

**SECOND AMENDMENT TO AGREEMENT**

between

**COUNTY OF SANTA BARBARA**

and

**SANTA BARBARA SAN LUIS OBISPO REGIONAL HEALTH AUTHORITY**

for

**INPATIENT CLAIMS ADJUDICATION FOR THE INDIGENT CARE ADULT (ICP) PROGRAM**

(previously known as the Medically Indigent Adult (MIA) Services Program)

**Effective July 1, 2014**

**THIS IS THE SECOND AMENDMENT** (hereafter referred to as Second Amendment) to the Agreement for inpatient claims adjudication for the Indigent Care Program (ICP) previously known as the Medically Indigent Adult (MIA) Services Program, number BC-12-142 (hereafter Agreement), by and between the County of Santa Barbara (hereafter COUNTY) and Santa Barbara San Luis Obispo Regional Health Authority dba CenCal Health, (hereafter CONTRACTOR), for the provision of ICP inpatient claims adjudication.

**WHEREAS**, the Affordable Care Act and the State of California have significantly expanded access to health care coverage in California; and

**WHEREAS**, COUNTY, as a result of these changes to health care coverage, has terminated the Medically Indigent Adult program effective December 31, 2013; and

**WHEREAS**, COUNTY has subsequently developed the Indigent Care Program (ICP) because of its obligation to provide health care access for legal residents age 21-64 who cannot obtain or are exempt from obtaining health care coverage and who meet the COUNTY's eligibility and authorization for care criteria; and

**WHEREAS**, the five (5) hospitals in Santa Barbara County participate in treating ICP patients and through agreements and a Board of Supervisors resolution, are reimbursed by PHD for these patient services upon claims' submissions; and

**WHEREAS**, the parties desire to amend the Agreement to extend the term of the Agreement through June 30, 2016 and replace the Statement of Work, Payment Arrangements and Business Associate Agreement Exhibits; and

**WHEREAS**, this Second Amendment incorporates the terms and conditions set forth in the Agreement previously approved by the COUNTY and CONTRACTOR.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. **Definitions.** Capitalized terms used in this First Amendment, to the extent not otherwise defined herein shall have the same meanings as in the Agreement.
2. **Amendments.**

The Sections and Exhibits are amended as follows:

4. **TERM.** CONTRACTOR shall commence performance on July 1, 2012, and shall continue to provide services pursuant to this Agreement until June 30, ~~2014~~ **2016**, unless terminated sooner as provided herein.

31. **MEDICAL RECORDS.** The parties shall maintain all patient medical records relating to COUNTY ~~MIA~~ **ICP** Patients in such form and containing such information as required by applicable laws. All medical records to be provided by one party to the other shall be provided according to, and the extent allowable under, applicable privacy and confidentiality laws including, without limitation, the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and all rules and regulations promulgated thereunder. CONTRACTOR maintains only patient identification information for billing and physician assignment purposes.

**EXHIBIT A STATEMENT OF WORK** shall be replaced in its entirety with EXHIBIT A STATEMENT OF WORK, Revised July 1, 2014, attached hereto and incorporated herein by reference.

**EXHIBIT B PAYMENT ARRANGEMENTS** shall be replaced in its entirety with EXHIBIT B PAYMENT ARRANGEMENT, Revised July 1, 2014, attached hereto and incorporated herein by reference.

**EXHIBIT D HIPAA BUSINESS ASSOCIATE AGREEMENT (BAA)** shall be replaced in its entirety with EXHIBIT D HIPAA Business Associate Agreement (BAA), Revised May 1, 2013 and incorporated herein by reference.

3. **Counterparts.** This First Amendment may be executed in several counterparts, all of which taken together shall constitute a single agreement between the parties.

Second Amendment to Agreement for ICP Claims Adjudication BC-12-042 between the **County of Santa Barbara** and **CenCal Health**.

