

PROVIDER SERVICES AGREEMENT

This Provider Services Agreement (the “Agreement”) is made and entered into as of March 21, 2017 by and between the Santa Barbara Public Health Department (hereafter, “Provider”), with a principal place of business located at 300 N. San Antonio Road, Santa Barbara, CA 93310 and Lompoc Valley Community Healthcare Organization, Inc. (hereafter, “LVCHO”), a California nonprofit public benefit corporation, with its principal place of business located at 1593 Chestnut Ave., Lompoc, California 93436.

RECITALS

A. LVCHO is, among other things, a health care service provider network based in Lompoc, Santa Barbara County, California. LVCHO consists of and/or contracts with Lompoc Healthcare District, primary care physicians, specialty physicians, tertiary hospitals and other health care providers located throughout California. LVCHO offers an innovative approach to meeting the health care needs of a rural population. Through its extensive service provider network, LVCHO emphasizes prevention and early intervention, as well as continuity of care.

B. LVCHO has served as a single signature contracting entity to facilitate managed care contracting between providers and various payers, such as managed care organizations and the Federal Bureau of Prisons. LVCHO expects to enter into agreements with other payers, including area employers, to arrange for the delivery of health care services to enrolled Covered Persons, to provide certain administrative services and to assist in the development of a network of providers for the purpose of providing Covered Services to Covered Persons.

C. Provider is public health care entity duly licensed to provide health care services under the laws of the State of California.

D. Provider desires to participate or continue participating in LVCHO by providing or arranging for Covered Services to Covered Persons in coordination with LVCHO and other participating providers.

E. LVCHO and Provider recognize the importance of working together to address the complex access, cost, and quality issues impacting their rural community in a changing health care environment.

F. LVCHO and Provider also realize that by working together cooperatively they will be in a better position to reduce costs for patients and to increase the availability of high quality care in the Lompoc area. To achieve these benefits, LVCHO and Provider agree to work in good faith to assist each other in meeting their obligations and to help improve the lives of area residents.

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

1. DEFINITIONS

Whenever used in this Agreement, the following terms shall have the definitions contained in this Article:

1.1. Accreditation Organization - means any organization engaged in accrediting or certifying LVCHO or Provider.

1.2. Clean Claim - means a Provider billing that is consistent with LVCHO's and/or a Payer's billing requirements and contains, at a minimum: (i) a completed CMS 1500 Health Insurance Claim Form, and (ii) any other reasonable relevant information required by LVCHO or a Payer including, but not limited to the Covered Person's full name, identification number, procedure codes, authorization, dates of service, and billed amounts.

1.3. Co-payments - are fees for Covered Services that may be charged to a Covered Person at the time of provision of services, subject to applicable Program Requirements, that are in addition to the payments paid to Provider by LVCHO or a Payer.

1.4. Cost of Care - is the value of Covered Services that is paid to Provider by LVCHO and is set forth in Exhibit B to this Agreement for each Payer contracting with LVCHO for Covered Services.

1.5. Covered Person - is an individual in custody at the Federal Bureau of Prison in Lompoc and whether referred to as patient, insured, member, subscriber, participant, enrollee, or other similar designation and who is eligible to receive Covered Services through a designated LVCHO/Payer program and for whom Provider shall be responsible for providing Covered Services under this Agreement.

1.6. Covered Services - with respect to any Covered Person, are the medically necessary health services included through a designated LVCHO/Payer contract that the Covered Person is entitled to receive and that Provider is obligated to provide under this Agreement. In the case of this Agreement, the only Covered Services that Provider is obligated to provide are those provided at the Infectious Disease Clinic by the Infectious Disease Specialist facilitated by the Santa Barbara County Public Health Department.

1.7 (*intentionally left blank*)

1.8. Emergency Services - are those Covered Services that are: (1) required by a Covered Person for the evaluation or stabilization of an Emergency Medical Condition, and (2) furnished by a health care provider qualified to furnish such Covered Services.

1.9. Encounter Data - means the data elements identified in Exhibit B, Cost of Care.

1.10. Fee Schedule - means the fee-for-service schedule set forth in Exhibit B, Cost of Care that shall serve as the basis for compensating Provider for Covered Services provided to Covered Persons, and for any other purpose as specified in this Agreement.

1.11 (*intentionally left blank*)

1.12. Medical Services - are those Covered Services that are provided to Covered Persons by licensed specialty or primary care physicians who have entered into a written agreement with the Provider.

