than during normal business hours; provided, however, Customer may be assessed reasonable, additional OTC based on Spectrum's actually incurred labor, material or other costs for such non-routine installation or maintenance.

If the installation and maintenance of Service are requested at locations which are or may become, in Spectrum's sole opinion, **prior to starting work**, hazardous or dangerous to Spectrum's employees or the public or property, Spectrum may refuse to install and maintain such Service, and, if such Service is furnished, may require the Customer to install and maintain such Services. In the event of such hazardous or dangerous conditions, Customer shall defend, indemnify, and hold Spectrum harmless from any claims, loss, damage, or other liability arising from the installation or maintenance of such Service.

Spectrum shall use reasonable efforts to make Services available by the estimated service date set forth in the Service Order. Spectrum shall not be liable for any damages whatsoever resulting from delays in meeting the estimated service date due to delays resulting from normal installation procedures or events beyond Spectrum's control.

Examples of delays of installation include, without limitation, delays in obtaining necessary regulatory approvals for construction, delays in obtaining right-of-way approvals, delays in actual construction work being done by Spectrum's vendor(s), and any delays due to any other provider(s) where Spectrum is relying upon such provider(s) to meet such estimated due date which is beyond Spectrum's control.

In the event that Spectrum is unable to install the Service in accordance with the agreed upon schedule as a result of

- (i) Customer's (or any End User's) failure to deliver any required materials, support or information to Spectrum; (ii) Customer's (or any End User's) failure to provide access to a Service Location; or (iii) Spectrum not being able to obtain access to equipment or software at the Service Location as necessary for installation of the Service, then Customer shall pay Spectrum a OTC at Spectrum's then prevailing rates for any installation trip made by Spectrum and an additional OTC for each subsequent trip necessary to perform the Service installation.
- (g) Ongoing Visits. Spectrum will need periodic access for inspection, operation and maintenance of the Network. Except in emergency situations, Spectrum will obtain approval from Customer (not to be unreasonably withheld or delayed) before entering the Service Location. At Spectrum's request, Customer, or a representative designated by Customer, will accompany Spectrum's employees or agents into any unoccupied unit for any purpose relating to the Equipment.

7. EQUIPMENT AND MATERIALS.

- (a) Responsibilities and Safeguards. Except as otherwise provided in this Service Agreement or any Service Order(s), neither Party shall be responsible for the maintenance or repair of cable, electronics, structures, equipment or materials owned by the other Party; provided, however, that subject to the indemnification limitations set forth in this Service Agreement, each Party shall be responsible to the other for any physical damage or harm such Party causes to the other Party's personal or real property through the negligence or willful misconduct of such damage causing Party. Customer shall:

- i. Safeguard Equipment against others;
- ii. Not add other equipment nor move, modify, disturb, alter, remove, nor otherwise tamper with any portion of the Equipment;
- iii. Not hire nor permit anyone other than personnel authorized by Spectrum, acting in their official capacity, to perform any work on Equipment; and
- iv. Not move nor relocate Equipment to another location or use it at an address other than the Service location without the prior written consent of Spectrum.

Any unauthorized connection or other tampering with the Services or Equipment shall be cause for immediate suspension of Services, Termination of this Service Agreement and/or legal action, and Spectrum shall be entitled to recover damages, including the value of any Services and/or Equipment obtained in violation of this Service Agreement, in addition to reasonable collection costs including reasonable attorney fees. Should any antenna, or signal amplification system for use in connection with communication equipment hereafter be installed at the Service Location which interferes with the Services, Spectrum shall not be obligated to distribute a signal to the Service Location better than the highest quality which can be furnished without additional cost to Spectrum as a result of such interference, until such time as the interference is eliminated.

Customer shall be solely responsible for securing and maintaining any and all Customer equipment, including, but not limited to, Private Branch Exchanges (including other non-Spectrum switches, collectively, "PBXs") and Trunk Equipment (as defined in Attachment B), where applicable.

- (b) Customer Security Responsibilities. Customer shall be responsible for the implementation of reasonable security measures and procedures with respect to use of and access to the Service Location, Service and/or Equipment. Spectrum may suspend the Services upon learning of a breach of security and will attempt to contact Customer in advance, if practicable.
- (c) Customer shall ensure that all Equipment at Customer's and End Users' Service Locations (i) remains free and clear of all liens and encumbrances, (ii) is not modified or altered by any person or entity other than Spectrum, (iii) is not subject to accident, misuse, abnormal wear and tear, neglect, or mistreatment, (iv) is not damaged in connection with any equipment or software with which the Equipment is used and not supplied by Spectrum, (v) is not damaged by liquids, and (vi) is not used with any software not supplied by Spectrum for use with such Equipment.
- (d) Ownership. Notwithstanding any other provision contained in this Service Agreement to the contrary, all Equipment and materials installed or provided by Spectrum are and shall always remain the property of Spectrum, shall not become a fixture to the Service Location, and must be returned to Spectrum at any time Services are disconnected in the condition in which they were received subject to ordinary wear and tear. Customer will not sell, lease, assign nor encumber any Equipment. Customer shall not obtain or acquire title to, interest or right (including intellectual property rights) in the Service or Equipment other than to the limited extent of use rights expressly granted under this Service Agreement.

Customer is solely responsible for securing any Customer-owned or provided CPE (i.e., any customer premises equipment including without limitation PBXs), and shall be solely responsible for any charges associated with such CPE or Third Party Services (including those associated with PBXs, calling card(s) and/or access numbers, regardless of whether such use (i) is authorized by Customer management or (ii) involves fraudulent activity).

- (e) Equipment Return, Retrieval, Repair and Replacement. Immediately upon termination of this Service Agreement and/or Service Order(s) ("Termination"), at the discretion of Spectrum, Customer shall return or allow Spectrum to retrieve the Equipment. Failure of Customer to return or allow Spectrum to retrieve the Equipment within 10 days after Services are terminated will result in a charge to Customer's account equal to either Spectrum's applicable unreturned equipment charge or the retail cost of replacement of the unreturned Equipment. If applicable, Customer shall pay for the repair or replacement of any damaged Equipment, except such repairs or replacements as may be necessary due to normal and ordinary wear and tear or material/workmanship defects, together with any costs incurred by Spectrum in obtaining or attempting to regain possession of such Equipment, including reasonable attorney fees.

8. STANDARD PAYMENT TERMS. Customer shall pay recurring and non-recurring charges/fees for the Services in the amount specified on the Service Order and other applicable charges as described in this Service Agreement.

- (a) Charges. Monthly recurring charges ("MRCs") specific to the Service(s) provided by Spectrum and Third Party Services and charges for non-use-based Services, are due prior to the month the Service is delivered. Customer may be charged an OTC for construction, Service installation charge(s), repair, replacement, and/or any other nonrecurring costs or charges.

Usage-based charges will be invoiced typically within one-month of delivery of the respective use-based Service (e.g., pay-per view charges). Certain MRCs are subject to increases attributable to programming, license, copyright, retransmission and/or other similar costs imposed upon Spectrum. Spectrum shall provide at least 30 days prior notice to Customer of any increase in the MRCs.

Spectrum will not defer any charges while Customer awaits reimbursement, subsidy, discount or credit from any third party or government entity, and Customer shall have the obligation to pay all charges regardless of the status of any such reimbursement, subsidy, discount or credit.

- (b) Taxes, Surcharges, and Fees. MRCs and OTCs do not include taxes, fees or surcharges that Customer must pay, including but not limited to applicable sales, use, property, excise or other taxes, franchise fees, and governmental charges (excluding income taxes) arising under this Service Agreement, in addition to any surcharges that may be imposed as may be permitted under and consistent with applicable law. If a Customer wishes to claim tax-exempt status, then Customer must supply Spectrum with a copy of Customer's tax exemption document within 15 days of installation of applicable Services. If Customer supplies such documentation after that time, Spectrum will apply it to Customer's account on a prospective basis, allowing Spectrum at least 30 days for processing. To the extent such

documentation is held invalid for any reason, Customer agrees to reimburse Spectrum for any tax or fee liability including without limitation related interest and penalties arising from such invalid documentation.

Tax-exempt status shall not relieve Customer of its obligation to pay applicable franchise fees or other non-tax fees and surcharges. Spectrum reserves the right, from time to time, to change the surcharges for Services under this Service Agreement to reflect incurred costs, charges, or obligations imposed on Spectrum to the extent permitted, required, or otherwise not prohibited under applicable law (e.g., universal service fund ("USF") charges, etc.).

Furthermore, Spectrum shall have the right to recover from Customer the amount of any state or local fees or taxes arising as a result of this Service Agreement, which are imposed on Spectrum or its services, or otherwise assessed or calculated based on Spectrum's receipts from Customer.

To the extent that a dispute arises under this Service Agreement as to which Party to this Service Agreement is liable for fees or taxes based on such Party's net income, Customer shall bear the burden of proof in showing that the fee or tax is imposed upon Spectrum's net income. This burden may be satisfied by Customer producing written documentation from the jurisdiction imposing the fee or tax indicating that the fee or tax is based on Spectrum's net income.

Customer acknowledges that currently, and from time to time, there is uncertainty about the regulatory classification of some of the Services Spectrum provides and, consequently, uncertainty about what fees, taxes and surcharges are due from Spectrum and/or its customers. Customer agrees that Spectrum has the right to determine, in its sole discretion, what fees, taxes and surcharges are due and to collect and remit them to the relevant governmental authorities, and/or to pay and pass them through to Customer.

(c) Change Requests. Any charges associated with Service and Equipment installations, changes, or additions requested by Customer subsequent to executing a Service Order for the applicable Service Location are the sole financial responsibility of Customer. Spectrum shall notify Customer of any additional OTCs and/or adjustments to MRCs associated with or applicable to such Customer change requests prior to making any such change. Customer's failure to accept such additional charges within 5 business days of receiving such notice shall be deemed a rejection by Customer, and Spectrum shall not be liable to perform any work giving rise to such charges. For accepted charges, Customer shall be assessed such additional OTCs and/or adjustments of the MRCs either (i) in advance of implementation of the change request or (ii) beginning on Customer's next and/or subsequent invoice(s).

(d) Site Visits and Repairs. If Customer's misuse, abuse or modification of the Services, Equipment or Network results in a visit to a Service Location for inspection, correction or repair, Spectrum may charge Customer a site visit fee as well as charges for any resulting Equipment or Network repair or replacement, which may be necessary.

If Spectrum responds to a service call initiated by Customer, and Spectrum reasonably determines that the cause of such service call is not due to a problem arising from Spectrum's Network, but rather is due to Customer-provided or Customer-owned equipment or facilities, or a third party not under Charter's control or direction, Customer must compensate Spectrum for the service call at Spectrum's then-prevailing commercial rates.

9. Invoicing Disputes. Customer must provide written notice to Spectrum of any disputed charges within 90 days of the invoice date on which the disputed charges appear for Customer to receive any credit that may be due. Customer must have and present a reasonable basis for disputing any amount charged. Customer shall not be entitled to dispute service charges nor request credits more than 90 days from the payment date on invoice for such Service.

(a) Late Fees. Undisputed amounts not paid within 30 days of the invoice date shall be past due and subject to a late fee of 1.5% per month or the maximum amount permitted by law.

(b) Non-payment. If Services are suspended due to late payment, Spectrum may require that Customer pay all past due charges, a reconnect fee, and one or more MRCs in advance before reconnecting Services.

(c) Collection Fees. Spectrum may charge a reasonable service fee for all returned checks and bank card, credit card or other charge card charge-backs. Customer shall be responsible for all **reasonable** expenses, including reasonable attorney fees and collection costs, incurred by Spectrum in collecting any unpaid amounts due under this Service Agreement.

10. Customer shall also be responsible for all costs of collection of overdue amounts incurred by Spectrum.
11. If Spectrum fails to present a charge in a timely manner, such failure shall not constitute a waiver of the charges for the Services to which it relates, and Customer shall be responsible for and pay such charges when invoiced in accordance with these payment terms.
- (a) Spectrum shall have the right to verify Customer's credit standing at any time. Additionally, Spectrum may at any time require Customer to make a deposit and/or advance payment. The deposit requested will be in cash, the equivalent of cash, or a bank, credit card or account debit authorization and does not relieve Customer of the responsibility for the prompt payment of invoices on presentation. Spectrum may deduct amounts from the deposit, bill any bank or credit card provided, or utilize any other means of payment available to Spectrum, for past due amounts.
- (b) Bundled Pricing. If Customer has selected a bundled offer, meaning a discounted MRC for receiving more than one Spectrum Service ("Bundle"), then the following conditions shall apply:
- i. In consideration for Customer's purchase of all Services in the Bundle, and only with respect to that period of time during which Customer continues to purchase the specific Services in such Bundle and during which such Bundle is in effect, the correlating discount to the Services in such Bundle, ordered pursuant to the Spectrum program governing such Bundle, will be reflected in the MRC for the respective Services.
- ii. Upon discontinuation or termination by Customer of any Service component of the applicable Bundle, the pricing for the remaining Service(s) shall revert to Spectrum's unbundled pricing for such Service(s) in effect at the time. Termination liability applicable to the Services under this Service Agreement shall otherwise remain unchanged.
12. **ADMINISTRATIVE WEB SITE.** Spectrum may, at its sole option, make one or more administrative web sites available to Customer in connection with Customer's use of the Services (each an "Administrative Web Site"). Spectrum may furnish Customer with one or more user identifications and/or passwords for use on the Administrative Web Site. Customer shall be responsible for the confidentiality and use of such user identifications and/or passwords and shall immediately notify Spectrum if there has been an unauthorized release, use or other compromise of any user identification or password. In addition, Customer agrees that its authorized users shall keep confidential and not distribute any information or other materials made available by the Administrative Web Site. Customer shall be solely responsible for all use of the Administrative Web Site, and Spectrum shall only be entitled to rely on all Customer uses of and submission to the Administrative Web Site as authorized by Customer. Spectrum shall not be liable for any loss, cost, expense or other liability arising out of any Customer use of the Administrative Web Site. Spectrum may change or discontinue the Administrative Web Site, or Customer's right to use the Administrative Web Site, at any time. Additional terms and policies may apply to Customer's use of the Administrative Web Site. These terms and policies will be posted on the site.
13. **NO THIRD PARTY HARDWARE OR SOFTWARE SUPPORT.** Customer is responsible for the installation, repair and use of Customer-supplied third party hardware and/or software, including without limitation any necessary for the use of third party services. Spectrum does not support third party hardware or software used in conjunction with third party services or supplied by Customer. Any questions concerning third party hardware or software should be directed to the provider of that product. Spectrum assumes no liability or responsibility for the installation, maintenance, compatibility or performance of third party software, or any Customer-supplied hardware or software with the Services. If such third party equipment or software impairs the Services, Customer shall remain liable for payments as agreed (if any) without recourse for credit or prorated refund for the period of impairment. Spectrum has no responsibility to resolve the difficulties caused by such third party equipment or software. If, at Customer's request, Spectrum should attempt to resolve difficulties caused by such third party equipment or software, such efforts shall be performed at Spectrum's discretion and at then-current commercial rates and terms.
14. **CUSTOMER USE**
- (a) **NO RESELLING:** Customer shall not re-sell or re-distribute (whether for a fee or otherwise) access to the Service(s) or system capacity, or any part thereof, in any manner other than for Customer's internal business without the express prior written consent of Spectrum.
- (b) **NO ILLEGAL PURPOSE/UNAUTHORIZED ACCESS** Customer shall not use or permit third parties to use the Service(s), including the Equipment and software provided by Spectrum, for any illegal purpose, or to achieve unauthorized access to any computer systems, software, data, or other copyright or patent protected material.

- (c) **NO INTERFERENCE.** Customer shall not interfere with other customers' use of Equipment or Services or disrupt the Spectrum Network, backbone, nodes or other Services. Violation of any part of this Section is grounds for immediate Termination of this Service Agreement and/or all Service Orders in addition to any other rights or remedies Spectrum may have.
- (d) **APPLICABLE LAWS.** With respect to Customer's use of the Service (including the transmission or use of any content via the Service), Customer shall comply with all applicable laws and regulations in addition to the terms of this Service Agreement. Spectrum shall have the right to audit Customer's use of the Service remotely or otherwise, to ensure compliance with this Service Agreement.
- (e) **ACCEPTABLE USE.** Customer shall not use, or allow the Services to be used, in any manner that would violate the applicable Spectrum Acceptable Use Policies or that would cause, or be likely to cause, Spectrum to qualify as a "Covered 911 Service Provider" as defined in 47 C.F.R. §12.4 or any successor provision of the rules of the Federal Communication Commission. For avoidance of doubt, Customer and Spectrum agree that any failure to satisfy the covenants set forth in the preceding sentence shall constitute a material breach of the Master Agreement.

15. GENERAL CUSTOMER REPRESENTATIONS AND OBLIGATIONS. Customer represents to Spectrum (a) that Customer has the authority to execute, deliver and carry out the terms of this Service Agreement and associated Service Orders and (b) that its End Users and any person who accesses any Services through Customer's equipment at the Service Location, will use the Service, Network and/or Network facilities in an appropriate and legal manner, and will be subject to the terms of this Service Agreement. Customer is responsible for ensuring its End Users comply with the terms of this Service Agreement. Customer shall be responsible for all access to and use of the Service by means of Customer's equipment, whether or not Customer has knowledge of or authorizes such access or use. Customer shall be solely liable and responsible for all charges incurred and all conduct through either authorized or unauthorized use of the Service.

As between the parties, Customer is solely responsible for (a) all use (whether or not authorized) of the Service by Customer, any End User or any unauthorized person or entity, which use shall be deemed Customer's use for purposes of this Service Agreement, (b) all content that is viewed, stored or transmitted via the Service, as applicable, and (c) all third-party charges incurred for merchandise and services accessed via the Service, if any. Customer agrees to conform its equipment and software, and to ensure that each End User conforms its equipment and software, to the technical specifications for the Service provided by Spectrum from time to time.

16. PERFORMANCE. Spectrum will use commercially reasonable efforts in keeping with normal industry standards to ensure that the Service is available to Customer 24 hours per day, seven days per week. It is possible, however, that there will be interruptions of Service. The Service may be unavailable from time-to-time either for scheduled or unscheduled maintenance, technical difficulties, or for other reasons beyond Spectrum's reasonable control. Temporary service interruptions/outages for such reasons, as well as service interruptions/outages caused by Customer, its agents and employees, or by a Force Majeure Event, shall not constitute a failure by Spectrum to perform its obligations under this Service Agreement, and Customer will not hold Spectrum at fault for loss of Customer revenue or lost employee productivity due to Service outages.

17. MONITORING, EQUIPMENT UPGRADES AND MODIFICATIONS. Spectrum has the right, but not the obligation, to upgrade, modify and enhance the Spectrum network (including Equipment and related firmware) and the Service and take any action that Spectrum deems appropriate to protect and/or improve the Service and its facilities.

Spectrum shall have the right, but not the obligation, to monitor and record oral communications with Customer regarding Customer's account or Services for the purpose of service quality assurance.

18. DEFAULT, SUSPENSION OF SERVICE, AND TERMINATION. No express or implied waiver by Spectrum of any event of noncompliance shall in any way be a waiver of any further subsequent event of noncompliance. Nothing herein, including termination of this Service Agreement or any Service Order(s), shall relieve Customer of its obligation to pay Spectrum all amounts due.

- (a) **Default by Customer.** Customer shall be in default under this Service Agreement if Customer does one or more of the following things (each individually to be considered a separate event of default) and Customer fails to correct each such noncompliance within 30 days of receipt of written notice ("Default"):
 - i. Customer is more than 30 days past due with respect to any payment required hereunder;
 - ii. Customer otherwise has failed to comply with the terms of this Service Agreement.

(b) Termination for Convenience. Notwithstanding any other term or provision in this Service Agreement, Customer shall have the right to terminate a Service Order, or this Service Agreement in whole or part, at any time upon thirty (30) days prior written notice to Spectrum, and subject to payment of all outstanding amounts due, any applicable Termination Charges, and the return of any Spectrum Equipment. In the event Customer cancels a Service Order prior to Spectrum actually delivering Services, and in the event that Spectrum incurs construction or installation costs or charges prior to such cancellation, then Customer shall reimburse Spectrum for such charges actually incurred.

(c) Spectrum's Right to Suspend, Terminate and apply a Termination Charge. If Customer is in Default, Spectrum shall have the right, at its option, without prior notice, and in addition to any other rights of Spectrum expressly set forth in this Service Agreement and any other remedies it may have under applicable law to:

- i. Immediately suspend Services to Customer until such time as the underlying noncompliance has been corrected without affecting Customer's on-going obligation to pay Spectrum any amounts due under this Service Agreement (e.g., the MRCs) as if such suspension of Services had not taken place;
- ii. Terminate the Services, this Service Agreement or the applicable Service Order(s).