**IN WITNESS WHEREOF**, the parties have executed this Second Amendment to be effective upon date executed by County.

COUNTY OF SANTA BARBARA

\_\_\_\_\_  
Steve Lavagnino Chair  
Chair, Board of Supervisors

Date: \_\_\_\_\_

ATTEST:  
MONA MIYASATO  
CLERK OF THE BOARD

By: \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:  
MICHAEL C. GHIZZONI  
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:  
ROBERT W GEIS, CPA  
AUDITOR-CONTROLLER

By: \_\_\_\_\_  
Deputy County Counsel

By: \_\_\_\_\_  
Deputy

APPROVED:  
TAKASHI WADA, MD, MPH  
DIRECTOR/HEALTH OFFICER  
PUBLIC HEALTH DEPARTMENT

APPROVED AS TO FORM:  
RAY AROMATORIO, ARM, AIC  
RISK MANAGER

By: \_\_\_\_\_  
Director

By: \_\_\_\_\_  
Risk Manager

Second Amendment to Agreement for ICP Claims Adjudication BC-12-042 between the **County of Santa Barbara** and Santa Barbara San Luis Obispo Regional Health Authority, dba **CenCal Health**.

**IN WITNESS WHEREOF**, the parties have executed this Second Amendment to be effective on date executed by County.

**CONTRACTOR**

Santa Barbara San Luis Obispo Regional Health Authority (dba CenCal Health)

By: \_\_\_\_\_

Robert Freeman, Chief Executive Officer

Date: \_\_\_\_\_

## EXHIBIT A

### STATEMENT OF WORK

Revised: July 1, 2014

**SCOPE OF SERVICES.** COUNTY and CONTRACTOR agree as follows:

#### COUNTY SHALL:

1. Have sole responsibility for administration of the Indigent Care Program (ICP). COUNTY's responsibilities shall include, but not be limited to: determination of ICP Patient eligibility, authorization and payment for care and treatment, quality management and contracting. Any function not specifically delegated to and assumed by CONTRACTOR under this Agreement shall remain the sole responsibility of COUNTY.
2. Submit an electronic ICP eligibility data file on a daily basis (Monday–Friday) in a format acceptable to CONTRACTOR, containing data elements including but not limited to: patient name; patient date of birth; patient identification number assigned by COUNTY; beginning and end date of eligibility for the ICP Program; and such other elements as may be required for CONTRACTOR's maintenance of enrollment records and adjudication of claims. COUNTY will promptly notify CONTRACTOR of any errors in eligibility information previously provided.
3. Maintain agreement relationships with inpatient facilities ("Hospitals") outlining the terms and conditions of services to be provided for ICP Patients, including treatment authorization and claims submission processes, and inform the facilities and CONTRACTOR of per diem rate changes, including effective dates.
4. Timely evaluate and provide inpatient authorization for medically necessary care for ICP Patients, using CONTRACTOR's Health Information System, to enable CONTRACTOR to correctly and timely adjudicate Hospitals' claims for such services.
5. Identify in writing those individuals employed by COUNTY who will need authorized limited access to CONTRACTOR's health information system for reviewing and acting on treatment authorization requests and for viewing eligibility and claims information.
6. Notify CONTRACTOR of any change in patient ICP status, such as acquisition of third party payer source and/or ICP eligibility rescission.
7. Have full responsibility for recovery of claims payments for all ICP Patients that became retroactively eligible for Medi-Cal effective more than twelve months prior to a Hospital admission date. COUNTY shall also have full responsibility for recoveries of claims payments that were erroneously authorized by COUNTY and then paid by CONTRACTOR in accordance with Exhibit B Section 2 of this Agreement, or for which other coverage becomes subsequently available. COUNTY has full responsibility for collecting any applicable share of cost from an ICP Patient.
8. Resolve ICP Patient concerns and disputes.
9. Provide support to Hospitals for issues regarding eligibility, authorization, covered services, discharges and claims, including claims appeals.

10. Monitor Agreement expenditures. If 75% of Agreement maximum is reached, COUNTY will meet and confer with CONTRACTOR to determine if Agreement terms must be amended. COUNTY shall be responsible for determining if and when the 75% threshold has been reached and arranging for the parties to meet and confer. CONTRACTOR shall continue to pay claims pursuant to this Agreement until notified by COUNTY's Designated Representative that claims payment should cease.
11. Submit payment for CONTRACTOR invoices within 30 days of receipt.