1.13. Medically Necessary - means Covered Services that are required by a Covered Person as determined by LVCHO or its designated representatives, in consultation with Provider, and in accordance with generally accepted medical and surgical practices in the medical community.

1.14. Participating Providers - are hospitals, physicians, or any other health care practitioner or entity that has a direct or indirect contractual arrangement with LVCHO to provide Covered Services to Covered Persons.

1.15. Payer - is a health maintenance organization, preferred provider organization, self-insured employer, or other private or public entity that has entered into an agreement with LVCHO to provide or arrange for the provision of Covered Services to Covered Persons.

1.16. Physician - is a person who is duly licensed to practice medicine or osteopathy in the State of California and who has entered into an agreement with the Provider to provide Covered Services.

1.17. Program Requirements - means the current rules, policies and procedures of LVCHO and/or Payers that establish standards to be followed by Provider in providing Covered Services to Covered Persons. Program Requirements include, but are not limited to, Payer Provider Manuals and LVCHO's and its designated representatives' policies and procedures as well as related written material distributed by Payers or LVCHO, as may be amended from time to time. The foregoing Program Requirements are incorporated into this Agreement.

1.18 Provider – is defined as the County of Santa Barbara Public Health Department and includes any and all employees, partners, shareholders and agents of Provider who are utilized by Provider to provide or arrange Covered Services to Covered Persons under this Agreement.

1.18. Quality Improvement - a formatted set of activities to assure a standard of quality of Covered Services provided, including but not limited to any reasonable standards, protocols, policies and procedures adopted by LVCHO or its designees to monitor and improve the quality of clinical care and quality of Covered Services provided to Covered Persons. It includes quality assessment and corrective actions taken to remedy any deficiencies identified through the assessment process.

1.19. Utilization Management - means a process to review and determine whether certain Covered Services provided or to be provided are medically necessary and appropriate as determined by LVCHO, Payers contracting with LVCHO, or their designees as applicable. Utilization Management includes those standards, protocols, polices and procedures adopted by LVCHO or its designees.

2. DUTIES OF PROVIDER

Provider shall at its sole cost and expense, provide or, with the written consent of LVCHO, arrange for the provision of the following Covered Services to Covered Persons.

2.1. Provision of Covered Services. Provider agrees to provide or arrange for the provision of Covered Services by the Infectious Disease Specialist to Covered Persons, on an as needed basis, in coordination with LVCHO, its Participating Providers and in accordance with the terms and conditions set forth in this Agreement. Provider shall participate in Quality Improvement and Utilization Management programs, as may be reasonably necessary to discharge LVCHO's obligations to Payers, to fulfill Provider's patient care obligations under this Agreement and to ensure the best possible provision of Covered Services to Covered Persons. Provider shall adhere to any prior approval or authorization requirements of LVCHO or its designee prior to providing or arranging Covered Services to Covered Persons. Patients will be treated in a manner consistent with the American Urological Association's guidelines unless the Infectious Disease Specialist determines another course would be more beneficial to the patient.

2.2. Compliance with Policies and Procedures. Provider shall abide by the terms of applicable Program Requirements, including but not limited to LVCHO's or its designee's policies and procedures as well as an applicable Payer's policies and procedures, as may be amended from time to time. Provider's failure to abide by such policies and procedures and other Program Requirements may constitute a material breach of this Agreement and result in non-payment to Provider for Covered Services. With specific reference to participation in the LVCHO-Federal Bureau of Prison program, Provider shall adhere to particular rules and regulations pertinent to the treatment of inmates.

2.3. Standards. All Covered Services arranged for or provided by Provider shall be provided by Provider or ancillary professional personnel employed by Provider according to generally accepted standards of care. Provider must meet LVCHO's or its designee's credentialing standards and requirements and must be approved by LVCHO before providing any Covered Services to Covered Members. Provider hereby authorizes LVCHO or its designee, to access and validate such information as may be necessary to ensure appropriate credentialing. Provider shall ensure credentialing of the Infectious Disease Specialist or any of ancillary professional personnel:

2.3.1. Performs all Covered Services in accordance with then current standards of care in the community and the standards of any designated Quality Improvement or Utilization Management committees.

2.3.2. Maintains an unrestricted license to practice his or her profession in the State of California, and be in good standing with any applicable state board of licensure and/or supervision.