If Termination is due to Customer's Default or is elected/done by Customer for convenience, Customer must pay Spectrum a Termination charge (a "Termination Charge"), which the parties recognize as liquidated damages. This Termination Charge shall be equal to 100% of the unpaid balance of the MRCs that would have been due throughout the applicable Service Period plus 100% of (1) the outstanding balance of any and all OTCs plus (2) any and all previously waived OTCs.

iii. The provisions of sections 8-11, 14, 20-21, 23-26 and the Attachments shall survive the termination or expiration of the Service Agreement.

iv. Pursuant to applicable law, Customer requires budget appropriations language with regard to each Service Order:

BUDGET APPROPRIATIONS. For the purposes of this Service Order only, the Parties have agreed that if Government funding used by the Customer to purchase the Services hereunder is eliminated in its entirety due to no fault of Customer, Customer shall have the right to terminate the Services previously funded without incurring early termination charges provided that: (a) Customer provides Spectrum with at least thirty (30) days prior written notice of the loss of funding and its intention to terminate; (b) Customer has paid Spectrum all amounts due and owing at the time of such termination for all Services provided by Spectrum pursuant to the Commercial Terms of Service; and (c) Customer pays to Spectrum, upon receipt of invoice, all construction expenses and other non-recurring charges associated with the Services provided at the terminated location, and any costs and expenses incurred by Spectrum to terminate the terminated Service, including, without limitation, any applicable third-party termination liability charges.

(d) Default by Spectrum. Spectrum shall be in default under this Service Agreement if Spectrum fails to comply with the terms of this Service Agreement and/or any or all of the applicable Service Order(s), and Spectrum fails to remedy each such noncompliance or occurrence within 30 days of receipt of written notice from Customer describing in reasonable detail the nature, scope and extent of the default or noncompliance ("Spectrum Default").

(e) Customer's Right to Terminate and Termination Charge.

- i. In the event Customer wishes to terminate a Service without cause, Customer shall be liable for the same Termination Charges as described in Section 18(b) above.
- ii. Customer shall have the right, at its option and in addition to any other remedies it may have, to terminate any applicable Service Order(s), if the underlying event of Spectrum Default is limited to Services provided under the applicable Service Order(s), or to terminate this Service Agreement, if the underlying event of such Spectrum Default is not so limited.
- iii. If Termination is due to a Spectrum Default, Spectrum shall reimburse Customer for any pre-paid, unused MRCs attributable to such terminated Service Order(s).

19. LIMITATION OF LIABILITY. PLEASE READ THIS SECTION CAREFULLY, IT CONTAINS DISCLAIMERS OF WARRANTIES AND LIMITATIONS OF LIABILITY.

DISCLAIMER OF WARRANTY. CUSTOMER ASSUMES TOTAL RESPONSIBILITY FOR USE OF THE SERVICE AND USES THE SAME AT ITS OWN RISK.

- (a) SPECTRUM EXERCISES NO CONTROL OVER AND HAS NO RESPONSIBILITY WHATSOEVER FOR THE CONTENT TRANSMITTED OR ACCESSIBLE THROUGH THE SERVICE AND SPECTRUM EXPRESSLY DISCLAIMS ANY RESPONSIBILITY FOR SUCH CONTENT.

EXCEPT AS SPECIFICALLY SET FORTH IN THIS SERVICE AGREEMENT, THE SERVICE, EQUIPMENT AND ANY RELATED MATERIALS ARE PROVIDED "AS IS, WITH ALL FAULTS," WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NON-INFRINGEMENT, SYSTEM INTEGRATION, DATA ACCURACY, QUIET ENJOYMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

NO ADVICE OR INFORMATION GIVEN BY SPECTRUM, ITS AFFILIATES OR ITS CONTRACTORS OR THEIR RESPECTIVE EMPLOYEES SHALL CREATE ANY WARRANTY.

SPECTRUM DOES NOT REPRESENT OR WARRANT THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS, PREVENT UNAUTHORIZED ACCESS BY THIRD PARTIES, WILL BE UNINTERRUPTED, SECURE, ERROR FREE, WITHOUT DEGRADATION OF VOICE QUALITY OR WITHOUT LOSS OF CONTENT, DATA OR INFORMATION, OR THAT ANY MINIMUM TRANSMISSION SPEED IS GUARANTEED AT ANY TIME.

EXCEPT AS SET FORTH IN THE SERVICE AGREEMENT, SPECTRUM DOES NOT WARRANT THAT ANY SERVICE OR EQUIPMENT PROVIDED BY SPECTRUM WILL PERFORM AT A PARTICULAR SPEED, BANDWIDTH OR THROUGHPUT RATE.

IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT TRANSMISSIONS OVER THE SERVICE MAY NOT BE SECURE.

CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT ANY DATA, MATERIAL OR TRAFFIC OF ANY KIND WHATSOEVER CARRIED, UPLOADED, DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT CUSTOMER'S OWN DISCRETION AND RISK AND THAT CUSTOMER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO CUSTOMER'S OR ANY END USER'S CPE (WHETHER COMPUTER SYSTEM OR OTHER EQUIPMENT) OR LOSS OF SUCH DATA, MATERIAL OR TRAFFIC DURING, OR RESULTING FROM, CUSTOMER'S OR ANY END USER'S USE OF THE SERVICE, INCLUDING, WITHOUT LIMITATION, VIA SENDING OR RECEIVING, UPLOADING OR DOWNLOADING, OR OTHER TRANSMISSION OF SUCH DATA, MATERIAL OR TRAFFIC.

IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT SPECTRUM'S THIRD PARTY SERVICE PROVIDERS DO NOT MAKE ANY WARRANTIES TO CUSTOMER UNDER THIS SERVICE AGREEMENT, AND SPECTRUM DOES NOT MAKE ANY WARRANTIES ON BEHALF OF SUCH SERVICE PROVIDERS UNDER THIS SERVICE AGREEMENT, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, TITLE, FITNESS FOR A PARTICULAR PURPOSE, SYSTEM INTEGRATION, DATA ACCURACY OR QUIET ENJOYMENT.

- (b) Limited Warranty. At all times during the Service Period, Spectrum warrants that it will use commercially reasonable efforts in keeping with industry standards to cause the Services to be available to Customer.

THE FOREGOING LIMITED WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL EXPRESS AND IMPLIED WARRANTIES WHATSOEVER.

WITHOUT LIMITING ANY EXPRESS PROVISIONS OF THIS SERVICE AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL RELIANCE OR PUNITIVE DAMAGES (INCLUDING LOST BUSINESS, REVENUE, PROFITS, OR GOODWILL) ARISING IN CONNECTION WITH THIS SERVICE AGREEMENT OR THE PROVISION OF SERVICES, INCLUDING ANY SERVICE IMPLEMENTATION DELAYS AND/OR FAILURES, UNDER ANY THEORY OF TORT, CONTRACT, WARRANTY, STRICT LIABILITY OR NEGLIGENCE, EVEN IF THE PARTY HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO ANY OF CUSTOMER'S PAYMENT **OBLIGATIONS** OR **THE** INDEMNIFICATION OBLIGATIONS UNDER THIS SERVICE AGREEMENT. SPECTRUM'S MAXIMUM LIABILITY TO CUSTOMER WITH

REGARD TO ANY SERVICE SHALL NOT EXCEED THE AMOUNT, EXCLUDING OTCS, PAID OR PAYABLE BY CUSTOMER TO SPECTRUM FOR THE APPLICABLE SERVICE IN THE **SIX** MONTHS IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO THE CLAIM.

THE FOREGOING LIMITATIONS APPLIES TO ALL CAUSES OF ACTIONS AND CLAIMS, INCLUDING BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATION AND OTHER TORTS.

SPECTRUM SHALL NOT BE RESPONSIBLE FOR ANY LOSSES OR DAMAGES ARISING AS A RESULT OF THE UNAVAILABILITY OF THE SERVICE, INCLUDING THE INABILITY TO REACH 911 OR ANY OTHER EMERGENCY SERVICES, THE INABILITY TO CONTACT A SECURITY SYSTEM OR REMOTE MEDICAL OR OTHER MONITORING SERVICE PROVIDER OR ANY FAILURE OR FAULT RELATING TO CUSTOMER-PROVIDED EQUIPMENT, FACILITIES OR SERVICES.

Any warranty claim by Customer must be made within 90 days after the applicable Services have been performed. Spectrum's sole obligation and Customer's sole remedy, with respect to any breach of the limited warranty set forth herein, shall be a prorated refund of the fees paid by Customer based on the period of time when the Services are out of compliance with this limited warranty provision.

- (c) Content. Any content that Customer may access or transmit through any Service is provided by independent content providers, over which Spectrum does not exercise and disclaims any control. Spectrum neither previews content nor exercises editorial control; does not endorse any opinions or information accessed through any Service; and assumes no responsibility for content. Spectrum specifically disclaims any responsibility for the accuracy or quality of the information obtained using the Service. Such content or programs may include programs or content of an infringing, abusive, profane or sexually offensive nature. Customer and its authorized users accessing other parties' content through Customer's facilities do so at Customer's own risk, and Spectrum assumes no liability whatsoever for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to such content.
- (d) Damage, Loss or Destruction of Software Files and/or Data. Customer uses the Services and Equipment supplied by Spectrum at its sole risk. Spectrum does not manufacture the Equipment, and the Services and Equipment are provided on an "as is, with all faults basis" without warranties of any kind. Spectrum assumes no responsibility whatsoever for any damage to or loss or destruction of any of Customer's hardware, software, files, data or peripherals which may result from Customer's use of any Service. Spectrum does not warrant that data or files sent by or to Customer will be transmitted in uncorrupted form or within a reasonable period of time.
- (e) Unauthorized Access. If Customer chooses to run or offer access to applications from its equipment that permits others to gain access through the Network, Customer must take appropriate security measures. Failing to do so may cause immediate Termination of Customer's Service by Spectrum without liability for Spectrum. Spectrum is not responsible for and assumes no liability for any damages resulting from the use of such applications, and Customer shall defend, hold harmless, and indemnify the Spectrum Indemnified Parties (defined hereafter) from and against any claims, losses, or damages arising from such use. Spectrum is not responsible and assumes no liability for losses, claims, damages, expenses, liability, or costs resulting from others accessing Customer's computers, its internal network and/or the Network through Customer's equipment.
- (f) Force Majeure Event. Neither Party shall be liable to the other for any delay, inconvenience, loss, liability or damage resulting from any failure or interruption of Services, directly or indirectly caused by circumstances beyond such Party's control, including but not limited to denial of use of poles or other facilities of a utility company, labor disputes, acts of war or terrorism, criminal, illegal or unlawful acts, natural causes, mechanical or power failures, or any order, law or ordinance in any way restricting the operation of the Services. Changes in economic, business or competitive conditions shall not be considered a Force Majeure Event.

20. INDEMNIFICATION. In addition to its specific indemnification responsibilities set forth elsewhere in this Service Agreement and as permissible under applicable law, Customer at its own expense, shall indemnify, defend and hold harmless Spectrum and its parents, directors, employees, representatives, officers and agents, (the "Indemnified Parties") against any and all claims, liabilities, lawsuits, damages, losses, judgments, costs, fees and expenses incurred by Spectrum Indemnified Parties, including reasonable attorney fees and court costs incurred by Spectrum Indemnified Parties under this Service Agreement, to the full extent that such arise from:

- (a) Customer's misrepresentation with regard to or noncompliance with the terms of this Service Agreement and any or all Service Orders,

- (b) Customer's failure to comply with any applicable law, order, rule, regulation or ordinance,
- (c) Customer's negligence or willful misconduct, and/or
- (d) any fees, fines or penalties incurred by Spectrum as a result of Customer's violation of the 10% Rule as set forth in any Attachment(s).

Spectrum Indemnified Parties shall have the right but not the obligation to participate in the defense of the claim at Customer's cost and Customer shall cooperate with Spectrum Indemnified Parties in such case.

Spectrum shall indemnify and defend the Customer and its boards, officers, agents and employees, from and against third party claims, liabilities, damages and expenses, including reasonable attorneys' and other professionals' fees, for bodily injury or tangible property damage directly caused by the negligence or willful misconduct of Spectrum, its employees or contractors, at the site(s) as a direct result from (i) Spectrum's installation, removal or maintenance at Customer's Service Locations of the Spectrum Equipment and/or (ii) Spectrum's failure to comply with any applicable law, order, rule, regulation or ordinance.

- 21. TITLE.** Title to the Equipment shall remain with Spectrum during the applicable Service Period. Customer shall keep that portion of the Equipment located on Customer premises free and clear of all liens, encumbrances and security interests. Upon termination of Service or expiration of a Service Order's Service Period for a specific site, Spectrum shall have the right to remove all Equipment components and/or leave any of such components in place, assigning title and interest in such components to Customer, it being understood that no further notice or action is required to accomplish the assignment contemplated hereunder. Spectrum shall have the right to remove the Equipment and all components within 60 days after such termination.
- 22. COMPLIANCE WITH LAWS.** Customer shall not use or permit its End Users or other third parties to use the Services in any manner that violates applicable law or causes Spectrum to violate applicable law. Both parties shall comply with all applicable laws and regulations when carrying out their respective duties hereunder.
- 23. ARBITRATION.** EXCEPT FOR CLAIMS FOR INJUNCTIVE RELIEF, AS DESCRIBED BELOW, ANY PAST, PRESENT, OR FUTURE CONTROVERSY OR CLAIM ARISING OUT OF OR RELATED TO THIS SERVICE AGREEMENT, INCLUDING WITHOUT LIMITATION THE ARBITRABILITY OF THE CONTROVERSY OR CLAIM, SHALL BE RESOLVED BY BINDING ARBITRATION ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION UNDER ITS COMMERCIAL ARBITRATION RULES, INCLUDING, IF APPLICABLE, THE SUPPLEMENTARY PROCEDURES FOR THE RESOLUTION OF CONSUMER RELATED DISPUTES. CONSOLIDATED OR CLASS ACTION ARBITRATIONS SHALL NOT BE PERMITTED. THE ARBITRATOR OF ANY DISPUTE OR CLAIM BROUGHT UNDER OR IN CONNECTION WITH THIS SERVICE AGREEMENT SHALL NOT HAVE THE POWER TO AWARD INJUNCTIVE RELIEF; INJUNCTIVE RELIEF MAY BE SOUGHT SOLELY IN AN APPROPRIATE COURT OF LAW. NO CLAIM SUBJECT TO ARBITRATION UNDER THIS SERVICE AGREEMENT MAY BE COMBINED WITH A CLAIM SUBJECT TO RESOLUTION BEFORE A COURT OF LAW. THE ARBITRABILITY OF DISPUTES SHALL BE DETERMINED BY THE ARBITRATOR. JUDGMENT UPON AN AWARD MAY BE ENTERED IN ANY COURT HAVING COMPETENT JURISDICTION. IF ANY PORTION OF THIS SECTION IS HELD TO BE UNENFORCEABLE, THE REMAINDER SHALL CONTINUE TO BE ENFORCEABLE.
- 24. PROPRIETARY RIGHTS AND CONFIDENTIALITY.**

- (a) Spectrum's Proprietary Rights. All materials including, but not limited to, any Spectrum Equipment (including related firmware), software, data and information provided by Spectrum, any identifiers or passwords used to access the Service or otherwise provided by Spectrum, and any know-how, methodologies or processes including, but not limited to, all copyrights, trademarks, patents, trade secrets, any other proprietary rights inherent therein and appurtenant thereto, used by Spectrum to provide the Service (collectively "Spectrum Materials") shall remain the sole and exclusive property of Spectrum or its suppliers. Customer shall acquire no interest in the Spectrum Materials by virtue of the payments provided for herein other than the limited non-exclusive and non-transferable license to use the Spectrum Materials solely for Customer's use of the Service. Customer may not disassemble, decompile, reverse engineer, reproduce, modify or distribute the Spectrum Materials, in whole or in part, or use them for the benefit of any third party. All rights in the Spectrum Materials not expressly granted to Customer herein are reserved to Spectrum. Customer shall not open, alter, misuse, tamper with or remove the Equipment or Spectrum Materials as and where installed by Spectrum, and shall not remove any markings or labels from the Equipment or Spectrum Materials indicating Spectrum (or its suppliers) ownership or serial numbers.

- (b) Confidentiality. Customer agrees to maintain in confidence, and not to disclose to third parties or use, except for such use as is expressly permitted herein and as required to be disclosed by law, the Spectrum Materials and any other information and materials provided by Spectrum in connection with this Service Agreement, including but not limited to the content of this Service Agreement that are identified or marked as confidential or are otherwise reasonably understood to be confidential, including but not limited to the contents of this service Agreement and any service Order(s).

Notwithstanding the foregoing, Spectrum is aware that Customer is a government entity and is subject to the California Public Records Act, Cal. Govt. Code §6250 et seq., and the Brown Act, Cal. Govt. Code §54950 et seq. 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.

- (c) Software. If software is provided to Customer hereunder ("Software"), Spectrum grants Customer a limited, non-exclusive and non-transferable license to use such Software, in object code form only, for the sole and limited purpose of using the Service for Customer's internal business purposes during the Term. Customer agrees not to reverse engineer, decompile, disassemble, translate, or attempt to learn the source code of any Software related to the Services.

- 25. PRIVACY.** Spectrum treats private communications on or through its Network or using any Service as confidential and does not access, use or disclose the contents of private communications, except in limited circumstances and as permitted by law. Spectrum also maintains a Privacy Policy with respect to the Services in order to protect the privacy of its customers. The Privacy Policy may be found on Spectrum's website at www.business.spectrum.com. The Privacy Policy may be updated or modified from time-to-time by Spectrum, with or without notice to Customer.

Customer's privacy interests, including Customer's ability to limit disclosure of certain information to third parties, may be addressed by, among other laws, the Federal Telecommunications Act (the "Telecommunications Act"), the Federal Cable Communications Act (the "Cable Act"), the Electronic Communications Privacy Act, and, to the extent applicable, state laws and regulations. Customer proprietary network information and personally identifiable information that may be collected, used or disclosed in accordance with applicable laws is described in an Attachment, the Privacy Policy, and, if applicable, in Spectrum's tariff, which are incorporated into, and made a part of, this Service Agreement by this reference. In addition to the foregoing, Customer hereby acknowledges and agrees that Spectrum may disclose Customer's and its employees' personally identifiable information as required by law or regulation, or the American Registry for Internet Numbers ("ARIN") or any similar agency, or in accordance with the Privacy Policy or, if applicable, tariff(s). In addition, Spectrum shall have the right (except where prohibited by law), but not the obligation, to disclose any information to protect its rights, property and/or operations, or where circumstances suggest that individual or public safety is in peril.

- 26. NOTICES.** Any notices to be given under this Service Agreement shall be validly given or served only if in writing and sent by nationally recognized overnight delivery service or certified mail, return receipt requested, to the following addresses:

If to Spectrum:
Charter Communications
ATTN: Commercial Contracts Management
Dept: Corporate - Legal Operations
12405 Powerscourt Drive
St. Louis, MO 63131

Notices to Customer shall be sent to the Customer billing address. Each Party may change its respective address(es) for legal notice by providing notice to the other Party.

27. MISCELLANEOUS.

- (a) Entire Agreement; Signatures. This Service Agreement including without limitation all Attachments, incorporated documents and any related, executed Service Order(s) constitute the entire agreement and understanding between the Parties with respect to the Services, Network and Equipment. This Service Agreement supersedes all prior understandings, promises and undertakings, if any, made orally or in writing by or on behalf of the Parties with respect to the subject matter of this Service Agreement. This Service Agreement may be executed in one or more counterparts, each of which is an original, but together constituting one and the same instrument. Execution of a facsimile or other

electronic copy will have the same force and effect as execution of an original, and a facsimile or electronic signature will be deemed an original and valid signature.