**CONTRACTOR SHALL:**

1. Maintain member and provider website ([www.cencalhealth.org](http://www.cencalhealth.org)) portals and Health Information System containing interactive capabilities for ICP member eligibility verification, claim submission, authorization request submission and report requests. Maintain access to this system, with limited editing rights for COUNTY staff members, as identified by COUNTY, for purposes of acting on treatment authorization requests from Hospitals and viewing eligibility and claims information.
2. Input eligibility files received from COUNTY on a daily basis (Monday-Friday).
3. Provide ICP inpatient claims adjudication and payment at the current ICP Hospital inpatient per diem rates as shown on Exhibit B, or as updated by COUNTY, within the existing Explanation of Benefit (EOB) payment schedules. CONTRACTOR will update rates within 10 days of receipt of rate changes from COUNTY. Claims adjudication will be based on COUNTY approved treatment authorization requests and processed in accordance with Medi-Cal claims billing and adjudication rules and timelines.
4. Implement account reconciliation process for ICP patients that receive retroactive Medi-Cal or other third party payer source for inpatient services, or in those instances when ICP eligibility is rescinded. Medical claims costs for ICP patients will be returned to COUNTY, or offset against future invoicing on a retrospective basis, to reconcile for amounts paid in instances when ICP status is rescinded or patients are retroactively granted eligibility for services covered by Medi-Cal or other third party payers.
5. Provide a monthly report along with each invoice showing claims paid, by Hospital and by ICP Patient. CONTRACTOR will submit a monthly invoice to the COUNTY as described in EXHIBIT B.
6. Provide other reporting upon COUNTY request and by mutual agreement of both parties.

## EXHIBIT B

### PAYMENT ARRANGEMENTS

Revised July 1, 2014

1. **AGREEMENT MAXIMUM.** For CONTRACTOR services to be rendered under this Agreement, CONTRACTOR shall be paid a total amount, including cost reimbursements, not to exceed \$1,000,000 for the full term of this Agreement. Total expenditures for the period July 1, 2014 through June 30, 2015, shall not exceed \$500,000. Total expenditures for the period July 1, 2015 through June 30, 2016, shall not exceed \$500,000.

2. **CLAIMS ADJUDICATION.**

**A. ADMINISTRATION**

- i. COUNTY shall pay CONTRACTOR at the rate of \$0.31 cents per ICP member per month for ICP inpatient claims adjudication administration. These administration costs are estimated not to exceed \$400 for the period.
- ii. The number of ICP patients per month shall be calculated by CONTRACTOR on the 2<sup>nd</sup> day of each proceeding month based upon eligibility information provided to CONTRACTOR for the service month by PHD ICP eligibility staff as described in EXHIBIT A.

**B. INPATIENT CLAIMS**

COUNTY shall pay CONTRACTOR for any eligible inpatient facility charges remitted by CONTRACTOR as described in EXHIBIT A of this Agreement. Inpatient facility charges may not exceed \$500,000 annually, and will be tracked by COUNTY. Notwithstanding the foregoing limitation on inpatient facility charges, COUNTY shall be responsible for payment to CONTRACTOR of all inpatient facility charges paid by CONTRACTOR on COUNTY's behalf in accordance with prior COUNTY authorization.

**C. INVOICING**

CONTRACTOR's monthly invoice will include monthly reporting as described in EXHIBIT A. These invoices must cite the contract number that begins with the letters BC shown on Page 1 of this Agreement. COUNTY will reimburse CONTRACTOR for the inpatient claims paid, less any offsets or adjustments for retroactive third party payments or eligibility rescission applied. Administrative charges for claims adjudication shall be documented on a separate line item from inpatient claims on the monthly invoice.

3. The COUNTY's ICP Administrator shall review the invoices submitted by CONTRACTOR for consistency with CONTRACTOR's monthly reporting and COUNTY authorizations, and if found to be accurate shall initiate payment processing. COUNTY shall pay invoices for accurate work within 30 days of receipt.
4. COUNTY's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY's right to require CONTRACTOR to correct such work or billings or seek any other legal remedy.

## EXHIBIT D

### HIPAA BUSINESS ASSOCIATE AGREEMENT (BAA)

Revised: May 1, 2013

This Business Associate Agreement (“BAA”) supplements and is made a part of the Agreement between COUNTY (referred to herein as “Covered Entity”) and CONTRACTOR (referred to herein as “Business Associate”).

#### RECITALS

Covered Entity wishes to disclose certain information to Business Associate pursuant to the terms of the Agreement, some of which may constitute Protected Health Information (“PHI”) (defined below).

Covered Entity and Business Associate intend to protect the privacy and provide for the security of PHI disclosed to Business Associate pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (“HITECH Act”), and 45 CFR Parts 160 and 164, Subpart C (the “Security Rule”), Subpart D (the “Data Breach Notification Rule”) and Subpart E (the “Privacy Rule”) (collectively, the “HIPAA Regulations”).