2.3.3. Is board certified, or eligible for board certification in his or her specialty area, if applicable.

2.3.4. Maintains an unrestricted Federal DEA number, where appropriate.

2.3.5. Maintains insurance coverage for professional, general and property liability losses in the minimum amount of one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) in the aggregate. In the event that Provider procures a claims-made policy as distinguished from an occurrence policy, Provider shall procure and maintain continuing tail coverage upon termination. Provider shall furnish to LVCHO evidence of insurance coverages, including a certificate(s) evidencing all required programs of insurance coverage identified in this Agreement and evidencing that the required insurance is in effect, any applicable amounts and applicable expiration dates prior to the commencement of work under this Agreement. In the event of a material change in the Provider's program of insurance, Provider shall provide LVCHO with written notice and documentation of the revised program of insurance within ten (10) days prior to the effective date of the change.

2.3.6. Continues to pursue training and education as required to maintain and update skills compatible with standards of practice in the community and complies with all continuing education requirements, if applicable.

2.3.7. Cooperates with LVCHO or its designated representative in maintaining current credentialing information in compliance with State and federal laws and regulations and the requirements of the LVCHO and/or Payers.

2.3.8. Reasonably complies on an ongoing basis with all governmental, LVCHO and/or Payer Quality Improvement and Utilization Management standards.

2.3.9. The Provider requires employees working in direct contact with patients or clients or in a high risk environment to be screened annually for evidence of TB infection and to provide documentation of appropriate immunizations, such as, Hepatitis B; Measles; Mumps; Rubella; Varicella; Tetanus-Diphtheria-Pertussis (Tdap); and, Seasonal Influenza.

2.4. Provider Professional Decisions. It is understood by the parties that the primary concern of Provider under this Agreement shall be the quality of Covered Services provided to Covered Persons. LVCHO does not directly provide health services, or employ or supervise any Provider in providing Covered Services. Nothing in this Agreement shall be interpreted to discourage or prohibit Provider from discussing care options or providing other health care advice or treatment deemed appropriate by Provider.

2.5. Provider Information. Provider shall provide LVCHO with a complete list of all Infectious Disease Specialist together with provider-specific information required by LVCHO for credentialing and for administration of the Payer programs at the time that this Agreement is signed. All additional Infectious Disease Specialists must be approved by LVCHO before providing Covered Services to Covered Persons. LVCHO shall use its best efforts to approve new individuals as quickly as possible after receiving the written notice from Provider of new Infectious Disease Specialists. Provider shall also provide LVCHO with written updates as soon as possible concerning termination of Infectious Disease Specialists as well as any changes in capacity that may prevent Provider from seeing Covered Persons.

2.6. Notification of Certain Events. Provider shall notify LVCHO in writing within twenty-four (24) hours after Provider receives notice of the occurrence of any one or more of the following events:

2.6.1. The staff membership or privileges of Provider or any Provider representative at any hospital are denied, suspended, restricted, revoked or voluntarily relinquished;

2.6.2. Provider becomes the subject of any suit, action or other legal proceeding arising out of the provision of the Covered Services described herein;

2.6.3. Provider is required to pay damages or any other amount in any malpractice action by way of judgment or settlement;

2.6.4. Provider is or becomes the subject of any disciplinary proceeding or action before any state board or similar agency responsible for professional standards or behavior; or

2.6.5. Any act of nature or any other event occurs which has a material adverse effect on Provider's or any Provider representative's ability to provide Covered Services.

2.7 (*intentionally left blank*)

2.8. Billing Covered Persons. Provider accepts payment from LVCHO and/or Payer, together with allowable Co-payments, as provided in Exhibit B herein, as payment in full for Covered Services rendered to Covered Persons. Provider agrees that it shall not, directly or indirectly, make any charges or claims, other than for applicable Co-payments and/or deductibles, against any Covered Persons or their representatives for Covered Services under this Agreement. Only those services which are not Covered Services may be billed directly to Covered Persons, provided that Provider shall first inform Covered Persons in writing that the services to be rendered are not Covered Services and shall obtain Covered Persons written consent to be financially responsible for the non-covered services to be rendered by Provider. In the event Provider receives payment for such services from third parties, Provider shall promptly remit such payments to LVCHO. Furthermore, Provider shall not seek compensation, remuneration, or reimbursement from, or have any recourse against Covered Persons or Payer in the event that LVCHO fails to pay Provider for any reason, including the insolvency of LVCHO. Provider's sole recourse shall be against LVCHO when LVCHO is responsible for payment or Payer when Payer is responsible for payment.