- (b) Order of Precedence. Each Service shall be provisioned pursuant to the terms and conditions of this Service Agreement. In the event that Spectrum permits Customer to use its own standard purchase order form to order the Service, the parties hereby acknowledge and agree that the terms and conditions hereof shall prevail notwithstanding any variance with the terms and conditions of any purchase order submitted by Customer, and any different or additional terms contained in such purchase order shall have no force or effect. To the extent that the terms of any Attachment or Order are inconsistent with the terms of this Service Agreement, the terms of this Service Agreement shall control.
- (c) No Amendments, Supplements or Changes. Except for pricing terms as set forth in this Service Agreement, this Service Agreement and the associated executed Service Order(s) may not be amended, supplemented or changed without both Parties' prior written consent.
- (d) No Assignment or Transfer. The Parties may not assign or transfer (directly or indirectly by any means, by operation of law or otherwise) this Service Agreement and the associated Service Order(s), or their rights or obligations hereunder to any other entity without first obtaining written consent from the other Party, which consent shall not be unreasonably withheld; provided, however, that without Customer's consent, Spectrum may assign this Service Agreement and the associated executed Service Order(s) to affiliates controlling, controlled by or under common control with Spectrum, or to its successor-in-interest if Spectrum sells some or all of the underlying communications system(s).
- (e) Severability. If any term, covenant, condition or portion of this Service Agreement or any related, executed Service Order(s) shall, to any extent, be invalid or unenforceable, the remainder of this Service Agreement or any related, executed Service Order(s) shall not be affected and each remaining term, covenant or condition shall be valid and enforceable to the fullest extent permitted by law.
- (f) Governing Law. The law of the state in which the Services are provided (excluding its conflicts of law provisions) shall govern the construction, interpretation, and performance of this Service Agreement, (A) except to the extent superseded by federal law or (B) in the event the Services are provided in multiple states, the law of the State of New York shall govern. IN ANY AND ALL CONTROVERSIES OR CLAIMS ARISING OUT OF OR RELATING TO THIS SERVICE AGREEMENT, ITS NEGOTIATION, ENFORCEABILITY OR VALIDITY, OR THE PERFORMANCE OR BREACH THEREOF OR THE RELATIONSHIPS ESTABLISHED HEREUNDER, CUSTOMER AND SPECTRUM EACH HEREBY WAIVES ITS RIGHT, IF ANY, TO TRIAL BY JURY.
- (g) Joint Preparation. Both parties had the opportunity to review and participate in the negotiation of the terms of this Service Agreement and the Service Order(s) and, accordingly, no court construing this Service Agreement and any Service Order(s) shall construe it more stringently against one Party than against the other.
- (h) No Third Party Beneficiaries. The terms of this Service Agreement and the parties' respective performance of obligations as described are not intended to benefit any person or entity not a Party to this Service Agreement, and the consideration provided by each Party hereunder only runs to the respective parties hereto, and that no person or entity not a Party to this Service Agreement shall have any rights hereunder nor the right to require performance of obligations by either of the parties hereto.
- (i) Waiver. Except as otherwise provided herein, the failure of Spectrum to enforce any provision of this Service Agreement shall not constitute or be construed as a waiver of such provision or of the right to enforce such provision.
- (j) Remedies Cumulative and Nonexclusive. Unless stated otherwise herein, all rights and remedies of the Parties under this Service Agreement shall be cumulative, nonexclusive and in addition to, but not in lieu of, any other rights or remedies available to the Parties whether provided by law, in equity, by statute or otherwise. The exercise of any right or remedy does not preclude the exercise of any other rights or remedies.

Attachment A Spectrum Cable TV Service ("Cable TV Service")

Cable TV Service: These terms shall apply, in addition to the Commercial Terms of Service and the respective Service Order (if applicable) (collectively, the "Service Agreement"), if Customer elects to receive Cable TV Service. Continued use or reception of the Cable TV Services is subject to this Service Agreement. Cable TV Service includes basic, expanded basic/cable programming services, and digital cable services. Music Choice® shall also be considered a part of the Cable TV Service.

1. Music Rights Fees. Customer is responsible for and must secure any music rights and/or pay applicable fees required by the American Society of Composers, Authors & Publishers (ASCAP), Broadcast Music, Inc. (BMI) and SESAC, Inc. (SESAC) or their respective successors, and any other entity, person or governmental authority from which a license is necessary or appropriate relating to Customer's transmission, retransmission, communication, distribution, performance or other use of the Services.
2. Premium and Pay-Per-View. Customer may not: (i) exhibit any premium Services such as HBO or Showtime in any public or common area; (ii) order or request Pay-Per-View (PPV) programming for receipt, exhibition or taping in a commercial establishment; or (iii) exhibit nor assist in the exhibition of PPV programming in a commercial establishment unless explicitly authorized to do so by agreement with an authorized program provider and subject to Spectrum's prior written consent.
3. HD Formatted Programming. If Customer has selected High Definition ("HD") formatted programming, Customer is responsible for provision, installation and maintenance of the receiving equipment and/or facilities necessary for its reception and display. Any failure of Customer to fulfill the foregoing obligation shall not relieve Customer of its obligation to pay the applicable MRCs or OTCs for HD formatted programming. In the event that changes in technology require the use of specialized equipment to continue to receive Cable TV Services, Spectrum shall provide such Equipment, and Customer shall pay for such Equipment at the same rate charged by Spectrum to commercial customers in the service area in which Customer's property receiving the Cable TV Service is located.
4. Provision of Service. Without notice, Spectrum may preempt, rearrange, delete, add, discontinue, modify or otherwise change any or all of the advertised programming comprising, packaging of, line-up applicable to, and/or distribution of its Cable TV Services.
5. Restrictions. Customer shall not and shall not authorize or permit any other person to (i) copy, record, dub, duplicate, alter, make or manufacture any recordings or other reproductions of the Cable TV Services (or any part thereof); or (ii) transmit the Cable TV Services by any television or radio broadcast or by any other means or use the Cable TV Services outside the Service Location. Customer acknowledges that such duplication, reproduction or transmission may subject Customer to criminal penalties and/or civil liability and damages under applicable copyright and/or trademark laws. With respect to the music programming comprising a portion of the Cable TV Services, Customer shall not, and shall not authorize or permit any other person to, do any of the following unless Customer has obtained a then-current music license permitting such activity: (i) charge a cover charge or admission fee to any Service Location(s) at the time the Cable TV Services are being performed or are to be performed; (ii) permit dancing, skating or other similar forms of entertainment or physical activity in conjunction with the performance of the Cable TV Services; or (iii) insert any commercial announcements into the Cable TV Services or interrupt any performance of the Cable TV Services for the making of any commercial announcements.
6. Audit. Customer shall permit Spectrum to conduct audits at periodic intervals as needed to ascertain, among other things, the number of television sets receiving the Cable TV Service. In the event that any Spectrum audit reveals that Customer's usage of the Cable TV Service exceeds Customer's rights under the Service Agreement and without abrogating or otherwise affecting Spectrum's right to consider such activity a breach of the Services Agreement, Customer shall pay Spectrum an amount equal to one and a half times the MRCs that would have been due for such excessive usage as liquidated damages and not as a penalty. In addition, Customer shall either discontinue any excess usage or thereafter continue to pay the applicable MRCs for such additional usage.
7. Noninterference. Customer shall not interfere with, alter or substitute any of the programs, information or content offered as part of the Cable TV Service, which are transmitted over any of the channels provided hereunder without the prior written consent of Spectrum.
8. Charges. Without limiting the terms set forth elsewhere in the Service Agreement, the MRCs set forth in a Service Order for Cable TV Service do not include applicable taxes, regulatory fees, franchise fees or public access fees. Without limiting the terms set forth elsewhere in the Services Agreement, the MRCs for the Cable TV Service are subject to change in accordance with commercial Cable TV rate increases applied to commercial customers.

Attachment B

Spectrum Phone Service and PRI/SIP Trunk Service (collectively, "Voice Service")

These terms shall apply, in addition to the Commercial Terms of Service and the respective Service Order (if applicable) (collectively, the "Service Agreement"), if Customer elects to receive Voice Service. Continued use or reception of the Voice Service(s) is subject to the Service Agreement. Voice Service includes Spectrum Phone Service and PRI/SIP Trunk Service.

Spectrum Voice Service is additionally governed by the terms and conditions contained in any applicable Service, Price and Terms Guide and any applicable tariff. The Spectrum Voice Service Tariff(s) and Service, Price and Terms Guide are located at Spectrum's website, <http://www.charter.com/Visitors/Policies.aspx?Policy=9> (or any successor URL). In the event of a conflict between any applicable Spectrum Voice Service Tariff(s) or Service, Price and Terms Guide and this Service Agreement, the Tariff and/or Guide shall control.

Customer's continuous use of Spectrum Voice Service(s) after Spectrum's implementation of any change(s) to such Tariff(s) and/or Guide, or Commercial Terms of Service, which may change from time to time, shall reflect Customer's agreement thereto. Customer shall have the right to terminate the Spectrum Voice Service in the event Customer objects to any material change to the applicable Tariff(s) and/or Guide that adversely affects Customer's rights under this Service Agreement by providing Spectrum with written notice within sixty (60) days of such change and provided that Customer pays any unpaid or previously waived one-time charges and any applicable early termination charges.

Service Types:

1. **Spectrum Phone Service:** If Customer selects to receive Spectrum Phone Service, Customer will receive voice service consisting of one or more lines or connections and a variety of features, as described more fully in the applicable Service Order.
2. **Spectrum SIP Trunk Service:** If Customer selects to receive the Spectrum SIP Trunk Service, Customer will receive voice and call processing services via eight or more concurrent call paths using a Session Initiation Protocol ("SIP") connection to the Customer's private branch exchange (including any non-Spectrum switch, collectively, "PBX") or other equipment, facilities and/or services ("Customer-provided equipment" or "CPE"), and a variety of features, as described more fully in the applicable Service Order.
3. **Spectrum PRI Service:** If Customer selects to receive Spectrum PRI Service, Customer will receive voice and call processing services via a full (23B+1D channel) or fractional (12B+1D channel) Primary Rate Interface ("PRI") connection to Customer's PBX or other CPE, and a variety of features, as described more fully in the applicable Service Order.

*As a Spectrum SIP Trunk Service or Spectrum PRI Service customer, ** Customer will receive:*

Failover routing for business continuity: automatically reroutes all incoming calls to a pre-determined phone number in the event of a service outage, PBX outage, or power outage affecting inbound call processing.

*In addition, as a Spectrum SIP Trunk Service or Spectrum PRI Service customer, ** Customer may select to receive the following Service options, if available at Customer's Service Location:*

Call overflow for business continuity: automatically reroutes all inbound calls to a pre-determined phone number when all channels are in use.

Custom Caller ID for Trunks: permits Customer to define the telephone number that Spectrum makes available to call recipients for Caller ID purposes.

Customer Use:

Customer's use of the Voice Service is subject to the following additional terms and conditions:

1. **911 Services:**
 - a. Customer acknowledges that the voice-enabled cable modem used to provide Spectrum Phone Service and the Integrated Access Device ("IAD") used to provide Spectrum PRI Service or Spectrum SIP Trunk Service are electrically powered and that Voice Service, including the ability to access 911 services and alarm, security, medical and other

monitoring services, may not operate in the event of an electrical power outage or a Spectrum network service interruption. Customer also acknowledges that, in the event of a power outage at Customer or any End User's facility, any back-up power supply provided with a Spectrum-provided voice-enabled cable modem or IAD may enable service for a limited period of time or not at all, depending on the circumstances, and that the use of a back-up power supply does not ensure that Voice Service will be available in all circumstances. Customer shall specifically advise every end user of Voice Service that Spectrum voice-enabled customer premises equipment is electrically powered and, in the event of a power outage or Spectrum network failure, Voice Service and 911 may not be available. Customer shall distribute to all end users of Voice Service labels/stickers (to be supplied by Spectrum) and instruct all end users of Voice Service to place them on or near the equipment used in conjunction with Voice Service. The location and address associated with Voice Service will be the address identified on the Service Order (the "Service Location").

- b. Customer is not permitted to move Spectrum Equipment from the Service Location in which it has been installed. If Customer moves the voice-enabled cable modem or IAD to an address other than the Service Location identified on the Service Order, calls from the modem or IAD to 911 will appear to 911 emergency service operators to be coming from the Service Location identified on the Service Order and not the new address. Customer shall be solely responsible for directing emergency personnel at the customer premises at each Service Location.
 - c. In some geographic areas, Voice Service does not provide the capability to support Enhanced 911 service from multiple locations or from a location other than the Service Location. In those areas, if Customer intends to assign telephone numbers to one or more locations other than the Service Location, Customer shall obtain from the incumbent LEC, a competitive LEC, or Spectrum a local telephone line or lines and ensure that (1) the address(es) associated with the additional location(s) are loaded into the 911 database by the provider of the local telephone line(s) such that 911 calls will deliver to the 911 answering point the actual location and address of the 911 caller and (2) all 911 calls originated from the additional location(s) are transported and delivered over those local telephone lines. IN SUCH AREAS, CUSTOMER FURTHER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS SPECTRUM, ITS AFFILIATES, ITS SERVICE PROVIDERS AND SUPPLIERS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, FROM AND AGAINST THIRD PARTY CLAIMS, LIABILITIES, DAMAGES AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' AND OTHER PROFESSIONALS' FEES, ARISING OUT OF OR RELATING TO 911 CALLS MADE BY END USERS OF THE VOICE SERVICE FROM LOCATIONS OTHER THAN THE SERVICE LOCATION.
 - d. Customer will be notified by Spectrum as to whether the Voice Service to which Customer subscribes includes the capability to support Enhanced 911 service from multiple locations or from a location other than the Service Location. Customer agrees that Spectrum will not be responsible for any losses or damages arising as a result of the unavailability of Voice Service, including the inability to reach 911 or other emergency services, the inability to contact a security system or remote medical or other monitoring service provider or any failure or fault relating to Customer-provided equipment, facilities or services, the use of third-party enterprise 911 solutions, or Customer's attempt to access Voice Service from a remote location.
 - e. By purchasing the Services, Customer certifies that Customer shall not use the Services, or allow the Services to be used: i) to provide 911 or E911 services; ii) route 911 or E911 traffic to any public safety answering point, statewide default answering point, or appropriate local emergency authority or emergency responders; or iii) for any Automatic Location Information services related to E911. In addition, Customer shall not use the Services, or allow the Service to be used, in a manner that would cause, or be likely to cause, Spectrum to qualify as a "Covered Service Provider" as defined in 47 C.F.R. §12.4 or any successor rules of the Federal Communication Commission ("FCC"). Any breach of this provision shall constitute a material breach of this Agreement and Spectrum shall have the immediate right, without notice or penalty, to Terminate this Agreement or, in Spectrum's sole discretion, suspend Services to Customer.
2. **Customer Caller-ID:** If Customer activates Custom Caller ID for Trunks, which permits a customer to define the telephone number that Spectrum makes available to call recipients for Caller ID purposes, the telephone number chosen must be active and assigned to Customer. Custom Caller ID for Trunks may be used only where Customer employs a customer premises equipment solution that ensures that 911 and other emergency calls placed by an end user are routed to an appropriate public safety answering point or other responding agency based on the caller's location, in a manner consistent with applicable law. If Customer activates the Customer Caller ID feature, they must configure their PBX to out-pulse a telephone number that is active in their Spectrum account and accurately identifies the service location/address for all outbound emergency 911 calls to be handled by that PBX. By activating Custom Caller ID for Trunks, Customer represents and warrants that it employs such a customer premises equipment solution and agrees to continue using such a solution until Customer discontinues its use of Custom Caller ID for Trunks. Telemarketers or other entities using Custom Caller ID for Trunks must comply with applicable federal and state laws, including obligations requiring identification of: (i) the telemarketer or the party on whose behalf the telemarketing call is made and (ii) the calling party's number ("CPN"), automatic number identification ("ANI"), or customer service number of the party on whose behalf the telemarketing call is made. The use of substitute or fictitious CPN, ANI, or other calling party information is prohibited. Custom Caller ID for Trunks may not be used by any person or entity in connection with any unlawful purpose.

3. **Monitoring/Alarm Systems:** Customer acknowledges that Spectrum does not guarantee that Voice Service will operate with alarm, security, medical and/or other monitoring systems and services or Customer-provided equipment, facilities and services ("Alarm Services"). Customer must ensure that all Alarm Services and related signal transmission services are tested to validate that they remain fully operational after installation of Voice Service. Customer is solely responsible for obtaining such testing from the appropriate Alarm Service providers, ensuring that such testing is completed in a timely manner, and confirming that the Alarm Services and any related Customer-provided equipment, facilities and systems that are connected to Voice Service operate properly. Customer is solely responsible for any and all costs associated with this activity.
4. **Customer Equipment:** Spectrum's obligation is to provide Voice Service to the customer-accessible interface device or equipment installed by Spectrum at the Spectrum network demarcation point on the Customer's premises. Customer is solely responsible for coordinating and completing any and all rearrangement, augmentation and configuration of Customer-provided equipment, facilities and systems to be used with Voice Service and connecting such equipment, facilities and systems to the Spectrum network interface device or equipment. Customer must notify Spectrum at least seventy-two (72) hours prior to Customer's scheduled installation appointment if Customer seeks to reschedule installation for any reason. Additional charges may apply for non-standard installation and missed installation appointments.
5. **Access:** Customer agrees to provide Spectrum and its authorized agents with access to Customer's internal telephone wiring at the network interface device or at some other minimum point of entry in order to facilitate the installation and operation of Voice Service over existing wiring. Customer hereby authorizes Spectrum to make any requests to Customer's landlord, building owner and/or building manager, as appropriate, and to make any requests to other or prior communications service providers, as necessary and appropriate, to ensure that Spectrum has all access to inside wiring and cabling necessary and sufficient to efficiently and securely install Voice Service and all related equipment.
6. **CPNI:** Information relating to Customer calling details ("Calling Details"), including the quantity, configuration, type, destination and amount of Voice Service usage by Customer, and information contained in Customer's bills (collectively, "Customer Proprietary Network Information" or "CPNI"), that is obtained by Spectrum pursuant to its provision of Voice Service will be protected by Spectrum as described herein, in the Privacy Policy and in accordance with applicable federal and state requirements. Notwithstanding the foregoing, the following shall not be CPNI: (i) Customer's directory listing information, and (ii) aggregated and/or compiled information that does not contain customer-specific references, even if CPNI was used as a basis for such information.
- a. Spectrum may use and disclose Calling Details and CPNI when required by applicable law. Spectrum may use Calling Details and CPNI and share (including via e-mail) Calling Details and CPNI with its partners and contractors, as well as with Customer's employees and representatives, without Customer consent: (i) to provide services and bills to Customer; (ii) pursuant to applicable law; (iii) to protect the interests of Spectrum, Customer and related parties in preventing fraud, theft of services, abuse, harassment and misuse of telephone services; (iv) to protect the security and integrity of Spectrum's network systems; and (v) to market additional Spectrum services to Customer that are of the same category as the services that Customer purchases from Spectrum.
 - b. Spectrum will obtain Customer's consent before using Calling Details or CPNI to market to Customer Spectrum services that are not within the categories of Services that Customer purchases from Spectrum. Customer agrees that, except as provided in the Terms and Conditions and applicable law, Spectrum will not be liable for any losses or damages arising as a result of disclosure of Calling Details and CPNI.
 - c. Spectrum will respond to Customer requests for Customer Calling Details only in compliance with Spectrum's then-current authentication requirements and applicable law. Such authentication requirements may require Customer to obtain a secure password, which may be required for both online and telephone requests for Calling Details. Spectrum will notify Customer of any requests to change account passwords, activate online account access and change Customer's account address of record. Spectrum may provide such notice by voicemail, by email or by regular mail to Customer's prior account address of record.
 - d. Customer may identify a person or persons who are authorized to request Calling Details by executing an Agency Letter provided by Spectrum upon request, at Customer's option. Customer is responsible for: (i) ensuring that Spectrum receives timely notice of any changes to the list of authorized individuals subject to the Agency Letter. Spectrum will not be liable to Customer for any disclosure of Calling Details (including CPNI) that occurs if Spectrum has complied with the Agency Letter.
7. **Directory Listings:** In the event that a material error or omission in Customer's directory listing information, regardless of form, is caused by Spectrum, Customer's sole and exclusive remedy shall be a partial service credit in an amount set by

Spectrum's then-current standard policies or as prescribed by applicable regulatory requirements, if any. Notwithstanding the foregoing, Spectrum shall have no other liability for any error or omission in any directory listing information.

8. **Minute Packages:** If a minutes of use ("MOU") package of minutes are exceeded, additional minutes will be charged at the standard domestic long distance rates listed at www.charter.com (or successor URL).
9. **Number Porting:** Upon submission of a Service Order, Customer may port a telephone number within the rate center for its particular Service Location to Spectrum for use with Spectrum PRI Service or Spectrum SIP Trunk Service. Customer represents and warrants that it has all necessary rights and authority for any porting request, will provide copies of letters of authority authorizing the same upon request, AND SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS SPECTRUM AND ITS AFFILIATES FROM ANY THIRD-PARTY CLAIM RELATED TO OR ARISING OUT OF ANY PORTING REQUEST. Spectrum shall coordinate telephone number porting with Customer's former local service provider ("FLSP") using the operational process for coordinating telephone number porting as prescribed by the appropriate regulatory authority. Spectrum shall port in a telephone number using one of the following agreed upon methods:
- a. *Spare Equipment Cut.* "Spare Equipment Cut" means that Customer will provide sufficient spare Customer equipment, such as line cards, for connection of Spectrum's Service(s) prior to telephone number porting. Spectrum and Customer shall verify the operational stability of the Service(s) in advance of Spectrum issuing a request to port Customer's telephone numbers from Customer's FLSP to Spectrum's Service. Customer acknowledges and accepts that the porting process involves the updating of multiple databases and may result in an outage of Service during such updates.
 - b. *Hot Cut – Business Hours.* "Hot Cut" means that Customer's existing service is disconnected prior to Customer connecting Customer's equipment to Spectrum's Service which, in turn, occurs prior to the scheduled telephone number port change. "Business Hours" means 8:00 AM to 5:00 PM, Monday through Friday, excluding Holidays. Spectrum will use reasonable efforts to resolve any issues arising during the Hot Cut prior to the execution of the port change and may cancel the port change at Customer's request. Customer acknowledges that a Hot Cut necessarily results in an interruption of Customer's telephone service thereby exposing Customer to risks associated with inability to make or receive telephone calls. Customer accepts all liability for any loss or damage arising out of or related to such an interruption.
 - c. *Hot Cut – After Hours.* For purposes of this section, Hot Cut has the same meaning as above. "After Hours" means any time outside of Business Hours. Spectrum will use reasonable efforts to resolve any issues arising during the Hot Cut prior to the execution of the port change. At Customer's request, Spectrum shall make reasonable efforts to cancel the port request, but unavailability of necessary third party resources may prevent Spectrum from effecting such cancellation. Customer acknowledges that a Hot Cut necessarily results in an interruption of Customer's telephone service thereby exposing Customer to risks associated with inability to make or receive telephone calls. Additionally, Customer acknowledges that Customer's choice of an After Hours Hot Cut exposes Customer to the additional risk of an extended outage due to unavailability of necessary third-party resources to cancel a porting request or resolve a trouble report. Customer accepts all liability for any loss or damage arising out of or related to such an interruption or outage.