As part of the HIPAA Regulations, the Privacy Rule and the Security Rule (defined below) require Covered Entity to enter into a contract containing specific requirements with Business Associate prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e) and 164.504(e) of the Code of Federal Regulations (C.F.R.) and contained in this BAA.

In consideration of the mutual promises below and the exchange of information pursuant to this BAA, the parties agree as follows:

#### 1. Definitions

- a. **Breach** shall have the meaning given to such term under the HITECH Act [42 U.S.C. Section 17921].
- b. **Business Associate** shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.
- c. **Covered Entity** shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.
- d. **Data Aggregation** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- e. **Designated Record Set** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- f. **Electronic Protected Health Information** means Protected Health Information that is maintained in or transmitted by electronic media.



- g. **Electronic Health Record** shall have the meaning given to such term in the HITECT Act, including, but not limited to, 42 U.S.C. Section 17921.
- h. **Health Care Operations** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- i. **Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.
- j. **Protected Health Information or PHI** means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501. Protected Health Information includes Electronic Protected Health Information [45 C.F.R. Sections 160.103, 164.501].
- k. **Protected Information** shall mean PHI provided by Covered Entity to Business Associate or created or received by Business Associate on Covered Entity's behalf.
- l. **Security Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.
- m. **Unsecured PHI** shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h).

## 2. Obligations of Business Associate

- a. **Permitted Uses.** Business Associate shall not use Protected Information except for the purpose of performing Business Associate's obligations under the Agreement and as permitted under the Agreement and this BAA. Further, Business Associate shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by Covered Entity. However, Business Associate may use Protected Information (i) for the proper management and administration of Business Associate, (ii) to carry out the legal responsibilities of Business Associate, or (iii) for Data Aggregation purposes for the Health Care Operations of Covered Entity [45 C.F.R. Sections 164.504(e)(2)(ii)(A) and 164.504(e)(4)(i)].
- b. **Permitted Disclosures.** Business Associate shall not disclose Protected Information except for the purpose of performing Business Associate's obligations under the Agreement and as permitted under the Agreement and this BAA. Business Associate shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by Covered Entity. However, Business Associate may disclose Protected Information (i) for the proper management and administration of Business Associate; (ii) to carry out the legal responsibilities of Business Associate; (iii) as required by law; or (iv) for Data Aggregation purposes for the Health Care Operations of Covered Entity. If Business Associate discloses Protected Information to a third party, Business Associate must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such Protected Information will be held confidential as provided pursuant to this BAA and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify Business Associate of any breaches of confidentiality of the Protected Information, to the extent the third party has obtained knowledge

of such breach [42 U.S.C. Section 17932; 45 C.F.R. Sections 164.504(e)(2)(i), 164.504(e)(2)(i)(B), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(ii)].

- c. **Prohibited Uses and Disclosures.** Business Associate shall not use or disclose Protected Information for fundraising or marketing purposes. Business Associate shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates [42 U.S.C. Section 17935(a)]. Business Associate shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of Covered Entity and as permitted by the HITECH Act, 42 U.S.C. section 17935(d)(2); however, this prohibition shall not affect payment by Covered Entity to Business Associate for services provided pursuant to the Agreement. Business Associate shall 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 this Agreement, the BAA, or the HIPAA Regulations.
- d. **Appropriate Safeguards.** Business Associate shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information otherwise than as permitted by the Agreement or this BAA, including, but not limited to, administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Protected Information, in accordance with 45 C.F.R. Sections 164.308, 164.310, and 164.312. [45 C.F.R. Section 164.504(e)(2)(ii)(B); 45 C.F.R. Section 164.308(b)]. Business Associate shall comply with the policies and procedures and documentation requirements of the HIPAA Security Rule, including, but not limited to, 45 C.F.R. Section 164.316 [42 U.S.C. Section 17931].
- e. **Reporting of Improper Access, Use or Disclosure.** Business Associate shall report to Covered Entity in writing of any access, use or disclosure of Protected Information not permitted by the Agreement and this BAA, and any Breach of Unsecured PHI, as required by the Data Breach Notification Rule, of which it becomes aware without unreasonable delay and in no case later than 60 calendar days after discovery [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)].
- f. **Business Associate's Subcontractors and Agents.** Business Associate shall ensure that any agents and subcontractors to whom it provides Protected Information, agree in writing to the same restrictions and conditions that apply to Business Associate with respect to such PHI and implement the safeguards required by paragraph (c) above with respect to Electronic PHI [45 C.F.R. Section 164.504(e)(2)(ii)(D); 45 C.F.R. Section 164.308(b)]. Business Associate shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation (see 45 C.F.R. Sections 164.530(f) and 164.530(e)(1)).
- g. **Access to Protected Information.** To the extent that the Covered Entity keeps a designated record set then Business Associate shall make Protected Information maintained by Business Associate or its agents or subcontractors in Designated Record Sets available to Covered Entity for inspection and copying within five (5) days of a request by Covered Entity to enable Covered Entity to fulfill its obligations under state law [Health and Safety Code Section 123110] and the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.524 [45 C.F.R. Section 164.504(e)(2)(ii)(E)]. If Business Associate maintains an Electronic Health Record, Business Associate shall provide such information in electronic format to enable Covered Entity to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17935(e).

- h. **Amendment of PHI for Business Associate who is Required to Maintain a Record Set.** If Business Associate is required to maintain a designated record set on behalf of the Covered Entity the Business Associate shall within ten (10) days of receipt of a request from Covered Entity for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, Business Associate or its agents or subcontractors shall make such Protected Information available to Covered Entity for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.526. If any individual requests an amendment of Protected Information directly from Business Associate or its agents or subcontractors, Business Associate must notify Covered Entity in writing within five (5) days of the request. Any approval or denial of amendment of Protected Information maintained by Business Associate or its agents or subcontractors shall be the responsibility of Covered Entity [45 C.F.R. Section 164.504(e)(2)(ii)(F)].
- i. **Accounting Rights.** Within ten (10) days of notice by Covered Entity of a request for an accounting of disclosures of Protected Information, Business Associate and its agents or 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 the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.528, and the HITECH Act, including but not limited to 42 U.S.C. Section 17935(c), as determined by Covered Entity. Business Associate agrees to implement a process that allows for an accounting to be collected and maintained by Business Associate and its agents or subcontractors for at least six (6) years prior to the request. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that Business Associate maintains an electronic health record and is subject to this requirement. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure. In the event that the request for an accounting is delivered directly to Business Associate or its agents or subcontractors, Business Associate shall within five (5) days of a request forward it to Covered Entity in writing. It shall be Covered Entity's responsibility to prepare and deliver any such accounting requested. Business Associate shall not disclose any Protected Information except as set forth in Sections 2.b. of this BAA [45 C.F.R. Sections 164.504(e)(2)(ii)(G) and 165.528]. The provisions of this subparagraph shall survive the termination of this Agreement.
- j. **Governmental Access to Records.** Business Associate shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to Covered Entity and to the Secretary of the U.S. Department of Health and Human Services (Secretary) for purposes of determining Business Associate's compliance with the Privacy Rule [45 C.F.R. Section 164.504(e)(2)(ii)(H)]. Business Associate shall provide to Covered Entity a copy of any Protected Information that Business Associate provides to the Secretary concurrently with providing such Protected Information to the Secretary.
- k. **Minimum Necessary.** Business Associate (and its agents or subcontractors) shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request, use, or disclosure [42 U.S.C. Section 17935(b); 45 C.F.R. Section 164.514(d)(3)]. Business Associate understands and agrees that the definition of "minimum necessary" is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes "minimum necessary."