Spectrum may receive requests to port a telephone number currently assigned to Customer to a third party service provider. Customer agrees that until such time as the porting process has been completed and no further traffic for any ported telephone number traverses Spectrum's network, Customer shall remain bound by the terms of the Agreement and this Attachment (including, without limitation, Customer's obligation to pay for any applicable Services) for any and all traffic which remains on any Customer telephone numbers. Notwithstanding the foregoing, Customer shall notify Spectrum at least five (5) business days in advance of Customer requesting more than twenty (20) telephone numbers to be ported from Spectrum to another service provider.

10. **Call Overflow/Failover:** If a Spectrum PRI Service or Spectrum SIP Trunk Service customer elects to receive the call overflow or failover Routing option(s), Customer is responsible for turning the applicable option(s) on and setting up or changing the applicable destination number(s) via the Spectrum customer portal, and ensuring that the receiving telephone number(s) has adequate capacity to accept the calls generated as a result of these options. If the receiving telephone number is charged as domestic long distance, charges will be applied against Customer's MOU package on the account or, if exceeded, at the applicable long distance rates.
11. **Dedicated Internet Bundles:** If Customer purchases a discounted bundled offering from Spectrum including a Spectrum SIP Trunk Service or Spectrum PRI Service combined with Spectrum Dedicated Internet Access, Customer must have the voice trunk installed and billing within four months after the provisioning and turn-up of the bundled data circuit. The monthly recurring charge will revert to the non-bundled rate for the installed service if Customer fails to accept both Services within this timeframe.

*** For those customers that purchased the Time Warner Cable Business Class PRI Service prior to April 1, 2013, call overflow and failover routing may be available on an individual case basis, as determined by Spectrum. Please contact your Spectrum sales representative for further information.*

Attachment C

Business Internet Access and Fiber Internet Access (collectively, "Data Services")

1. **Internet Access Services.** These terms shall apply, in addition to the Commercial Terms of Service and the respective Service Order (if applicable) (collectively, the "Service Agreement"), if Customer elects to receive one or more of the Services described herein (for purposes of this Attachment, the "Data Services"). Continued use or receipt of the Data Services is subject to this Service Agreement. *Spectrum's provision of any Data Service is subject to availability.*

Spectrum's Data Services are comprised of the following:

- a. **Business Internet Access ("BIA Service"):** BIA Service is Internet access service implemented using a hybrid fiber/coax ("HFC") access network. The Customer interface to a cable modem is via Ethernet connection. BIA Service enables a variety of asymmetrical upstream and downstream rates. If Customer selects to receive the BIA Service, Spectrum shall provide connectivity from the Customer site(s) to the Customer's data network.
- b. **Fiber Internet Access ("FIA Service"):** If Customer elects to receive the FIA Service, Spectrum shall provide Customer with a dedicated, scalable connection over a packet-based infrastructure with Internet service provider ("ISP") peering between Customer's data network identified on a Service Order and Spectrum's facilities.

2. **Customer Use.** Customer's use of the Data Services is subject to the following additional terms and conditions:

- a. **Responsibility:** Customer shall (i) maintain certain minimum equipment and software to receive the Data Service (see www.business.spectrum.com (or the applicable successor URL) for the current specifications); (ii) ensure that any person who has access to the Data Services through Customer's computer(s), Service Location, facilities or account shall comply with the terms of this Service Agreement, (iii) be responsible for all charges incurred and all conduct, whether authorized or unauthorized, caused by use of Customer's computers, service locations, facilities or account using the Data Services.
- b. **Data Service Speeds:** Spectrum shall use commercially reasonable efforts to achieve the Internet speed attributable to the Data Services selected by Customer on the Service Order, however, actual Internet speeds may vary. Many factors affect speed including, without limitation, the number of workstations using a single connection. Each tier or level of Data Services has limits on the maximum throughput rate at which Customer may send and receive data at any time and the maximum throughput rate may be achieved in bursts, but generally shall not be sustained on a consistent basis. The throughput rate experienced by Customer at any time shall vary based on numerous factors, including without limitation, the condition of Customer's inside wiring, computer configurations, Internet and Spectrum network congestion, time of day and the accessed website servers, among other factors.
- c. **Electronic Addresses:** All e-mail addresses, e-mail account names, and IP addresses ("Electronic Addresses") provided by Spectrum are the property of Spectrum. Customer may not alter, modify, sell, lease, assign, encumber or otherwise tamper with the Electronic Addresses.
- d. **Changes of Address:** Spectrum may change addressing schemes, including e-mail and IP addresses.
- e. **No Liability for Risks of Internet Use:** The Service, Spectrum's network and the Internet are not secure, and others may access or monitor traffic.
- f. **No Liability for Purchases:** Customer shall be solely liable and responsible for all fees or charges for online services, products or information. Spectrum shall have no responsibility to resolve disputes with other vendors.
- g. **Blocking and Filtering:** Customer assumes all responsibility for providing and configuring any "firewall" or security measures for use with the Data Service. Except to the extent set forth in the Supplemental Spectrum Business Security Service Section, Spectrum shall not be responsible in any manner for the effectiveness of these blocking and filtering technologies. Spectrum does not warrant that others will be unable to gain access to Customer's computer(s) and/or data even if Customer utilizes blocking and filtering technologies, nor does Spectrum warrant that the data or files will be free from computer viruses or other harmful components. Spectrum has no responsibility and assumes no liability for such acts or occurrences.
- h. **Acceptable Use Policy:** Customer shall comply with the terms of Spectrum's Acceptable Use Policy ("AUP") found at www.charter.com (or the applicable successor URL) and that policy is incorporated by reference into this Service Agreement.

Customer represents and warrants that Customer has read the AUP and shall be bound by its terms as they may be amended, revised, replaced, supplemented or otherwise changed from time-to-time by Spectrum with or without notice to Customer. Spectrum may suspend Service immediately for any violation of the Spectrum AUP.

- i. **Managed WiFi Services:** Managed WiFi Services include Spectrum owned equipment to establish wireless access points to enable designated users of the Customer's choice to wirelessly access the Data Service. Access to the Data Service via Managed WiFi is subject to all of the same terms under this Agreement.
- j. **Supplemental Managed Security Service:** This subsection shall only apply in the event Spectrum's supplemental Managed Security Service has been selected by and is being delivered to Customer. The Managed Security Service may include software, firmware, and hardware components. Spectrum makes no warranties of any kind (express or implied) regarding the Managed Security Service and hereby disclaims any and all warranties pertaining thereto (including without limitation implied warranties of title, noninfringement, merchantability, and fitness for a specific purpose). Spectrum does not have title to and is not the manufacturer or supplier of any software, firmware, or hardware components of the Managed Security Service. Customer shall return or destroy all such components provided to Customer upon the termination of the applicable Service Order, and in the case of destruction thereof, shall upon request, provide Spectrum with certification that such components have been destroyed. IN NO EVENT SHALL SPECTRUM BE LIABLE FOR ANY DAMAGES ARISING FROM THE PERFORMANCE, NONPERFORMANCE, OR USE OF ANY SUPPLEMENTAL SERVICES.

Attachment D

Spectrum Data Transport Services: Ethernet Solutions ("Ethernet Service")

These terms shall apply, in addition to the Commercial Terms of Service and the respective Service Order (if applicable) (collectively, the "Service Agreement"), if Customer elects to receive Ethernet Service and continued use or reception of the Ethernet Service is subject to the this Agreement.

Spectrum will provide Ethernet Services for Customer locations connected over coaxial and/or fiber-optic cable. Connectivity is established between two or more Customer end-points under a unique customer topology. Spectrum will install the coaxial or fiber-optic cable into each Customer site as listed in the Service Order(s). Spectrum will also supply an edge device at each site that will be capable of receiving the Service as specified in the Service Order(s).

Customer's use of Ethernet Service is subject to the following additional terms and conditions:

1. **Availability:** Spectrum's provision of Ethernet Services is subject to availability.
2. **Interference:** Spectrum shall have the right to disconnect (or demand the immediate disconnection of) any Ethernet Service that degrades any service provided to other subscribers on the Spectrum network.
3. **Hand-Off Point:** Spectrum will terminate fiber-optic cable on a patch panel or provide a coaxial outlet at an agreed upon minimum point of penetration (MPOP) up to 50 feet within each facility (unless otherwise specified in the Service Order). If the hand-off point of the Ethernet Service at Customer's premise exceeds this distance, Customer may be responsible for any additional costs for internal wiring.
4. **Facilities:** Customer will make available to Spectrum a building ground connection at each location that meets current electrical codes for the placement of a fiber-optic patch panel and/or coaxial outlet. Unless otherwise specified in the applicable Service Order, it is recommended that Customer provide a separate 20 Amp 110V AC circuit for the edge electronics, which is powered by a UPS system. Customer-supplied routing will be necessary for communication between each Service Location.
5. **Optical Ethernet EP-Lan:** For Optical Ethernet EP-LAN, Spectrum requires Customer to use Layer3 / IP interfaces and routing on WAN interfaces as opposed to Layer2. The enhanced risk of total service degradation as a result of broadcast storms or other industry known Layer2 vulnerabilities warrants this requirement. Using Layer3 / IP interfaces requires only a single MAC address to be learned on the UNI.
6. **Interstate vs. Intrastate.** Customer's use of Ethernet Services is presumed to be jurisdictionally interstate, pursuant to the Federal Communications Commission's mixed use "10% Rule" (47 C.F. R. 36.154, 4 FCC Rcd. 1352). It is Customer's sole responsibility to notify Spectrum if Customer's use of the Service is not jurisdictionally interstate pursuant to the 10% Rule and, so long as Customer's use of the Service remains not jurisdictionally interstate, Customer must certify at least annually that this condition remains in effect, using the form and format available upon request from Spectrum. If Customer fails to provide such certification or if the Customer's certification is inaccurate or invalid, Customer shall be liable for any resulting fees, fines, penalties and/or costs incurred by Spectrum. In addition, if Spectrum determines that Customer's use of the Ethernet Services is likely to be deemed not to be jurisdictionally interstate, and therefore that Spectrum's provision of the Ethernet Services is likely to put Spectrum or its licenses, permits or business at risk, or otherwise cause financial, regulatory or operational problems for Spectrum, then Spectrum may immediately suspend the provision of any or all Ethernet Service under any or all affected Service Orders until such time as either (a) Customer provides Spectrum with satisfactory assurances that Customer's use of Ethernet Services shall be deemed to be jurisdictionally interstate or (b) Customer is otherwise brought into full compliance with any applicable laws and regulations.
7. **Restrictions:** By purchasing the Services, Customer certifies that Customer shall not use the Services, or allow the Services to be used: i) to provide 911 or E911 services; ii) route 911 or E911 traffic to any public safety answering point, statewide default answering point, or appropriate local emergency authority or emergency responders; or iii) for any Automatic Location Information services related to E911. In addition, Customer shall not use the Services, or allow the Service to be used, in a manner that would cause, or be likely to cause, Spectrum to qualify as a "Covered Service Provider" as defined in 47 C.F.R. §12.4 or any successor rules of the Federal Communication Commission ("FCC"). Any breach of this provision shall constitute a material breach of this Agreement and Spectrum shall have the immediate right, without notice or penalty, to terminate this Agreement or, in Spectrum's sole discretion, suspend Services to Customer.

**Attachment E
(Intentionally Omitted)**

Attachment F

Spectrum Hosted Voice, Spectrum Hosted Voice for Hospitality, Spectrum Hosted Call Center, Spectrum Unified Communications (collectively, "Hosted Communications Service")

These terms shall apply, in addition to the Commercial Terms of Service and the respective Service Order (if applicable) (collectively, the "Service Agreement"), if Customer elects to receive Hosted Communications Service and continued use or reception of the Hosted Communications Service is subject to the this Agreement.

1. Hosted Communications Services:

- a. **Spectrum Hosted Voice:** If Customer selects to receive Hosted Voice Service delivered over fiber, Customer will receive a combination of (i) voice service consisting of one or more telephone lines, (ii) a variety of features, and (iii) voice service technical assistance.
- b. **Spectrum Hosted Voice for Hospitality:** If Customer selects to receive Hosted Voice for Hospitality Service delivered over fiber or coax, Customer will receive a combination of (i) voice service consisting of one or more telephone lines, (ii) a variety of features, and (iii) voice service technical assistance. Customer may also receive Property Management System integration and other services, including a variety of features, as described more fully in the applicable Service Order.
- c. **Spectrum Hosted Call Center:** If Customer selects to receive Spectrum Hosted Call Center Service, Customer will receive a combination of (i) voice service consisting of one or more telephone lines, (ii) a variety of features, and (iii) voice service technical assistance, as described more fully in the applicable Service Order.
- d. **Unified Communications:** If Customer selects to receive Unified Communications features that are added onto a Spectrum Hosted Voice Service, Customer will receive a combination of (i) instant messaging and presence service, (ii) video calling service, (iii) desktop sharing service, and (iv) web collaboration service, as described more fully in the applicable Service Order.

2. Customer's Use: Customer's use of Hosted Communications Service is subject to the following additional terms and conditions:

a. 911 Services:

- i. Customer acknowledges that the voice-enabled fiber connection or cable modem used to provide Hosted Communications Service are electrically powered and that the Service, including the ability to access 911 services and alarm, security, medical and other monitoring services, may not operate in the event of an electrical power outage or a Spectrum network service interruption. Customer also acknowledges that, in the event of a power outage at Customer or any End User's facility, any back-up power supply provided with a Spectrum-provided voice-enabled fiber connection, cable modem or other hardware used in delivering the Hosted Communications Service may enable service for a limited period of time or not at all, depending on the circumstances, and that the use of a back-up power supply does not ensure that the Hosted Communications Service will be available in all circumstances. Customer shall specifically advise every end user of the Hosted Communications Service that the Spectrum voice-enabled customer premises equipment is electrically powered and, in the event of a power outage or Spectrum network failure, the Hosted Communications Service and 911 may not be available. Customer shall distribute to all end users of the Voice Services labels/stickers (to be supplied by Spectrum) and instruct all end users of the Voice Services to place them on or near the equipment used in conjunction with the Hosted Communications Service. The location and address associated with the Hosted Communications Service will be the address identified on the Service Order (the "Service Location").
- ii. Customer is not permitted to move Spectrum Equipment from the Service Location in which it has been installed. If Customer moves any of the Spectrum Equipment to an address other than the Service Location identified on the Service Order, calls from the Equipment to 911 will appear to 911 emergency service operators to be coming from the Service Location identified on the Service Order and not the new address. Customer shall be solely responsible for directing emergency personnel at the customer premises at each Service Location.
- iii. In some geographic areas, the Hosted Communications Service does not provide the capability to support Enhanced 911 service from multiple locations or from a location other than the Service Location. In those areas, if Customer intends to assign telephone numbers to one or more locations other than the Service Location, Customer shall obtain from the incumbent LEC, a competitive LEC, or Spectrum a local telephone line or lines and ensure that: (1) the address(es) associated with the additional location(s) are loaded into the 911 database by the provider of the local telephone line(s) such that 911 calls will deliver to the 911 answering point the actual location and address of the 911 caller; and (2) all 911 calls originated from the additional location(s) are transported and delivered over those local telephone lines. In such areas, CUSTOMER FURTHER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS SPECTRUM, ITS AFFILIATES, ITS SERVICE PROVIDERS AND SUPPLIERS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, FROM AND AGAINST THIRD PARTY CLAIMS, LIABILITIES, DAMAGES AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' AND OTHER PROFESSIONALS' FEES, ARISING OUT OF

OR RELATING TO 911 CALLS MADE BY END USERS OF THE HOSTED COMMUNICATIONS SERVICE FROM LOCATIONS OTHER THAN THE SERVICE LOCATION.

- iv. Customer will be notified by Spectrum as to whether the Hosted Communications Service to which Customer subscribes includes the capability to support Enhanced 911 service from multiple locations or from a location other than the Service Location. Customer agrees that Spectrum will not be responsible for any losses or damages arising as a result of the unavailability of Hosted Communications Service, including: (1) the inability to reach 911 or other emergency services; (2) the inability to contact a security system or remote medical or other monitoring service provider or any failure or fault relating to Customer-provided equipment, facilities or services; or (3) the use of third-party enterprise 911 solutions or Customer's attempt to access Hosted Communications Service from a remote location.
 - v. By purchasing the Services, Customer certifies that Customer shall not use the Services, or allow the Services to be used: i) to provide 911 or E911 services; ii) route 911 or E911 traffic to any public safety answering point, statewide default answering point, or appropriate local emergency authority or emergency responders; or iii) for any Automatic Location Information services related to E911. In addition, Customer shall not use the Services, or allow the Service to be used, in a manner that would cause, or be likely to cause, Spectrum to qualify as a "Covered Service Provider" as defined in 47 C.F.R. §12.4 or any successor rules of the Federal Communication Commission ("FCC"). Any breach of this provision shall constitute a material breach of this Agreement and Spectrum shall have the immediate right, without notice or penalty, to terminate this Agreement or, in Spectrum's sole discretion, suspend Services to Customer.
3. **Monitoring/Alarm Systems:** Customer acknowledges that Spectrum does not guarantee that Hosted Communications Service will operate with alarm, security, medical and/or other monitoring systems and services or Customer-provided equipment, facilities and services ("Alarm Services"). Customer must ensure that all Alarm Services and related signal transmission services are tested to validate that they remain fully operational after installation of the Hosted Communications Service. Customer is solely responsible for obtaining such testing from the appropriate Alarm Service providers, ensuring that such testing is completed in a timely manner, and confirming that the Alarm Services and any related Customer-provided equipment, facilities and systems that are connected to Hosted Communications Service operate properly. Customer is solely responsible for any and all costs associated with this activity.
4. **Customer Equipment:** Spectrum's obligation is to provide Hosted Communications Service to the customer-accessible interface device or equipment installed by Spectrum at the Spectrum network demarcation point on the Customer's premises. Customer is solely responsible for coordinating and completing any and all rearrangement, augmentation and configuration of Customer-provided equipment, facilities and systems to be used with Hosted Communications Service and connecting such equipment, facilities and systems to the Spectrum network interface device or equipment. Customer must notify Spectrum at least seventy-two (72) hours prior to Customer's scheduled installation appointment if Customer seeks to reschedule installation for any reason. Additional charges may apply for non-standard installation and missed installation appointments.
5. **Access:** Customer agrees to provide Spectrum and its authorized agents with access to Customer's internal telephone or Local Area Network (LAN) wiring at the network interface device or at some other minimum point of entry in order to facilitate the installation and operation of Hosted Communications Service over existing wiring. Customer hereby authorizes Spectrum to make any requests to Customer's landlord, building owner and/or building manager, as appropriate, and to make any requests to other or prior communications service providers, as necessary and appropriate, to ensure that Spectrum has all access to inside wiring and cabling necessary and sufficient to efficiently and securely install Hosted Communications Service and all related equipment.
6. **CPNI:** Information relating to Customer calling details ("Calling Details"), including the quantity, configuration, type, destination and amount of usage by Customer, and information contained in Customer's bills (collectively, "Customer Proprietary Network Information" or "CPNI"), that is obtained by Spectrum pursuant to its provision of Hosted Communications Service will be protected by Spectrum as described herein, in the Privacy Policy, and in accordance with applicable federal and state requirements. Notwithstanding the foregoing, the following shall not be CPNI: (i) Customer's directory listing information, and (ii) aggregated and/or compiled information that does not contain customer-specific references, even if CPNI was used as a basis for such information.
- a. Spectrum may use and disclose Calling Details and CPNI when required by applicable law. Spectrum may use Calling Details and CPNI and share (including via e-mail) Calling Details and CPNI with its partners and contractors, as well as with Customer's employees and representatives, without Customer consent: (i) to provide services and bills to Customer; (ii) pursuant to applicable law; (iii) to protect the interests of Spectrum, Customer and related parties in preventing fraud, theft of services, abuse, harassment and misuse of telephone services; (iv) to protect the security and integrity of Spectrum's network systems; and (v) to market additional Spectrum services to Customer that are of the same category as the services that Customer purchases from Spectrum.
 - b. Spectrum will obtain Customer's consent before using Calling Details or CPNI to market to Customer Spectrum services that are not within the categories of Services that Customer purchases from Spectrum. Customer agrees that, except as provided in this Service Agreement and applicable law, Spectrum will not be liable for any losses or damages arising as a result of disclosure of Calling Details and CPNI.

- c. Spectrum will respond to Customer requests for Customer Calling Details only in compliance with Spectrum's then-current authentication requirements and applicable law. Such authentication requirements may require Customer to obtain a secure password, which may be required for both online and telephone requests for Calling Details. Spectrum will notify Customer of any requests to change account passwords, activate online account access and change Customer's account address of record. Spectrum may provide such notice by voicemail, by email or by regular mail to Customer's prior account address of record.
 - d. Customer may identify a person or persons who are authorized to request Calling Details by executing an Agency Letter provided by Spectrum upon request. Customer is responsible for ensuring that Spectrum receives timely notice of any changes to the list of authorized individuals identified on the Agency Letter. Spectrum will not be liable to Customer for any disclosure of Calling Details (including CPNI) that occurs if Spectrum has complied with the Agency Letter.
- 7. Directory Listings:** In the event that a material error or omission in Customer's directory listing information, regardless of form, is caused by Spectrum, Customer's sole and exclusive remedy shall be a partial service credit in an amount set by Spectrum's then-current standard policies or as prescribed by applicable regulatory requirements, if any. Notwithstanding the foregoing, Spectrum shall have no other liability for any error or omission in any directory listing information. If a minutes of use ("MOU") package minutes are exceeded, any additional minutes will be charged at the standard domestic long distance rates listed at <http://enterprise.spectrum.com>.
- 8. Number Porting:** Upon submission of a Service Order, Customer may port a telephone number within the rate center for its particular Service Location to Spectrum for use with Spectrum PRI Service or Spectrum SIP Trunk Service. Customer represents and warrants that it has all necessary rights and authority for any porting request, will provide copies of letters of authority authorizing the same upon request, AND SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS SPECTRUM AND ITS AFFILIATES FROM ANY THIRD-PARTY CLAIM RELATED TO OR ARISING OUT OF ANY PORTING REQUEST. Spectrum shall coordinate telephone number porting with Customer's former local service provider ("FLSP") using the operational process for coordinating telephone number porting as prescribed by the appropriate regulatory authority. Spectrum shall port in a telephone number using one of the following agreed upon methods.
- a. *Spare Equipment Cut.* "Spare Equipment Cut" means that Customer will provide sufficient spare Customer equipment, such as line cards, for connection of Spectrum's Service(s) prior to telephone number porting. Spectrum and Customer shall verify the operational stability of the Service(s) in advance of Spectrum issuing a request to port Customer's telephone numbers from Customer's FLSP to Spectrum's Service. Customer acknowledges and accepts that the porting process involves the updating of multiple databases and may result in an outage of Service during such updates.
 - b. *Hot Cut – Business Hours.* "Hot Cut" means that Customer's existing service is disconnected prior to Customer connecting Customer's equipment to Spectrum's Service which, in turn, occurs prior to the scheduled telephone number port change. "Business Hours" means 8:00 AM to 5:00 PM, Monday through Friday, excluding Holidays. Spectrum will use reasonable efforts to resolve any issues arising during the Hot Cut prior to the execution of the port change and may cancel the port change at Customer's request. Customer acknowledges that a Hot Cut necessarily results in an interruption of Customer's telephone service thereby exposing Customer to risks associated with inability to make or receive telephone calls. Customer accepts all liability for any loss or damage arising out of or related to such an interruption.
 - c. *Hot Cut – After Hours.* For purposes of this section, Hot Cut has the same meaning as above. "After Hours" means any time outside of Business Hours. Spectrum will use reasonable efforts to resolve any issues arising during the Hot Cut prior to the execution of the port change. At Customer's request, Spectrum shall make reasonable efforts to cancel the port request, but unavailability of necessary third party resources may prevent Spectrum from effecting such cancellation. Customer acknowledges that a Hot Cut necessarily results in an interruption of Customer's telephone service thereby exposing Customer to risks associated with inability to make or receive telephone calls. Additionally, Customer acknowledges that Customer's choice of an After Hours Hot Cut exposes Customer to the additional risk of an extended outage due to unavailability of necessary third-party resources to cancel a porting request or resolve a trouble report. Customer accepts all liability for any loss or damage arising out of or related to such an interruption or outage.

Spectrum may receive requests to port a telephone number currently assigned to Customer to a third party service provider. Customer agrees that until such time as the porting process has been completed and no further traffic for any ported telephone number traverses Spectrum's network, Customer shall remain bound by the terms of the Agreement and this Attachment (including, without limitation, Customer's obligation to pay for any applicable Services) for any and all traffic which remains on any Customer telephone numbers. Notwithstanding the foregoing, Customer shall notify Spectrum at least five (5) business days in advance of Customer requesting more than twenty (20) telephone numbers to be ported from Spectrum to another service provider.

9. Unified Communications Services:

- a. Unified Communications Services are available in personal computer and mobile phone or tablet application formats where features, functionalities, and capabilities will differ based on the device used to access the Unified Communications Service. Changes made to either the features, functionalities, or capabilities, or to the application user interface formats shall be at the sole discretion of Spectrum.
- b. Unified Communications Services are nonexclusive and nontransferable, and Customer shall prohibit use of the Unified Communications Services by any third party other than the Customer for such Customer's internal business purposes.
- c. Use of the Unified Communications Services by Customer does not permit or imply any passing of title, trade names, trade dress, trademarks, service marks, commercial symbols, copyrightable materials, designs, logos, and/or any other intellectual property from Spectrum or its third party vendors involved in delivering the Unified Communications Services to Customer.
- d. Third party vendors used by Spectrum in delivering the Unified Communications Services to Customer do not provide any warranties, direct or indirect, express or implied, to Customer for any and all damages, whether direct or indirect, incidental or consequential, arising from the use of the Unified Communications Services.
- e. Customer shall not: (i) copy or adapt the Unified Communication Services for any purpose, other than as specifically permitted under this Agreement; (ii) use the Unified Communication Services, other than (a) in accordance with all applicable laws and regulations and (b) as set forth in the documentation provided by Spectrum to Customer; (iii) reverse engineer, translate, decompile, or disassemble the Services; (iv) use the Unified Communications Services in any outsourcing, application service provider, time-sharing or service bureau arrangement, including, without limitation, any use to provide services or process data for the benefit of, or on behalf of, any third party other than the Customer; (v) cause or permit the disabling or circumvention of any security mechanism contained in or associated with the Unified Communications Services; or (vi) delete, alter, cover, or distort any copyright or other proprietary notices or trademarks.
- f. If Customer breaches any terms of this Agreement as they relate to the Unified Communications Services, Spectrum or its third party vendors used in delivering the Unified Communications Services shall be entitled to enforce such terms to cure the material breach.
- g. Spectrum and any third party service provider Spectrum uses to provide Unified Communications Services may use Customer data provided to such service provider in the course of the performance of the Unified Communications Services, including but not limited to any personal data of Customer's employees ("UCS Data"), other than content transmitted by the Unified Communications Services, to (a) communicate with Spectrum or Customer, and (b) administer and/or perform this Agreement, any Service Order, and/or any agreement between Spectrum and such third party service provider. Spectrum and such service provider may access or disclose UCS Data and related information, to: (i) satisfy legal requirements, comply with the law or respond to subpoenas, warrants or court orders, or (ii) act on a good faith belief that such access or disclosure is necessary to protect the personal safety of Spectrum's or such service provider's employees, customers or the public.

Attachment G

Multi-Channel Video Service (Enterprise TV, Government TV, Hospitality TV, Healthcare TV, Education/University TV)

Spectrum Enterprise shall provide the customized cable television programming ("Multi-Channel Video Service") to Customer's Service Location(s) identified in a Service Order, which programming shall be subject to change at Spectrum Enterprise's discretion; provided that Spectrum Enterprise shall use reasonable efforts to substitute similar or comparable programming in the event that any of the programming services cease to be available. If the Parties agree in writing, Multi-Channel Video Service may include HBO, Showtime, TMC, Cinemax, STARZ, Encore or Epix (collectively, "Premium Services").

Spectrum Enterprise and Customer acknowledge that Customer has elected to receive 2 or more tiers of video programming service, including the "broadcast basic" level which, under Federal law, must be purchased as a condition to receipt of other tiers of video service, and Customer acknowledges that it is able to purchase the broadcast basic level of service on a stand-alone basis.

Spectrum Enterprise owns and shall at all times have the exclusive right to access, control, maintain, upgrade, use and operate its Multi-Channel Video Service and related Network and Equipment, except for (i) any video display terminals ("Connections") or inside wiring owned and maintained by Customer or a third party, and (ii) any conduit, risers, raceways or other spaces where the Network or Equipment is located that are owned by Customer or a third party, in which case (as between Customer and Spectrum Enterprise) Customer shall own such items and Customer hereby grants to Spectrum Enterprise the non-exclusive right to access and use such space during the Order Term. The System is not, and shall not be deemed to be, affixed to or a fixture of the Service Location, and nothing is intended to convey any right or ownership of any portion of the Network or Equipment to Customer or any other person or entity. Customer shall be liable for any and all theft, damage and/or loss to the System, or any portion thereof, installed at the Service Location, except to the extent of any negligence or willful misconduct on the part of Spectrum Enterprise.

Customer's use of the Multi-Channel Video Service is subject to the following additional terms and conditions:

1. Multi-Channel Video Service shall not include pay-per-view, video-on-demand, or any visual content other than the mutually-agreed upon Multi-Channel Video Service channel line-up.
2. Customer shall take all necessary precautions to ensure that the Multi-Channel Video Service is received only by authorized parties, and that no part of the Multi-Channel Video Service is received at any other location, including but not limited to locations where an admission fee, cover charge, minimum or like sum is charged, nor shall Customer authorize or approve of any copying, taping or duplicating thereof. Multi-Channel Video Service is available for use at commercial establishments and other non-residential buildings (such as a bar, restaurant or fraternal organization). In commercial establishments with public viewing, only the Multi-Channel Video Service lineup(s) that is approved for public viewing may be used.
3. Customer shall permit Spectrum Enterprise reasonable access to the Service Locations to inspect the Service Location at periodic intervals to ascertain, among other things, the number of television sets receiving the Multi-Channel Video Service. Customer, at its sole expense, shall furnish, install and maintain the inside wiring.
4. Customer, at its sole expense, shall furnish, install, program, secure, and maintain all Service connections within the Service Location. The Service connections shall be installed and programmed by Customer in consultation with Spectrum Enterprise and any specifications provided by Spectrum Enterprise to Customer in writing.
5. Customer shall not interfere with, alter or substitute any of the programs, information or content offered as part of the Multi-Channel Video Service, which are transmitted over any of the channels provided without the prior written consent of Spectrum Enterprise. Under no circumstances shall Customer have any right to encode, alter, reformat, delete or otherwise modify the Multi-Channel Video Service, including without limitation delivery method and any programming contained within the Multi-Channel Video Service, without the express written consent of Spectrum Enterprise. The limitations of this paragraph shall not apply to formatting of programming as agreed by Spectrum Enterprise and Customer.
6. Customer shall provide all first level contact and support to its authorized users relating to the Network, Equipment, and Multi-Channel Video Service. In the event of any disruption, failure, or degradation of the Multi-Channel Video Service lasting for twenty-four (24) consecutive hours or more, Customer shall use all reasonable efforts to diagnose the cause of the Multi-Channel Video Service impacting event. In the event that the Multi-Channel Video Service impacting event is reasonably determined to be caused by the signal delivered by Spectrum Enterprise, Customer shall contact the designated Spectrum Enterprise technical support contact for resolution.
7. The inside wiring shall be installed by Customer in consultation with Spectrum Enterprise and any specifications provided by Spectrum Enterprise to Customer in writing. Spectrum Enterprise shall not be responsible for, and Customer shall not be entitled to

any credit or rebate for an outage which may be due to a fault or failure with respect to any inside wiring, Service connections or any systems, equipment or facilities of any third party, including but not limited to, instances where such outage is due to the Customer's failure to promptly provide Spectrum Enterprise with access to the Property to inspect, monitor, repair, and/or replace the Systems or Multi-Channel Video Service.

8. Notwithstanding anything to the contrary in the Master Agreement, the MRCs for the Multi-Channel Video Service are subject to change consistent with commercial Multi-Channel Video Service rate increases applied to commercial customers.
9. Customer's use of the Set Back Box Product ("SBB") available as part of the Multi-Channel Video Service (the "SBB Offering") is subject to the following additional terms and conditions:
 - a. All terms set forth in this Attachment G shall apply to the SBB Offering except to the extent modified below.
 - b. Notwithstanding Section 1 above, the SBB Offering may include certain video-on-demand programming.
 - c. Notwithstanding Section 4 above, Spectrum Enterprise shall install and program all Connections for the SBB Offering. Customer shall ensure the availability of Connections that are compatible with the SBB Offering including, without limitation, the provision and use of appropriate tuners and Connections having HDTV compatibility.
 - d. If Customer desires for the front desk portal and the TV user interface associated with the SBB Offering to be co-branded (with Spectrum Enterprise's and Customer's brands), then Customer shall provide Spectrum Enterprise a copy of Customer's logo in accordance with Spectrum Enterprise's technical specifications and hereby grants Spectrum Enterprise a right and license to use such logo for purposes of such co-branding.

Spectrum Commercial Subscriber Privacy Policy

TV Internet Phone

Provided for your convenience only. The current policy shall always be found at www.charter.com

Spectrum Commercial Subscriber Privacy Policy

Spectrum takes the protection of our subscribers' ("You," "Your" or "Customer(s)") privacy seriously. The following privacy policy ("Policy") applies to those Spectrum commercial Customers who subscribe to Spectrum's commercial video programming, high-speed Internet, data networking and/or telephone service (individually and collectively the "Service") and describes the Customer information that Spectrum collects and retains, how Spectrum uses and protects it, the limited cases where Spectrum may disclose some or all of that information, and Your rights under the Cable Communications Policy Act of 1984 ("Cable Act"). Depending upon the Spectrum Service to which You subscribe, parts of this Policy may not be applicable to You. Spectrum values Your privacy and considers all personally identifiable information contained in our business records to be confidential. Please review this Policy and, if You are a Spectrum telephone service subscriber, the attached Customer Proprietary Network Information ("CPNI") Policy (the "CPNI Policy"), in conjunction with Your service agreement, terms of service and acceptable use policy ("Your Service Agreement"). Spectrum will provide You copies of this Policy annually and the CPNI Policy at least once every two years, whether or not we have revised the policies. We may modify this Policy at any time. The most current version of this Policy can be found on www.Charter.com. If You find the changes unacceptable and if those changes materially and adversely impact Your use of the Service, You may have the right to cancel Your Service under Your Service Agreement. If You continue to use the Service following the posting of a revised Policy, we will consider that to be Your acceptance of and consent to the Policy as revised.

What type of information does Spectrum collect?

Spectrum collects both personally identifiable information and non-personal information about You when You subscribe to our Service. Spectrum uses its system to collect personally identifiable information about You: (a) when it is necessary to provide our services to You; (b) to prevent unauthorized reception of our services; and (c) as otherwise provided in this Policy. Spectrum will not use the system to collect Your personally identifiable information for other purposes without Your prior written or electronic consent. Spectrum also collects personally identifiable and non-personal information about You when You voluntarily provide information to Spectrum, as may be required under applicable law, and from third parties, as described in this Policy.

Personally identifiable information is any information that identifies or can potentially be used to identify, contact, or locate You. This includes information that is used in a way that is personally identifiable, including linking it with identifiable information from other sources, or from which other personally identifiable information can easily be derived, including, but not limited to, name, address, phone or fax number, email address, spouses or other relatives' names, drivers license or state identification number, financial profiles, tax identification number, bank account information, and credit card information. Personally identifiable information does not include information that is collected anonymously (i.e., without identification of the individual or business) or demographic information not connected to an identified individual or business.

Non-personal information, which may or may not be aggregated information about our Customers and may include information from third parties, does not identify individual Customers. Spectrum may combine third party data with our business records as necessary to better serve our Customers. Examples of non-personal information include IP addresses, MAC addresses or other equipment identifiers, among other data. Our systems may automatically collect certain non-personal information when You use an interactive or transactional service. This information is generally required to provide the service and is used to carry out requests a Customer makes through a remote control or set-top box.

We may also collect and maintain information about Your account, such as billing, payment and deposit history; maintenance and complaint information; correspondence with or from You, information about the service options that You have chosen; information the equipment You have, including specific equipment identifiers; and information about Your use of our services, including the type, technical arrangement, quantity, destination and amount of use of certain of those services, and related billing for those services.

Spectrum also collects customer-provided customization settings and preferences. By using our service, You consent to our collection of this information and other information communicated to Spectrum such as correspondence, responses to

surveys or emails, information provided in chat sessions with us, registration information, or participation in promotions or contests.

If You subscribe to our video service, then in certain of our systems, our set-top boxes automatically collect information that may be used to determine which programs are most popular, how many set-top boxes are tuned to watch a program to its conclusion and whether commercials are being watched, as well as other audience-measurement focused information. Our processes are designed to track this information and audience statistics on an anonymous basis. Information such as channel tuning, the time the channel is changed, and when the set-top box is "on" or "off" is collected at a secure database in an anonymous format. Spectrum, or our contractors or agents, may from time to time share the anonymous information with our advertisers, content providers, or other third parties with whom we have a relationship. We will not provide our advertisers, content providers, or these other third parties with personally identifiable information about You unless we have received Your consent first, except as required by law. (See "Who sees the information collected by Spectrum?")

Why does Spectrum collect personally identifiable information?

Spectrum collects and uses personally identifiable information to:

- properly deliver our Services to You;
- provide You with accurate and high quality customer service;
- perform billing, invoicing and collections;
- provide updates, upgrades, repairs or replacements for any of our service-related devices or software used in providing or receiving services;
- protect the security of the system, prevent fraud, detect unauthorized reception, use, and abuse of Spectrum's Services or violations of our policies or terms of service;
- keep You informed of new or available products and services;
- better understand how the Service is being used and to improve the Service;
- manage and configure our device(s), system(s) and network(s);
- maintain our accounting, tax and other records; and
- comply with applicable federal and state laws and regulations, as well as for the general administration of our business.

You acknowledge and agree that all communications between You and Spectrum may be recorded or monitored by Spectrum for quality assurance or other purposes.

If You use an interactive or transactional service, for example, responding to a survey or ordering a pay-per-view event, the system will collect certain additional personally identifiable information, such as account and billing information or Customer-provided locale and service preferences, to properly bill You for the services purchased and to provide You with a more personalized experience. In addition, certain information such as Your connections to our system is automatically collected to, for example, make it possible for Your digital boxes to receive and process the signals for the services You order.

Spectrum may also collect personally identifiable information from third parties to enhance our customer database for use in marketing and other activities. Spectrum also collects personally identifiable information from third parties to verify information You have provided us and collects personally identifiable information from credit reporting agencies to, for example, determine Your creditworthiness, credit score, and credit usage. Spectrum also may maintain research records containing information obtained through voluntary subscriber interviews or surveys.

If You subscribe to our high-speed Internet service, Spectrum transmits personally identifiable and non-personal identifiable information about You over the Service when You send and receive e-mail and instant messages, transfer and share files, make files accessible, visit websites, or otherwise use the Service and its features. Our transmission of this information is necessary to allow You to use the Service as You have chosen and to render the Service to You.

Who sees the information collected by Spectrum?

Spectrum will only disclose personally identifiable information to others if: (a) Customer provides written or electronic consent in advance, or (b) it is permitted or required under federal or applicable state law. Specifically, federal law allows Spectrum to disclose personally identifiable information to third parties: when it is necessary to provide Spectrum's services or to carry out Spectrum's business activities; as required by law or legal process; or

for mailing list or other purposes, subject to Your ability to limit this last type of disclosure.