- l. **Data Ownership.** Business Associate acknowledges that Business Associate has no ownership rights with respect to the Protected Information.
- m. **Business Associate's Insurance.** Business Associate represents and warrants that it purchases commercial insurance to cover its exposure for any claims, damages or losses arising as a result of a breach of the terms of this BAA.
- n. **Notification of Possible Breach.** During the term of the Agreement, Business Associate shall notify Covered Entity within twenty-four (24) hours of any suspected or actual breach of security, or any access, use or disclosure of Protected Information not permitted by the Agreement or this BAA or unauthorized use or disclosure of PHI of which Business Associate becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. Business Associate shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations. [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)]
- o. **Breach Pattern or Practice by Covered Entity.** Pursuant to 42 U.S.C. Section 17934(b), if the Business Associate knows of a pattern of activity or practice of the Covered Entity that constitutes a material breach or violation of the Covered Entity's obligations under the Agreement or this BAA or other arrangement, the Business Associate must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the Business Associate must terminate the Agreement or other arrangement if feasible, or if termination is not feasible, report the problem to the Secretary. Business Associate shall provide written notice to Covered Entity of any pattern of activity or practice of the Covered Entity that Business Associate believes constitutes a material breach or violation of the Covered Entity's obligations under the Agreement or this BAA or other arrangement within five (5) days of discovery and shall meet with Covered Entity to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.
- p. **Audits, Inspection and Enforcement.** Within ten (10) days of a written request by Covered Entity, Business Associate and its agents or subcontractors shall allow Covered Entity to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of Protected Information pursuant to this BAA for the purpose of determining whether Business Associate has complied with this BAA; provided, however, that (i) Business Associate and Covered Entity shall mutually agree in advance upon the scope, timing and location of such an inspection, (ii) Covered Entity shall protect the confidentiality of all confidential and proprietary information of Business Associate to which Covered Entity has access during the course of such inspection; and (iii) Covered Entity shall execute a nondisclosure agreement, upon terms mutually agreed upon by the parties, if requested by Business Associate. The fact that Covered Entity inspects, or fails to inspect, or has the right to inspect, Business Associate's facilities, systems, books, records, agreements, policies and procedures does not relieve Business Associate of its responsibility to comply with this BAA, nor does Covered Entity's (i) failure to detect or (ii) detection, but failure to notify Business Associate or require Business Associate's remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of Covered Entity's enforcement rights under the Agreement or this BAA, Business Associate shall notify Covered Entity within ten (10) days of learning that Business Associate has become the subject of an audit, compliance review, or complaint investigation by the Office for Civil Rights.

### 3. Termination

- a. **Material Breach.** A breach by Business Associate of any provision of this BAA, as determined by Covered Entity, shall constitute a material breach of the Agreement and shall provide grounds for immediate termination of the Agreement, any provision in the Agreement to the contrary notwithstanding [45 C.F.R. Section 164.504(e)(2)(iii)].
- b. **Judicial or Administrative Proceedings.** Covered Entity may terminate the 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 Regulations 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 Regulations or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.
- c. **Effect of Termination.** Upon termination of the Agreement for any reason, Business Associate shall, at the option of Covered Entity, return or destroy all Protected Information that Business Associate or its agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by Covered Entity, Business Associate shall continue to extend the protections of Section 2 of this BAA to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. [45 C.F.R. Section 164.504(e)(ii)(2)(I)]. If Covered Entity elects destruction of the PHI, Business Associate shall certify in writing to Covered Entity that such PHI has been destroyed.

#### **4. Indemnification**

If Business Associate fails to adhere to any of the privacy, confidentiality, and/or data security provisions set forth in this BAA or if there is a Breach of PHI in Business Associate's possession and, as a result, PHI or any other confidential information is unlawfully accessed, used or disclosed, Business Associate agrees to reimburse Covered Entity for any and all costs, direct or indirect, incurred by Covered Entity associated with any Breach notification obligations. Business Associate also agrees to pay for any and all fines and/or administrative penalties imposed for such unauthorized access, use or disclosure of confidential information or for delayed reporting if it fails to notify the Covered Entity of the Breach as required by this BAA.

#### **5. Disclaimer**

Covered Entity makes no warranty or representation that compliance by Business Associate with this BAA, HIPAA, the HITECH Act, or the HIPAA Regulations will be adequate or satisfactory for Business Associate's own purposes. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.

#### **6. Certification**

To the extent that Covered Entity determines that such examination is necessary to comply with Covered Entity's legal obligations pursuant to HIPAA relating to certification of its security practices, Covered Entity or its authorized agents or contractors, may, at Covered Entity's expense, examine Business Associate's facilities, systems, procedures and records as may be necessary for such agents or contractors to certify to Covered Entity the extent to which Business Associate's security safeguards comply with HIPAA, the HITECH Act, the HIPAA Regulations or this BAA.

#### **7. Amendment to Comply with Law**

The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of the Agreement or this BAA may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule and other applicable laws relating to the security or confidentiality of PHI. The parties understand and agree that Covered Entity must receive satisfactory written assurance from Business Associate that Business Associate will adequately safeguard all Protected Information. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this BAA embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule or other applicable laws. Covered Entity may terminate the Agreement upon thirty (30) days written notice in the event (i) Business Associate does not promptly enter into negotiations to amend the Agreement or this BAA when requested by Covered Entity pursuant to this Section or (ii) Business Associate does not enter into an amendment to the Agreement or this BAA providing assurances regarding the safeguarding of PHI that Covered Entity, in its sole discretion, deems sufficient to satisfy the standards and requirements of applicable laws.