To provide services and carry out our business activities, certain authorized people have access to Your information, including our employees, entities affiliated through common ownership or control with Spectrum and third parties that provide and/or include: billing and collection services; installation, repair and customer service subcontractors or agents; program guide distributors; software vendors; program and other service suppliers for audit purposes; marketers of Spectrum's products and services; third party auditors; our attorneys and accountants; and/or strategic partners offering or providing products or services jointly or on behalf of Spectrum. The frequency of disclosures varies according to business needs, and may involve access on a regular basis. Spectrum restricts third parties' use of Your information to the purposes for which it is disclosed and prohibits third parties from further disclosure or use of Your personally identifiable information obtained from us, whether for that third party's own marketing purposes or otherwise.

Unless You object in advance, federal law also allows Spectrum to disclose through "mailing lists," personally identifiable information, such as Your name, address and the level of Your service subscription, to non-affiliated entities, including advertisers and marketing entities, for non-service related purposes, including product advertisement, direct marketing and research. Under no circumstances will Spectrum disclose to these advertising entities the extent of Your viewing habits or the transactions You make over the system. Spectrum, or our contractors or agents, may from time to time share non-personal and/or aggregate information such as the number of Service subscribers who match certain statistical profiles (for example, the number of subscribers in various parts of the country) with our advertisers, content providers, or other third parties with whom we have a relationship.

We may provide anonymous data to third parties who may combine it with other information to conduct more comprehensive audience analysis for us and for television advertisers. This data helps program networks and cable operators decide on which programs, channels, and advertising to carry. Spectrum may also use that information to distribute targeted advertising to You without having disclosed any of Your personally identifiable information to the advertisers. These advertisements may invite interactive or transactional follow-up from You. By using any of Spectrum's interactive services, You consent to our collection of this additional information. Unless You consent first or except as required by law, only anonymous information is disclosed to audience measurement services.

As part of its business activities, if Spectrum enters into a merger, acquisition, or sale of all or a portion of our assets, Spectrum may transfer Customers' personally identifiable and non-personal information as part of the transaction.

If You subscribe to our telephone service, Your name, address and/or telephone number may be transmitted via Caller ID, published and distributed in affiliated or unaffiliated telephone directories, and available through affiliated or unaffiliated directory assistance operators. We take reasonable precautions to ensure that non-published and non-listed numbers are not included in the telephone directories or directory assistance services, although we cannot guarantee that errors will never occur. Please note that Caller ID blocking may not prevent the display of Your name and/or telephone number when You dial certain business numbers, 911, 900 numbers or toll-free 800, 866, 877 or 888 numbers.

If allowed by and after complying with any federal law requirements, Spectrum may disclose personally identifiable information about Customer to representatives of government or to comply with valid legal process, except as provided below, disclosures shall not include records revealing Customer's selection of video programming. Disclosures to representatives of government may be made pursuant to an administrative subpoena, warrant, court order, our reasonable discretion in cases of emergency or serious physical injury, or other permitted means. In these situations, Spectrum may be required to disclose personally identifiable information about a Customer without Customer's consent and without notice to the Customer. Law enforcement agencies may, by federal or state court order, and without notice to You, obtain the right to install a device that monitors Your Internet and e-mail use, including addresses of email sent and received and in some cases the content of those communications; and/or Your use of our telephone service, including listings of incoming and outgoing calls and in some cases the content of those calls. In some instances where there are valid legal requests for or orders for disclosure of Your information, we may notify You of the requests or orders and then it may be up to You to object or take specific action to prevent any disclosures pursuant to those requests or orders.

Where a governmental entity is seeking personally identifiable information of a Customer who subscribes to Spectrum's video services only or records revealing Customer's selection of video programming, the Cable Act requires a court order and that the video subscriber be afforded the opportunity to appear and contest in a court proceeding relevant to the court order any claims made in support of the court order. At such a proceeding, the Cable Act requires the governmental entity to offer clear and convincing evidence that the subject of the information is reasonably suspected of engaging in criminal activity and that the information sought would be material evidence in the prosecution of the case. Except in certain situations (such as with respect to those who owe, or are owed, welfare or child support) state welfare agencies may obtain the names, addresses, and certain

Commercial Terms of Service v.161213

other Customer information as it appears in Spectrum's subscriber records under the authority of an administrative subpoena.

We may also use or disclose personally identifiable information about You without Your consent (a) to protect our Customers, employees, or property, (b) in emergency situations, (c) to enforce our rights in court or elsewhere, or directly with You, for violations of service terms, conditions or policies and/or (d) in order to comply with the Digital Millennium Copyright Act or as otherwise required by law, for example, as part of a regulatory proceeding.

Note to California Customers Regarding Your Privacy Rights:

California law requires Spectrum provide to certain Customers, upon request, certain information regarding the sharing of personally identifiable information to third parties for their direct marketing purposes. As mentioned above, Spectrum does not share personally identifiable information with unaffiliated third parties for their own direct marketing purposes. However, Spectrum may share personally identifiable information with some same-branded affiliates for those affiliates' direct marketing purposes (and, if a Spectrum telephone subscriber, then subject to the restrictions in the attached CPNI Policy). If You make a request by phone or on-line, Spectrum will provide You with the number of its same-branded affiliates in California and a list of personal information that it may have shared with some or all such affiliates.

Can I prohibit or limit Spectrum's use and disclosure of my personally identifiable information?

If You do not want Your name, address, level of service or other personally identifiable information disclosed to third parties in a "mailing list" as explained above, please register this preference at <http://unsubscribe.Spectrum.com> or by contacting us by telephone at 1-888-GET-SPECTRUM. Customers of our video service cannot opt-out of the collection of audience measurement data.

Also, if You do not want to receive marketing messages (e.g., phone calls, emails, and direct mail) from Spectrum, You may call 1-888-GET-SPECTRUM or visit <http://unsubscribe.Spectrum.com> and make a request to have Your privacy preferences updated. Please note that such request will not eliminate all telephone calls, emails or direct mail sent to You from Spectrum as Spectrum may still continue to send non-marketing account-related messages to You.

How long does Spectrum maintain personally identifiable information?

Spectrum will maintain personally identifiable information about You as long as You are a subscriber to Spectrum's Service and as long as necessary for the purpose for which it was collected. If You are no longer a subscriber to any Spectrum Service and the information is no longer necessary for the purpose for which it was collected, Spectrum will only keep personally identifiable information as long as necessary to comply with laws governing our business. These laws include, but are not limited to, tax and accounting requirements that require record retention. Spectrum will also maintain personally identifiable information to satisfy pending requests for access by a subscriber to his/her information or pursuant to a court order. Spectrum will destroy Customers' personally identifiable information when the information is no longer necessary for the purpose for which it was collected, when there are no longer pending requests for such information, and when it is no longer necessary to retain the information under applicable laws.

How does Spectrum protect customer information?

Spectrum takes the security of our Customers' personally identifiable information seriously. Spectrum takes such actions as are reasonably necessary to prevent unauthorized access by entities other than Spectrum to personally identifiable information. Spectrum uses security and/or encryption technology to secure certain sensitive personally identifiable information when it collects such information over the system. Spectrum restricts access to its customer database and secures the content by use of firewalls and other security methods. Spectrum limits access to databases containing Customers' personally identifiable information to those specifically authorized employees and agents of Spectrum and other parties identified in the "Who sees the information collected by Spectrum?" section above. However, we cannot guarantee that these practices will prevent every unauthorized attempt to access, use, or disclose personally identifiable information.

You need to help protect the privacy of Your own information. You and others who use Your equipment must not give identifying information to strangers or others whom You are not certain have a right or need to the information. You also must take precautions to protect the security of any personally identifiable information that You may transmit over any home networks, wireless routers, wireless fidelity (WiFi) networks or similar devices by using encryption and other techniques to prevent unauthorized persons from intercepting or receiving any of Your personally identifiable information. You are responsible for the security of Your information when using unencrypted, open access or otherwise unsecured networks in Your home. For more information on things You can do to help protect the privacy of Your own information, visit www.Charter.com/security or www.OnGuardOnline.gov.

If Your organization is subject to the Health Insurance Portability and Accountability Act (HIPAA), you can learn how HIPAA applies to Your Spectrum services by reviewing our HIPAA Policy, which is incorporated by references into this Policy.

CONFIDENTIAL

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Can I see the information that Spectrum collects about me?

You have a right under the Cable Act to see Your personally identifiable information that Spectrum collects and maintains. The information Spectrum has about its Customers is maintained at the local offices where service is provided, in our systems, and at our corporate headquarters. If You would like to see Your information, please send a written request to Your local Spectrum office. To find the location of Your local office please visit www.Charter.com. Spectrum will be glad to make an appointment for You to come in to Your local office during regular business hours. If Your review reveals an error in our records, Spectrum will correct it. You may also be able to access certain information about You or Your account by telephone or online at www.Charter.com, depending upon the information You have provided.

Does Spectrum protect children's privacy?

Spectrum is concerned about children's privacy and does not knowingly collect personally identifiable information from anyone under the age of 13 over its Service unless otherwise expressly identified. At those specific parts of our Service, Spectrum will provide a special notice or other information describing the additional privacy protections that may apply. Spectrum urges children to always obtain a parent or legal guardian's permission before sending any information about themselves over the Internet and urges parents and legal guardians to be vigilant regarding children's Internet usage. Other services or web pages accessed through Spectrum's Service may have different policies on collection of information pertaining to children and You should consult their privacy policies and read their notices if You have any concerns about the collection or use of such information by those entities.

How does Spectrum use cookies and web beacons?

A cookie is a small file that stores information in Your browser on Your computer. Spectrum places cookies in Your browser that contain some of the information You provide when You register with us and when You set up a personalized service or customize Your settings and preferences on our websites. Spectrum does not store highly sensitive personal information such as Your password, e-mail address or credit card number in cookies. Cookies enable Spectrum to summarize overall usage patterns for analysis. In addition, Spectrum uses cookies to provide personalized services such as saving Your astrological sign on Spectrum.net. Spectrum may also use cookies to provide a more useful online experience, such as allowing You to quickly enter a sweepstakes if You're already logged on.

A web beacon is an invisible graphic on a web page that is programmed to collect non-personally identifiable information about Your use of a given site. Like cookies, web beacons allow Spectrum and its technology providers to summarize overall usage patterns for our analysis and provide personalized services. Spectrum does not share or provide personally identifiable information we may collect, such as names, e-mail addresses and phone numbers with our advertisers without Your express permission. However, Spectrum may provide site usage information linked to Your personally identifiable information to law enforcement or others in compliance with valid legal process or in other situations as stated in the "Who Sees the Information Collected by Spectrum?" paragraphs above.

You may opt-out of the cookies delivered by Spectrum on its websites by changing the setting on Your browser. Depending on Your privacy settings, please be aware that this may disable all cookies delivered to Your browser, not just the ones delivered by Spectrum. Because a "Do Not Track" protocol has not yet been finalized, Spectrum's information collection and disclosure practices, and the choices that we provide to consumers, will continue to operate as described in this Privacy Policy, whether or not a Do Not Track signal is received.

Targeted Advertisements

Spectrum wants to make the advertisements it provides more relevant to You. Spectrum collects and uses non-personal information, such as information about your visits to our websites, ZIP Code, IP address and information from third parties. We may also combine that information with personally identifiable information, such as information You provide Spectrum and from Your Spectrum account. (See "What type of Information does Spectrum Collect?"). In addition, Spectrum may partner with third-party advertising companies who may utilize cookies, web beacons, or other technology to deliver or facilitate the delivery of targeted advertisements.

Spectrum also uses third-party advertising companies to identify and present tailored online advertisements for its goods and services and uses anonymous ZIP Codes to geographically target online advertisements for our other clients. Spectrum will not provide our online partners with access to Your name, address, e-mail address, telephone number or other personally identifiable information without Your permission. When targeted online advertisements displayed on third-party websites are based on Your personally identifiable information or general location derived from your Spectrum IP address, You may opt-out by going to <http://unsubscribe.Spectrum.com> and updating Your privacy preferences. After doing so, we recommend that You also remove any unwanted cookies from Your browser. For more information on how to adjust these settings go to Spectrum.com > Support > Internet Help.

Some of the advertisements You see on cable channels are placed by us. Some of those advertisements are placed in particular shows or channels; others are shown in particular geographic areas. Some of our cable advertisements will ask

for Your permission to take certain actions, like mail You information or allow the advertiser to contact You; if You grant permission, we will use Your personal information for the permitted purposes only. In some areas we will be able to target cable advertisements to Your household that will be more relevant to Your interests based on information You provide us or information that we receive from third parties. When those cable advertisements are directed to You based on Your personal information, You can elect not to receive them. You may opt-out by going to <http://unsubscribe.Spectrum.com> and updating Your privacy preferences.

If you change or get a new account, You will need to review all of Your opt-out choices.

What can I do if I believe Spectrum has violated my rights?

You may enforce the limitations imposed on us by federal law with respect to the collection and disclosure of personally identifiable subscriber information about You, through a civil action under federal law, in addition to other rights and remedies that may be available to You under federal or other applicable laws.

What if I have any questions?

If You have any questions about our privacy protections and policies, please contact Your local customer service office. You can find the phone number for Your local customer service office on Your monthly bill statement or by visiting Spectrum's website at www.Charter.com.

IMPORTANT NOTE:

This Policy does not apply to Your use of any Spectrum website. You should review the privacy policy applicable to each site, which is available under the "Your Privacy Rights" or "Privacy Policy" section of each Spectrum website. This Policy also does not apply to those residential customers who subscribe to Spectrum's residential video programming, high-speed Internet and/or telephone service. The Residential Subscriber Privacy Policy is available under the "Your Privacy Rights" section of www.Charter.com.

Effective: December 16, 2013

Spectrum Commercial Customer Proprietary Network Information (CPNI) Policy

The following CPNI Policy is in addition to requirements set forth in Spectrum's Commercial Subscriber Privacy Policy and is subject to some permitted uses and disclosures of Your name, address, and/or telephone number outlined in the Privacy Policy. The information that we have (1) relating to the quantity, technical configuration, type, destination, location, and amount of Your use of telephone service, and / or (2) contained on Your telephone bill concerning the telephone services that You receive is subject to additional privacy protections. That information, when matched to Your name, address, and telephone number is known as "Customer Proprietary Network Information," or CPNI for short. Examples of CPNI include information typically available from details on a customer's monthly telephone bill -- the type of line, technical characteristics, class of service, current telephone charges, long distance and local service billing records, directory assistance charges, usage data, and calling patterns. As a subscriber to our telephone services, You have the right, and Spectrum has a duty, under federal law to protect the confidentiality of CPNI. Spectrum offers many communications-related services, such as, for example, Spectrum Internet services. From time to time we would like to use the CPNI information we have on file to provide You with information about our communications-related products and services or special promotions. Our use of CPNI may also enhance our ability to offer products and services tailored to Your specific needs. We would like Your approval so that we, our agents, affiliates, joint venture partners, and independent contractors may use this CPNI to let You know about communications-related services other than those to which You currently subscribe that we believe may be of interest to You. You do have the right to restrict this use of CPNI.

IF WE DO NOT HEAR FROM YOU WITHIN 30 DAYS OF THIS NOTIFICATION, WE WILL ASSUME THAT YOU APPROVE OUR USE OF YOUR CPNI FOR THE PURPOSES OF PROVIDING YOU WITH INFORMATION ABOUT OTHER COMMUNICATIONS-RELATED SERVICES. YOU HAVE THE RIGHT TO DISAPPROVE OUR USE OF YOUR CPNI, AND MAY DENY OR WITHDRAW OUR RIGHT TO USE YOUR CPNI AT ANY TIME BY CALLING THE TELEPHONE NUMBER REFLECTED ON YOUR MONTHLY BILLING STATEMENT OR 1-888-GET-SPECTRUM. We will also honor any restrictions applied by state law, to the extent applicable. Spectrum also offers various other services that are not related to the communications services to which You subscribe. Under the CPNI rules, some of those services, such as Spectrum video services, are considered to be non-communications related services. Occasionally, You may be asked during a telephone call with one of our representatives for Your oral consent to Spectrum's use of Your CPNI for the purpose of providing You with an offer for products or services not related to the telephone services to which You subscribe. If You provide Your oral consent for Spectrum to do so, Spectrum may use Your CPNI for the duration of such telephone call in order to offer You additional services. Any action that You take to deny or restrict approval to use Your CPNI will not affect our provision to You, now or in the future, of any service to which You subscribe. You may disregard this notice if You previously contacted us in response to a CPNI Notification and denied use of Your CPNI for the purposes described above. Any denial of approval for use of Your CPNI outside of the service to which You already subscribe is valid until such time as Your telephone services are discontinued or You affirmatively revoke or limit such approval or denial. The CPNI Policy above may be required by law to apply to our Voice over Internet Protocol or, IP voice services. Effective: May 4, 2009



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

February 21, 2018

Subject: Proposed Resolution revising the authority of Counsel to contract for expert legal services for claims and litigation management

Recommended Action: Approve; Adopt Resolution

Summary:

On January 18, 2017, your Board adopted Resolution 2017-002 authorizing Counsel for the authority to contract for expert legal services for claims and litigation management. The attached proposed Resolution revises the authority of Counsel to initiate litigation and take any other necessary legal action related to claims denial and revenue recovery to obtain reimbursement for Kern Medical. Therefore, it is recommended that your Board retroactively adopt the attached Resolution revising the authority of Counsel to contract for expert legal services, effective January 1, 2018.

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

In the matter of:

Resolution No. _____

**REVISED AUTHORITY OF COUNSEL TO
CONTRACT FOR EXPERT LEGAL SERVICES
FOR CLAIMS AND LITIGATION MANAGEMENT**

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 21st day of February, 2018, by the following vote, and that a copy of the Resolution has been delivered to the Chairman of the Board of Governors.

AYES:

NOES:

ABSENT:

MONA A. ALLEN
Authority Board Coordinator
Kern County Hospital Authority

Mona A. Allen

RESOLUTION

Section 1. WHEREAS:

(a) The Kern County Hospital Authority Act (Health & Saf. Code, § 101852 et seq.) provides the Kern County Hospital Authority (“Authority”) shall have the power to “*appoint and employ or otherwise engage a chief executive officer and other officers and employees that may be necessary or appropriate, **including legal counsel**, to establish their compensation, provide for their health, retirement, and other employment benefits, and to define the power and duties of officers and employees.*” (Emphasis added.) (Health & Saf. Code, § 101855(a)(6).); and

(b) On October 6, 2015, the Kern County Board of Supervisors enacted Ordinance No. A-356 that adds Chapter 2.170 to Title 2 of the Ordinance Code of the County of Kern (“Ordinance”) concerning the creation of the Authority. The Ordinance was effective on November 6, 2015; and

(c) Kern County Ordinance Code section 2.170.080, subsection H states: “As provided in a legal services agreement between the County of Kern and the hospital authority and until such time as this chapter is amended by the board of supervisors to provide otherwise, the office of county counsel shall provide or arrange for legal services to the hospital authority, and shall bill the hospital authority accordingly”; and

(d) On December 13, 2016, the Kern County Board of Supervisors enacted Ordinance No. A-360 amending sections 2.170.070 and 2.170.080 of Chapter 2.170 of the Kern County Ordinance Code to authorize the Authority to provide or arrange for legal counsel and related services. The Ordinance is effective January 20, 2017; and

(e) From time-to-time the Authority requires the assistance of private attorneys to advise the Board of Governors, Chief Executive Officer and/or Counsel for the Authority concerning settling, compromising and paying claims, and to represent the Authority in actual or potential litigation concerning such claims and similar matters; and

(f) It is necessary and appropriate that legal services be performed for the Authority with respect to legal matters pertinent to the Authority.

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. Counsel for the Authority is hereby authorized to contract for legal services with qualified private attorneys, experts, consultants, investigators, and other expert services for assistance in the handling of claims and related litigation management, subject to the budget authorized for such purchase.

3. Counsel for the Authority is hereby authorized to initiate litigation and take any other necessary legal action related to claims denial and revenue recovery to obtain reimbursement for Kern Medical Center.

4. Counsel for the Authority shall report to this Board from time-to-time as is appropriate on the employment of such services or individuals.

5. The provisions of this Resolution shall be effective, in force, and operative as of the 1st day of January, 2018.

6. Resolution No. 2017-002, adopted by the Board of Governors on January 18, 2017, is hereby repealed and superseded by this Resolution.

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

Kern Medical Center
Chief Executive Officer
Chief Financial Officer
Legal Services Department



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

February 21, 2018

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

Recommended Action: Receive and File

Summary:

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

Gross Operating Revenue:

Gross operating revenue for the month of December 2017 has a \$4.6 million unfavorable variance due to lower than expected patient volume for the month. Average daily census for the month was 132, compared to a budget of 135. The corresponding patient days were 4,105, compared to a budget of 4,176.

Indigent Funding:

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

Other Revenue:

Other revenue has an unfavorable budget variance for December due to an adjustment for prepaid workers' compensation claims, lower than average ER physicians' professional fees, and lower than average cafeteria revenue.

Registry Nurses:

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

Professional Fees:

Professional fees have an unfavorable budget variance for the month of December due to one-time Cerner service fees.

Supplies Expense:

Supplies expense has an unfavorable budget variance for the month of December due to a large order of desktop computers for use throughout the hospitals and clinics, office furniture for the Emergency Department, and higher than average pharmaceutical expenses. The expansion of Kern Medical clinics is a main driver of the increase in pharmaceutical expenses. The year-to-date variance for supplies expense is reasonably in line with plan with only a 2% unfavorable variance.

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

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

Purchase Services:

Purchased services are slightly under budget for the month of December. On a year-to-date basis, the unfavorable variance is due to out-of-network costs. Patients that need health care services that are not currently provided by Kern Medical are often referred to other health care providers to perform the services for the patients. These providers then bill Kern Medical for the services provided for our patients. Medical services performed for Kern Medical patients by providers outside of Kern Medical are classified as out-of-network services in the Kern Medical financial statements.

Other Expenses:

Other expenses are under budget for the month of December. On a year-to-date basis, the unfavorable variance is mainly due to many repairs and maintenance projects throughout the hospital and clinics.



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

FEBRUARY 2018



3-Month Trend Analysis: Revenue & Expense						
December 31, 2017						
				BUDGET	VARIANCE	PY
	OCTOBER	NOVEMBER	DECEMBER	DECEMBER	POS (NEG)	DECEMBER
Gross Patient Revenue	\$ 76,925,948	\$ 68,111,189	\$ 68,313,864	\$ 72,985,199	(6.4%)	\$ 65,634,927
Contractual Deductions	(59,625,036)	(50,804,752)	(48,939,529)	(55,143,958)	(11.3%)	(47,980,890)
Net Revenue	17,300,912	17,306,437	19,374,335	17,841,241	9%	17,654,037
Indigent Funding	10,002,778	8,678,171	8,967,443	9,650,779	(7%)	7,874,838
Correctional Medicine	1,976,127	1,976,127	1,976,127	2,002,051	(1%)	1,976,045
County Contribution	285,211	285,211	285,211	297,260	(4%)	285,211
Net Patient Revenue	29,565,028	28,245,946	30,603,116	29,791,332	2.7%	27,790,131
Other Operating Revenue	893,153	1,659,117	858,742	1,066,889	(20%)	966,804
Other Non-Operating Revenue	(4,567)	53,887	29,787	34,458	(14%)	17,793
Total Operating Revenue	30,453,614	29,958,950	31,491,645	30,892,679	1.9%	28,774,728
Expenses						
Salaries	12,233,362	11,754,757	12,614,029	12,455,785	1%	10,851,301
Employee Benefits	5,286,266	5,165,517	5,741,843	6,092,434	(6%)	5,773,777
Contract Labor	1,033,385	1,597,387	1,150,813	918,774	25%	946,017
Medical Fees	1,410,266	1,453,762	1,312,030	1,440,811	(9%)	1,432,227
Other Professional Fees	347,000	1,713,019	1,989,125	1,778,830	11.8%	2,009,171
Supplies	4,013,802	4,231,030	4,850,911	4,261,056	14%	4,651,424
Purchased Services	1,649,368	1,625,487	1,494,550	1,569,779	(5%)	1,418,013
Other Expenses	1,311,191	1,371,488	1,253,241	1,303,330	(4%)	98,187
Operating Expenses	27,284,640	28,912,446	30,406,541	29,820,798	2%	27,180,115
Earnings Before Interest, Depreciation, and Amortization (EBIDA)	3,168,973	1,046,504	1,085,105	1,071,881	1%	1,594,613
EBIDA Margin	10%	3%	3%	3%	(1%)	6%
Interest	21,924	21,306	(9,379)	43,132	(122%)	27,552
Depreciation	570,051	521,952	513,049	482,712	6%	474,567
Amortization	22,810	29,345	41,505	25,327	64%	20,313
Total Expenses	27,899,425	29,485,049	30,951,715	30,371,969	1.9%	27,702,546
Operating Gain (Loss)	2,554,188	473,901	539,930	520,710	4%	1,072,181
Operating Margin	8.4%	1.6%	1.7%	1.7%	2%	4%

Year-to-Date: Revenue & Expense						
December 31, 2017						
		ACTUAL	BUDGET	VARIANCE	PY	PY VARIANCE
		FYTD	FYTD	POS (NEG)	FYTD	POS (NEG)
Gross Patient Revenue		\$ 433,412,425	\$ 429,084,994	1.0%	\$ 394,813,925	10%
Contractual Deductions		(323,457,249)	(325,111,293)	(0.5%)	(290,387,737)	11%
Net Revenue		109,955,175	103,973,701	6%	104,426,187	
Indigent Funding		54,261,449	57,282,044	(5%)	45,982,029	18%
Correctional Medicine		11,856,762	11,883,142	(0.222%)	11,845,329	0.1%
County Contribution		1,711,266	1,764,383	(3%)	1,722,205	(1%)
Net Patient Revenue		177,784,653	174,903,270	2%	163,975,750	8%
Other Operating Revenue		6,620,145	6,332,599	5%	5,833,687	13%
Other Non-Operating Revenue		173,071	204,524	(15%)	140,036	24%
Total Operating Revenue		184,577,869	181,440,394	2%	169,949,473	9%
Expenses						
Salaries		73,927,085	73,435,934	1%	66,512,994	11%
Employee Benefits		31,757,524	36,378,531	(13%)	31,986,584	(0.7%)
Contract Labor		7,221,548	5,401,175	34%	5,313,160	36%
Medical Fees		7,822,514	8,469,070	(8%)	8,307,162	(6%)
Other Professional Fees		8,789,132	10,558,214	(17%)	9,875,470	(11%)
Supplies		25,631,403	25,071,783	2.2%	24,094,888	6%
Purchased Services		10,583,433	9,317,400	14%	8,058,855	31%
Other Expenses		8,783,228	7,738,309	14%	7,413,345	18%
Operating Expenses		174,515,867	176,370,415	(1%)	161,562,458	8%
Earnings Before Interest, Depreciation, and Amortization (EBIDA)		10,062,002	5,069,979	98%	8,387,015	20%
EBIDA Margin		5%	3%	95%	5%	10%
Interest		100,236	256,010	(61%)	139,035	(27.9%)
Depreciation		3,246,567	2,865,132	13%	2,805,653	16%
Amortization		174,248	150,328	16%	148,099	18%
Total Expenses		178,036,918	179,641,884	(1%)	164,655,245	8%
Operating Gain (Loss)		6,540,951	1,798,509	264%	5,294,228	24%
Operating Margin		3.5%	1.0%	258%	3%	14%

3-Month Trend Analysis: Cash Indicators

December 31, 2017

					BUDGET	VARIANCE	PY
		OCTOBER	NOVEMBER	DECEMBER	DECEMBER	POS (NEG)	DECEMBER
CASH							
	Total Cash	43,900,559	73,821,664	60,025,766	36,530,778	64%	82,059,137
	Days Cash On Hand	50	77	61	38	61%	94
	Days In A/R - Gross	84.77	84.79	90.10	76.00	19%	96.82
	Patient Cash Collections	\$ 18,188,575	\$ 18,693,217	\$ 16,423,850	N/A	N/A	\$ 18,109,925
	Patient Cash Goal	\$ 19,271,035	\$ 17,739,762	\$ 18,963,009	N/A	N/A	\$ 17,369,639
	Projected Year End Cash Balance	59,085,203	59,085,203	59,085,203	N/A	N/A	N/A

3-Month Trend Analysis: Operating Metrics

December 31, 2017

					BUDGET	VARIANCE	PY
		OCTOBER	NOVEMBER	DECEMBER	DECEMBER	POS (NEG)	DECEMBER
Operating Metrics							
	Total Expense per Adjusted Admission	16,495	19,977	20,652	19,126	8%	19,544
	Total Expense per Adjusted Patient Day	3,484	4,126	4,291	3,788	13.3%	3,685
	Supply Expense per Adjusted Admission	2,373	2,867	3,237	2,683	20.6%	3,282
	Supply Expense per Surgery	1,033	1,330	1,831	1,757	4%	2,001
	Supplies as % of Net Patient Revenue	14%	15%	16%	14%	11%	17%
	Pharmaceutical Cost per Adjusted Admission	1,024	1,132	1,326	1,096	21%	1,367
	Net Revenue Per Adjusted Admission	\$ 10,229	\$ 11,726	\$ 12,927	\$ 11,235	15%	\$ 12,455

Year-to-Date: Operating Metrics

December 31, 2017

		ACTUAL	BUDGET	VARIANCE	PY	PY VARIANCE
		FYTD	FYTD	POS (NEG)	FYTD	POS (NEG)
Operating Metrics						
	Total Expense per Adjusted Admission	19,262	19,249	0%	18,190	6%
	Total Expense per Adjusted Patient Day	3,874	3,812	2%	3,634	7%
	Supply Expense per Adjusted Admission	2,773	2,686	3.2%	2,662	4%
	Supply Expense per Surgery	1,448	1,815	(20%)	2,099	(31%)
	Supplies as % of Net Patient Revenue	14%	14%	0.6%	15%	(1.9%)
	Pharmaceutical Cost per Adjusted Admission	1,149	1,097	5%	1,029	12%
	Net Revenue Per Adjusted Admission	\$ 11,896	\$ 11,141	7%	\$ 11,537	3%

INDIGENT PATIENT CARE FUNDING - MTD & YTD

FOR THE MONTH DECEMBER 31 , 2017

MTD ACTUAL	MTD BUDGET	VAR \$ FAV/(UNFAV)	VAR %	DESCRIPTION	YTD ACTUAL	YTD BUDGET	VAR \$ FAV/(UNFAV)	VAR %
121,027	127,397	(6,370)	-5.0%	MEDI-CAL HOSPITAL QUALITY ASSURANCE FEE	718,356	756,164	(37,808)	-5.0%
2,084,500	2,194,210	(109,711)	-5.0%	MEDI-CAL EXPANSION REVENUE FROM HMO	12,372,516	13,023,701	(651,185)	-5.0%
0	196,257	(196,257)	-100.0%	COUNTY REALIGNMENT FUNDS	0	1,164,882	(1,164,882)	-100.0%
1,192,661	1,255,432	(62,772)	-5.0%	MEDI-CAL SUPPLEMENTAL FUNDING	7,095,116	7,451,599	(356,482)	-4.8%
2,178,493	2,293,151	(114,658)	-5.0%	PRIME - NEW WAIVER	12,930,411	13,610,959	(680,548)	-5.0%
2,121,207	2,232,849	(111,642)	-5.0%	GPP - NEW WAIVER	12,590,389	13,253,041	(662,652)	-5.0%
1,269,555	1,336,374	(66,819)	-5.0%	WHOLE PERSON CARE	7,535,424	7,932,026	(396,601)	-5.0%
0	15,108	(15,108)	-100.0%	MEANINGFUL USE	1,019,237	89,673	929,564	1036.6%
8,967,443	9,650,779	(683,336)	-7.1%	SUB-TOTAL - GOVERNMENTAL REVENUE	54,261,449	57,282,044	(3,020,595)	-5.3%
1,976,127	2,002,051	(25,924)	-1.3%	CORRECTIONAL MEDICINE	11,856,762	11,883,142	(26,380)	-0.2%
285,211	297,260	(12,049)	-4.1%	COUNTY CONTRIBUTION	1,711,266	1,764,383	(53,117)	-3.0%
11,228,781	11,950,091	(721,309)	-6.0%	TOTAL INDIGENT CARE & COUNTY FUNDING	67,829,477	70,929,570	(3,100,092)	-4.4%

APPENDIX B

OTHER REVENUE

FOR THE MONTH DECEMBER 31, 2017

OTHER OPERATING REVENUE

	MTD ACTUAL	MTD BUDGET	VARIANCE	YTD ACTUAL	YTD BUDGET	VARIANCE
MEDICAL POSTGRAD EDUCATION TUITION	335,587	369,527	(33,940)	2,006,320	2,193,321	(187,001)
STAFF DEVELOPMENT EDUCATION FEES	0	724	(724)	6,598	4,300	2,298
TRAUMA EDUCATION REG FEES	0	91	(91)	350	540	(190)
CAFETERIA REVENUE	62,561	88,399	(25,838)	451,889	524,689	(72,800)
FINANCE CHARGES-PATIENT AR	39,561	21,231	18,330	119,570	126,109	(6,539)
SALE OF SCRAP AND WASTE	0	104	(104)	(23)	616	(639)
REBATES AND REFUNDS	28,820	78,381	(49,561)	493,872	465,228	28,644
DRUG CO CASH BACK	3,304	0	3,304	7,183	0	7,183
PHOTOCOPY FEES	1,290	1,799	(509)	11,270	10,677	593
JURY WITNESS FEES	0	326	(326)	456	1,935	(1,479)
MEDICAL RECORDS FEES	0	2,984	(2,984)	12,244	17,714	(5,470)
PHYSICIAN PRO FEE-ER LOCKBOX	8,974	46,882	(37,909)	133,034	278,268	(145,234)
OTHER REVENUE	0	32,835	(32,835)	99,689	194,891	(95,202)
CANCELLED OUTLAWED WARRANTS	4,550	(62)	4,612	13,841	(369)	14,210
GRANTS - KHS	131,530	127,397	4,133	1,809,852	756,164	1,053,687
GRANT-SONG BROWN	0	82	(82)	0	488	(488)
MADDY FUNDS-EMERGENCY MEDICAL SERVICES	0	46,046	(46,046)	104,287	273,308	(169,020)
PRIMARY CARE INCENTIVE PAYMENT	0	0	0	979	0	979
VETERANS ADMINISTRATIVE REVENUE	2,316	7,901	(5,585)	16,574	46,898	(30,323)
JAMISON CENTER MOU	15,639	29,510	(13,871)	93,834	175,156	(81,322)
PATERNITY DECLARATION REVENUE	0	1,212	(1,212)	6,120	7,192	(1,072)
PEDIATRIC FORENSIC EXAMS	0	10,261	(10,261)	53,000	60,906	(7,906)
FOUNDATION CONTRIBUTIONS	0	0	0	27,745	0	27,745
DONATED EQUIPMENT	155	0	155	1,754	0	1,754
PAY FOR PERFORMANCE	85,237	0	85,237	85,237	0	85,237
WORKERS COMPENSATION REFUNDS	(53,069)	13,649	(66,718)	111	81,012	(80,902)
TOTAL OTHER OPERATING REVENUE	858,742	1,066,889	(208,147)	6,620,145	6,332,599	287,546
OTHER NON-OPERATING REVENUE						
OTHER MISCELLANEOUS REVENUE	0	900	(900)	1,155	5,344	(4,189)
INTEREST ON FUND BALANCE	29,787	33,558	(3,770)	171,916	199,180	(27,264)
TOTAL OTHER NON-OPER REVENUE	29,787	34,458	(4,671)	173,071	204,524	(31,453)

KERN MEDICAL BALANCE SHEET		
	December 2017	December 2016
CURRENT ASSETS:		
CASH	\$60,025,766	\$83,038,518
CURRENT ACCOUNTS RECEIVABLE (incl. CLINIC CHARGES RECEIVABLE)	208,937,190	220,160,110
ALLOWANCE FOR UNCOLLECTIBLE RECEIVABLES - CURRENT	(168,875,016)	(182,679,995)
- NET OF CONT ALLOWANCES	40,062,174	37,480,115
MD SPA	4,619,819	2,788,020
HOSPITAL FEE RECEIVABLE	747,299	3,510,967
CPE - O/P DSH RECEIVABLE	6,146,534	6,719,469
MENTAL HEALTH MOU	1,160,872	0
MANAGED CARE IGT (RATE RANGE)	12,283,664	7,117,075
RECEIVABLE FROM LIHP	(6,547,536)	(5,722,111)
OTHER RECEIVABLES	2,288,687	3,344,846
PRIME RECEIVABLE	11,723,273	14,389,734
AB85/75% DEFAULT PCP RECEIVABLE	7,312,643	(9,558,741)
GPP (Global Payment Program)	8,142,098	11,789,567
WPC (Whole Person Care)	7,104,115	0
INTEREST ON FUND BALANCE RECEIVABLE	89,362	51,225
MANAGED CARE IGT (SPD)	(7,953,923)	866,999
WAIVER RECEIVABLE FY07	(745,824)	(745,824)
WAIVER RECEIVABLE FY08	(6,169,000)	(6,169,000)
WAIVER RECEIVABLE FY09	(2,384,000)	(2,384,000)
WAIVER RECEIVABLE FY10	579,696	579,696
WAIVER RECEIVABLE FY11	(10,493,878)	(10,493,878)
WAIVER RECEIVABLE FY12	679,308	679,308
WAIVER RECEIVABLE FY14	0	(28,564,908)
WAIVER RECEIVABLE FY15	(11,223,792)	(23,770,144)
WAIVER RECEIVABLE FY16	(2,819,361)	(2,819,361)
PREPAID EXPENSES	4,201,840	2,573,923
PREPAID MORRISON DEPOSIT	799,706	776,510
INVENTORY AT COST	4,208,009	3,461,817
TOTAL CURRENT ASSETS	123,837,549	88,939,822
PROPERTY, PLANT & EQUIPMENT:		
LAND	170,395	168,115
EQUIPMENT	48,650,193	44,562,132
BUILDINGS	82,462,922	82,462,622
CONSTRUCTION IN PROGRESS	7,821,180	2,255,090
LESS: ACCUMULATED DEPRECIATION	(86,858,506)	(80,850,595)
NET PROPERTY, PLANT & EQUIPMENT	52,246,184	48,597,364
NET INTANGIBLE ASSETS		
INTANGIBLE ASSETS	12,884,503	10,753,091
ACCUMULATED AMORTIZATION INTANGIBLES	(10,724,616)	(10,376,856)
NET INTANGIBLE ASSETS	2,159,887	376,235
LONG-TERM ASSETS:		
LONG-TERM PATIENT ACCOUNTS RECEIVABLE		
DEFERRED OUTFLOWS - PENSIONS	71,902,645	49,355,076
CASH HELD BY COP IV TRUSTEE	912,973	906,469
TOTAL LONG-TERM ASSETS	72,815,618	50,261,545
TOTAL ASSETS	\$251,059,238	\$188,174,966

KERN MEDICAL BALANCE SHEET		
	December 2017	December 2016
CURRENT LIABILITIES:		
ACCOUNTS PAYABLE	\$19,770,437	\$17,069,312
ACCRUED SALARIES & EMPLOYEE BENEFITS	24,302,759	12,195,035
INTEREST PAYABLE	1,126,383	761,506
OTHER ACCRUALS	5,300,089	3,469,085
ACCRUED CWCAP LIABILITY	158,398	223,588
CURRENT PORTION - CAPITALIZED LEASES	337,560	265,039
CURR LIAB - COP 2011 PAYABLE	1,085,718	1,032,670
CURR LIAB - P.O.B.	1,337,416	1,240,884
MEDICARE COST REPORT LIAB PAYABLE	3,794,129	2,845,744
MEDI-CAL COST REPORT LIABILITY	1,430,435	754,158
INDIGENT FUNDING PAYABLE	15,226,266	8,355,601
DSH PAYABLE FY14	24,746,355	5,599,450
CREDIT BALANCES PAYABLES	4,215,660	4,608,779
DEFERRED REVENUE - COUNTY CONTRIBUTION	2,739,701	8,018,479
TOTAL CURRENT LIABILITIES	105,571,307	66,439,330.00
LONG-TERM LIABILITIES:		
LONG-TERM LIABILITY-COP 2011	1,131,693	2,217,410
NET UNAMORTIZED DISCOUNT COP	59,978	79,971
LONG-TERM LIABILITY - CAPITAL LEASES	1,387,154	1,924,541
NET OPEB (OTHER POST EMPLOYMENT BENEFITS)	4,201,203	5,354,890
NET PENSION LIABILITY	329,935,445	345,262,534
L.T. LIAB. - P.O.B. INTEREST PAYABLE 08	14,722,232	17,201,707
L.T. LIAB. - P.O.B. INTEREST PAYABLE 03	3,917,723	3,528,303
L.T. P.O.B. PAYABLE 03	16,695,541	18,326,891
L.T. P.O.B. PAYABLE 08	5,392,893	5,392,893
ACCRUED PROFESSIONAL LIABILITY	3,474,640	4,149,059
ACCRUED WORKERS' COMPENSATION PAYABLE	6,773,000	0
DEFERRED INFLOWS - PENSIONS	22,238,926	15,299,688
PENSION OBLIGATION BOND PAYABLE	3,678,145	4,721,626
ACCRUED COMPENSATED ABSENCES	3,830,085	9,100,824
TOTAL LONG-TERM LIABILITIES	417,438,657	432,560,337
NET POSITION		
RETAINED EARNINGS - CURRENT YEAR	39,814,215	45,108,445
RETAINED EARNINGS - PRIOR YEAR	(311,764,941)	(355,933,146)
TOTAL NET POSITION	(271,950,726)	(310,824,701)
TOTAL LIABILITIES & NET POSITION	\$251,059,238	\$188,174,966