#### **8. Assistance in Litigation of Administrative Proceedings**

Business Associate shall make itself, and any subcontractors, employees or agents assisting Business Associate in the performance of its obligations under the Agreement or 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 claimed violation of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule, or other laws relating to security and privacy, except where Business Associate or its subcontractor, employee or agent is named adverse party.

#### **9. No Third-Party Beneficiaries**

Nothing express or implied in the Agreement or this BAA is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

#### **10. Effect on Agreement**

Except as specifically required to implement the purposes of this BAA, or to the extent inconsistent with this BAA, all other terms of the Agreement shall remain in force and effect.

#### **11. Entire Agreement of the Parties**

This BAA supersedes any and all prior and contemporaneous business associate agreements between the parties and constitutes the final and entire agreement between the parties hereto with respect to the subject matter hereof. Covered Entity and Business Associate acknowledge that no representations, inducements, promises, or agreements, oral or otherwise, with respect to the subject matter hereof, have been made by either party, or by anyone acting on behalf of either party, which are not embodied herein. No other agreement, statement or promise, with respect to the subject matter hereof, not contained in this BAA shall be valid or binding.

#### **12. Interpretation**

The provisions of this BAA shall prevail over any provisions in the Agreement that may conflict or appear inconsistent with any provision in this BAA. This BAA and the Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the Privacy Rule and the Security

Rule. The parties agree that any ambiguity in this BAA shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

**Contract Summary**

**BC 12-142**

Complete data below, print, obtain signature of authorized departmental representative, and submit this form (and attachments) to the Clerk of the Board (>\$25,000) or Purchasing (<\$25,000). See also "Contracts for Services" policy. Form is not applicable to revenue contracts.

D1.	Fiscal Year.....	FY 2012-13, 2013-14, 2014-2015, 2015-2016
D2.	Budget Unit Number (plus –Ship/Bill codes in parenthesis).....	041
D3.	Requisition Number .....	
D4.	Department Name .....	Public Health
D5.	Contact Person .....	Dan Reid
D6.	Telephone.....	681-5173
K1.	Contract Type (check one): <input checked="" type="checkbox"/> Personal Service <input type="checkbox"/> Capital	
K2.	Brief Summary of Contract Description/Purpose .....	ICP Inpatient claims adjudication
K3.	Original Contract Amount .....	\$3,200,000
K4.	Contract Begin Date .....	7-1-12
K5.	Original Contract End Date.....	6-30-16
K6.	Amendment History (leave blank if no prior amendments) .....	A01 to replace Exh A and adjust Exh B; A02 to adjust Sections 4, 31 replace Exh A, Exh B and Exh D
K7.	Department Project Number .....	
B1.	Is this a Board Contract? (Yes/No).....	Yes
B2.	Number of Workers Displaced (if any).....	
B3.	Number of Competitive Bids (if any) .....	
B4.	Lowest Bid Amount (if bid) .....	
B5.	If Board waived bids, show Agenda Date .....	
	and Agenda Item Number.....	
B7.	Boilerplate Contract Text Unaffected? (Yes / or cite Paragraph).....	
F1.	Encumbrance Transaction Code .....	
F2.	Current Year Encumbrance Amount .....	
F3.	Fund Number.....	0042
F4.	Department Number .....	041
F5.	Division Number (if applicable).....	12
F6.	Account Number .....	
F7.	Cost Center number (if applicable).....	
F8.	Payment Terms .....	Net 30
V1.	Vendor Numbers (A=Auditor; P=Purchasing) .....	
V2.	Payee/Contractor Name .....	Santa Barbara Regional Health Authority (dba CenCal Health)
V3.	Mailing Address .....	4050 Calle Real
V4.	City State (two-letter) Zip (include +4 if known) .....	Santa Barbara, CA 93110
V5.	Telephone Number.....	805-562-1600
V7.	Contact Person .....	Dave Seibel
V8.	Workers Comp Insurance Expiration Date .....	
V9.	Liability Insurance Expiration Date[s] (G=Genl; P=Prof).....	
V10.	Professional License Number.....	On File
V11.	Verified by (name of county staff) .....	Kelly Lazarus

V12    Company Type (Check one)     Individual     Sole Proprietorship     Partnership     Corporation

**I certify** information complete and accurate; designated funds available; required concurrences evidenced on signature page.

Date: \_\_\_\_\_ Authorized Signature: \_\_\_\_\_