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

February 21, 2018

Subject: Kern County Hospital Authority, Chief Executive Officer Report

Recommended Action: Receive and File

Summary:

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



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

FEBRUARY 2018



3-Month Trend Analysis: Volume and Strategic Indicators

December 31, 2017

					BUDGET	VARIANCE	PY
		OCTOBER	NOVEMBER	DECEMBER	DECEMBER	POS (NEG)	DECEMBER
VOLUME							
	Adjusted Admissions (AA)	1,691	1,476	1,499	1,588	(6%)	1,417
	Adjusted Patient Days	8,007	7,146	7,213	8,018	(10%)	7,518
	Admissions	929	790	853	827	3.1%	797
	Average Daily Census	142	128	132	135	(2%)	136
	Patient Days	4,398	3,825	4,105	4,176	(2%)	4,227
	Available Occupancy %	66.3%	59.6%	61.9%	62.9%	(2%)	63.7%
	Average LOS	4.7	4.8	4.8	5.0	(5%)	5.3
	Surgeries						
	Inpatient Surgeries (Main Campus)	258	225	214	257	(17%)	263
	Outpatient Surgeries (Main Campus)	281	257	227	270	(15.8%)	256
	Total Surgeries	539	482	441	526	(16%)	519
	Births	259	203	238	232	3%	207
	ER Visits						
	Admissions	427	424	425	432	(1.5%)	436
	Treated & Released	3,655	3,942	3,638	3,733	(2.5%)	3,250
	Total ER Visits	4,082	4,366	4,063	4,164	(2%)	3,686
	Trauma Activations	260	233	256	N/A	N/A	233
	Outpatient Clinic Visits						
	Total Clinic Visits	12,846	12,008	10,408	11,206	(7%)	10,024

Year-to-Date: Volume and Strategic Indicators

December 31, 2017

		ACTUAL	BUDGET	VARIANCE	PY	PY VARIANCE
		FYTD	FYTD	POS (NEG)	FYTD	POS (NEG)
VOLUME						
	Adjusted Admissions (AA)	9,243	9,333	(0.96%)	9,052	2%
	Adjusted Patient Days	45,957	47,121	(2.5%)	45,309	1%
	Admissions	5,037	4,861	4%	4,813	4.7%
	Average Daily Census	136	133	2%	131	4%
	Patient Days	25,044	24,542	2%	24,127	3.8%
	Available Occupancy %	63.6%	62.3%	2%	61.3%	3.8%
	Average LOS	5.0	5.0	(1.5%)	5.0	(1%)
	Surgeries					
	Inpatient Surgeries (Main Campus)	1,415	1,422	(0.5%)	1,408	0.5%
	Outpatient Surgeries (Main Campus)	1,487	1,573	(5%)	1,557	(4%)
	Total Surgeries	2,902	2,995	(3.1%)	2,965	(2%)
	Births	1,337	1,369	(2%)	1,369	(2%)
	ER Visits					
	Admissions	2,615	2,551	2%	2,385	10%
	Treated & Released	22,328	22,873	(2%)	20,295	10%
	Total ER Visits	24,943	25,425	(2%)	22,680	10%
	Trauma Activations	1,561	N/A	N/A	1,378	N/A
	Outpatient Clinic Visits					
	Total Clinic Visits	68,919	66,245	4%	62,758	10%

3-Month Trend Analysis: Payor Mix

December 31, 2017

					BUDGET	VARIANCE	PY
		OCTOBER	NOVEMBER	DECEMBER	DECEMBER	POS (NEG)	DECEMBER
PAYOR MIX - Charges							
	Commercial FFS	6.6%	4.0%	5.2%	4.4%	18%	4.7%
	Commercial HMO/PPO	7.7%	5.1%	4.7%	5.5%	(15%)	6.5%
	Medi-Cal	28.8%	31.2%	30.7%	28.3%	9%	29.1%
	Medi-Cal HMO - Kern Health Systems	29.9%	32.0%	31.5%	30.6%	3%	31.7%
	Medi-Cal HMO - Health Net	8.7%	9.4%	9.3%	9.0%	3%	9.7%
	Medi-Cal HMO - Other	1.0%	1.1%	1.1%	1.1%	2%	1.1%
	Medicare	10.3%	9.9%	10.6%	11.1%	(5%)	8.6%
	Medicare - HMO	2.7%	1.5%	2.5%	2.3%	10%	1.0%
	County Programs	0.2%	0.3%	0.3%	0.5%	(49%)	0.3%
	Workers' Compensation	0.4%	0.6%	0.7%	1.6%	(57%)	0.6%
	Self Pay	3.7%	4.9%	3.5%	5.6%	(38%)	6.7%
	Total	100.0%	100.0%	100.0%	100.0%		100.0%

Year-to-Date: Payor Mix

December 31, 2017

		ACTUAL	BUDGET	VARIANCE	PY	PY VARIANCE
		FYTD	FYTD	POS (NEG)	FYTD	POS (NEG)
PAYOR MIX - Charges						
	Commercial FFS	5.1%	3.9%	31%	3.9%	31%
	Commercial HMO/PPO	6.0%	6.4%	(6%)	6.4%	(6%)
	Medi-Cal	29.6%	27.9%	6%	27.9%	6%
	Medi-Cal HMO - Kern Health Systems	30.4%	28.5%	7%	28.5%	7%
	Medi-Cal HMO - Health Net	8.9%	11.3%	(21%)	11.3%	(21%)
	Medi-Cal HMO - Other	1.0%	1.1%	(2%)	1.1%	(2%)
	Medicare	9.9%	8.4%	17%	8.4%	17%
	Medicare - HMO	2.1%	1.9%	10%	1.9%	10%
	County Programs	0.5%	2.5%	(80%)	2.5%	(80%)
	Workers' Compensation	1.1%	0.6%	90%	0.6%	90%
	Self Pay	5.3%	7.6%	(31%)	7.6%	(31%)
	Total	100.0%	100.0%		100.0%	

3-Month Trend Analysis: Labor and Productivity Metrics

December 31, 2017

					BUDGET	VARIANCE	PY
		OCTOBER	NOVEMBER	DECEMBER	DECEMBER	POS (NEG)	DECEMBER
Labor Metrics							
	Productive FTEs	1,404.23	1,338.01	1,291.95	1,348.75	(4%)	1,200.25
	Non-Productive FTEs	181.60	245.86	276.84	206.50	34%	310.08
	Contract Labor FTEs	96.72	89.81	76.54	64.96	18%	62.96
	Total FTEs	1,585.83	1,583.87	1,568.79	1,555.25	1%	1,510.33
	FTE's Per AOB Paid	6.14	6.65	6.33	6.01	5%	6.23
	FTE's Per AOB Worked	5.44	5.62	5.21	5.21	(0.04%)	4.95
	Labor Cost/FTE (Annualized)	125,653.23	125,420.17	133,628.02	132,820.05	1%	124,411.08
	Benefits Expense as a % of Benefitted Labor Expense	58%	58%	60%	65%	(9%)	68%
	Salaries & Benefits as % of Net Patient Revenue	63%	66%	64%	65%	(2%)	63%

Year-to-Date: Labor and Productivity Metrics

December 31, 2017

		ACTUAL	BUDGET	VARIANCE	PY	PY VARIANCE
		FYTD	FYTD	POS (NEG)	FYTD	POS (NEG)
Labor Metrics						
	Productive FTEs	1,349.39	1,335.71	1%	1,225.59	10%
	Non-Productive FTEs	221.09	204.51	8%	220.00	0.5%
	Contract Labor FTEs	86.82	64.38	35%	65.45	33%
	Total FTEs	1,570.48	1,540.22	2%	1,445.59	9%
	FTE's Per AOB Paid	6.17	6.01	3%	5.87	5%
	FTE's Per AOB Worked	5.30	5.22	2%	4.98	7%
	Labor Cost/FTE (Annualized)	128,625.48	132,148.49	(3%)	127,879.70	0.6%
	Benefits Expense as a % of Benefitted Labor Expense	58%	66%	(13%)	64%	(11%)
	Salaries & Benefits as % of Net Patient Revenue	64%	66%	(4%)	63%	0.3%



Cerner Implementation Update



Board of Governors
February 21, 2018

Overview

Alignment Status

Timeline

Governance

SME Selection

Executive Steering

Alignment Status

Commitment Strategy 2/6

- Timeline
- Implementation Methodology
- Discussed "Why"

Governance Planning 2/8

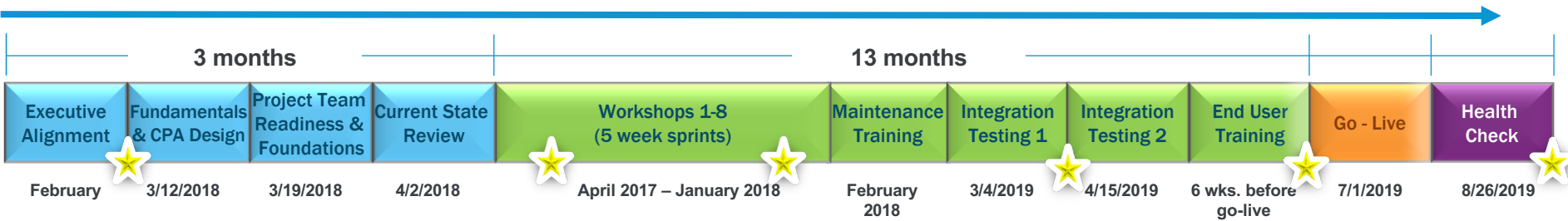
Value Planning 2/9

- Prioritize KPI's
- Selecting a Value Coordinator

Project Startup 2/14

- Scope & Charter

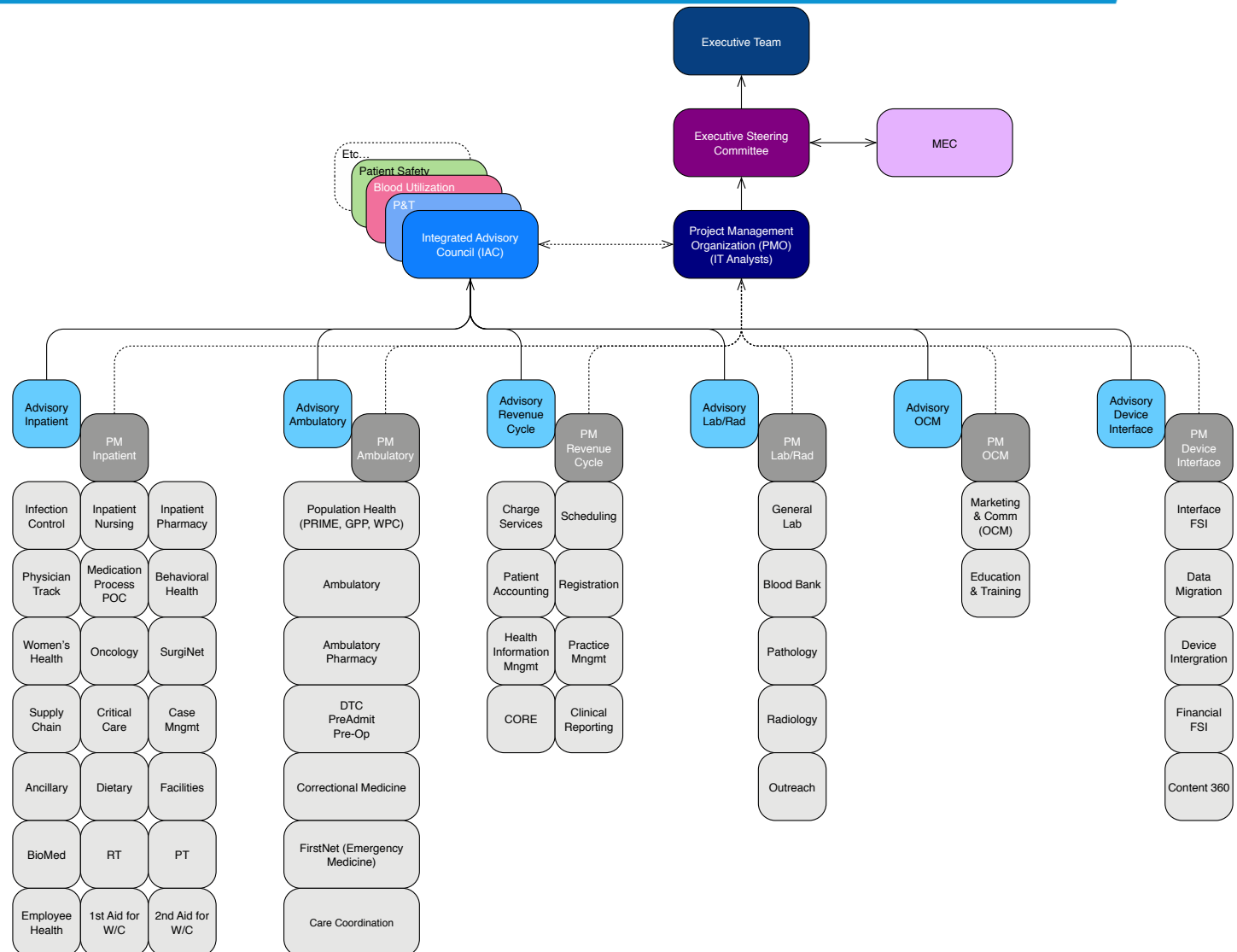
Timeline



Event	Date
Executive Alignment	February
Fundamentals	3/12/2018
Project Team Readiness	3/19/2018
Foundations	3/19/2018
Cerner Patient Accounting (CPA) Design Team Session	3/19/2018
Clinically Driven Revenue Cycle Module 1	3/26/2018
Current State Review	4/2/2018
Data Migration Workshop	4/9/2018

 = Gateway

Governance



SME Selection - Inpatient

Inpatient Nursing - 49

Infection Control - 3

Inpatient Pharmacy - 4

Physician Track - 14

Med Process - 2

Behavioral Health - 4

Women's Health - 4

Oncology - 5

SurgiNet - 4

Supply Chain - 9

Critical Care - 7

Case Management - 9

Ancillary - 4

Dietary - 3

Facilities - 1

BioMed - 1

RT - 3

PT - 2

Employee Health - 1

Worker's Comp - 1

SME Selection - Outpatient

Population Health - 3

Ambulatory - 13

Ambulatory Pharm - 3

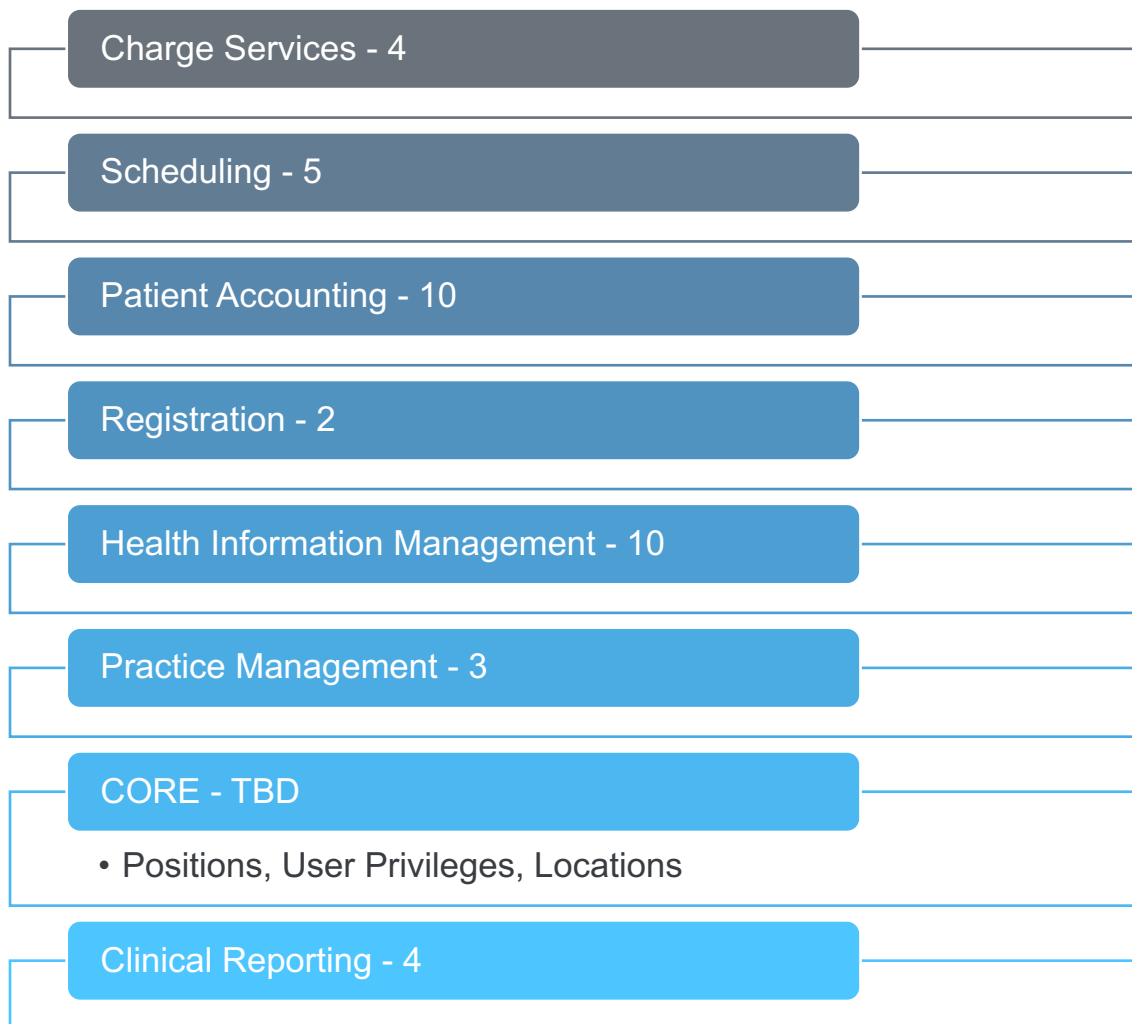
DTC, Pre-Op - 1

Correctional Med - 2

FirstNet (ER) - 10

Care Coordination - 3

SME Selection – Revenue Cycle



SME Selection – Lab/Rad

Lab - 3

Outreach - 2

Blood Bank - 3

Anatomic Path & Micro - 2

Radiology - 2

SME Selection – OCM

OCM - 2

- Organizational Change Management

Education & Training - 2

SME Selection – Device Interface

Interface FSI - 1

- Foreign System Interface

Data Migration - 2

Device Integration - 2

Financial FSI - TBD

Content 360 - 2

Executive Steering

Membership

- Exec Team
- Director of Financial Planning
- Project Manager
- Value Coordinator

Meeting Schedule

- Every 2 weeks beginning 2/22

Agenda

- Implementation Timeline
- Governance
- SME Selection
- Infrastructure
- Scope Document
- Project Charter
- Implementation Budget
- eMPI
- Centralized vs. Decentralized Scheduling

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

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

On the recommendation of the Chief Executive Officer, the Board of Governors will hold a closed session on February 21, 2018, to discharge its responsibility to evaluate and improve the quality of care rendered by health facilities and health practitioners. The closed session involves:

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

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

Government Code Section 54956.9

Based on the advice of Counsel, the Board of Governors is holding a closed session on February 21, 2018, to confer with, or receive advice from Counsel regarding pending litigation, because discussion in open session concerning this matter would prejudice the position of the authority in the litigation. The closed session involves:

- X CONFERENCE WITH LEGAL COUNSEL - 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 –

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

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

On the recommendation of the Chief Executive Officer, the Board of Governors will hold a closed session on February 21, 2018, the premature disclosure of which would create a substantial probability of depriving the authority of a substantial economic benefit or opportunity. The closed session involves:

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

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

On the recommendation of the Chief Executive Officer, the Board of Governors will hold a closed session on February 21, 2018, to consider:

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

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

Government Code Section 54956.9

Based on the advice of Counsel, the Board of Governors is holding a closed session on February 21, 2018, to confer with, or receive advice from Counsel regarding pending litigation, because discussion in open session concerning this matter would prejudice the position of the authority in the litigation. The closed session involves:

 X CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Hadie Vanessa Alvarez
v. County of Kern, et al., Kern County Superior Court, Case No. BCV-15-101754
TSC –

**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 February 21, 2018, to confer with, or receive advice from Counsel regarding pending litigation, because discussion in open session concerning this matter would prejudice the position of the authority in the litigation. The closed session involves:

 X CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code Section 54956.9(d)(1)) Name of case: Service Employees International Union, Local 521 v. County of Kern, et al., Public Employment Relations Board Case No. LA-CE-1084-M –

**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 February 21, 2018, to confer with, or receive advice from Counsel regarding pending litigation, because discussion in open session concerning this matter would prejudice the position of the authority in the litigation. The closed session involves:

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

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

On the recommendation of the Chief Executive Officer, the Board of Governors will hold a closed session on February 21, 2018, to consider:

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