2.9. Continuing Care Obligation. Upon the termination of this Agreement for any reason, Provider shall continue providing Covered Services, under the terms of this Agreement, to Covered Persons who are undergoing a course of treatment from Provider on the effective date of termination for an acute condition or a serious chronic condition or a high risk pregnancy, or for a pregnancy that has reached the second or third trimester. Provider shall continue to provide Covered Services: (1) for up to ninety (90) days for an acute or a serious chronic condition; (2) until postpartum services related to the delivery are completed for a pregnancy condition, or (3) longer than subsections (1) or (2) if necessary for a safe transfer to another participating Provider as determined by LVCHO in

consultation with Provider for the conditions described in subsections (1) or (2). For purposes of this section, an acute condition means a medical condition that involves a sudden onset of symptoms due to an illness, injury, or other medical problem that requires prompt medical attention and that has a limited duration. A serious chronic condition means a medical condition due to a disease, illness, or other serious medical problem or medical disorder that is serious in nature, and that either (i) persists without full cure or worsens over an extended period of time, or (ii) requires ongoing treatment to maintain remission or prevent deterioration. All Provider Covered Services furnished to Covered Persons pursuant to this section shall be reimbursed in accordance with the applicable Exhibit B, Cost of Care attached to this Agreement.

In the event of any insolvency or dissolution of LVCHO or in the event that a Payer shall terminate LVCHO's contract for cause, Payer may continue the terms of this Agreement as if Provider was a party to such LVCHO/Payer agreement, except that: (1) all Provider Covered Services provided to all Covered Persons after such dissolution, insolvency, or termination for cause will be reimbursed pursuant to the applicable Exhibit B, Cost of Care attached to this Agreement; (2) Payer will perform all Utilization Management and Quality Improvement activities; and (3) the Agreement will be treated in all other respects as a fee-for-service agreement. However, in the event of such termination, Provider may terminate this Agreement upon thirty (30) days prior written notice to Payer.

2.10. Quality Improvement and Utilization Management Programs. Provider shall cooperate and comply with, and participate in LVCHO's or its designated representatives' programs and systems of Quality Improvement, grievance procedures, peer review, case management and Utilization Management. Information developed in the course of professional activities, including the records and proceedings of a peer review body, shall be maintained by Provider and LVCHO as privileged and confidential, except where its disclosure is required by law.

2.11. Other Contractual Commitments. Provider represents and assures LVCHO that other contractual commitments do not restrict or impair Provider from performing his, her or its duties under this Agreement.

2.12. Disclosure of Information. Provider agrees that LVCHO may use Provider's name, address, and telephone number in LVCHO's provider directory during the term of this Agreement as an indication of Provider's willingness to provide Covered Services to the Covered Persons. No other use of the Provider's name is permitted. Upon termination of this Agreement, LVCHO agrees to remove Provider's name from all future printings of the directory described herein.

Prior to listing or otherwise referencing LVCHO in any promotional or advertising brochures, media announcements or other advertising or marketing material, Provider shall first obtain the prior consent of LVCHO for use of LVCHO's name. Such consent shall not be unreasonably withheld.

2.13. Care Criteria. Provider shall utilize criteria for care that is established by LVCHO's, Payer's, or their designees' Utilization Management and Quality Improvement committees. Provider may be requested from time to time to serve as a member of or consultant to these LVCHO committees.

2.14. Nondiscrimination, Compliance with Law and Regulations. Provider and LVCHO shall not unlawfully discriminate against any employee or applicant for employment, or against any Covered Person in enrollment, access to, availability or quality of Covered Services or in any manner whatsoever because of race, religion, color, national origin, ancestry, sex, age (except as provided by law), physical or mental handicap, sexual orientation or marital status. Provider shall use his or her best efforts to ensure that the evaluation and treatment of his or her employees and applicants for employment and the provision of Covered Services to Covered Persons is free of such discrimination. Provider shall use his, her or its best efforts to comply with all applicable laws and regulations.

Provider and LVCHO shall not discriminate against any Covered Persons on the basis of income level, source of payment or participation in any other program for the payment of health care costs. Provider shall not refuse or fail to provide Covered Services in the usual and customary manner to Covered Persons, nor attempt to disenroll Covered Persons, on the basis of the discriminatory criteria set forth herein.

2.15. Legal, Regulatory and Contractual Compliance. Provider and LVCHO shall reasonably comply with all applicable California and federal laws, regulations and policies, as amended, that govern participating providers of health care service plans, including but not limited to, the California Insurance Act and the California Knox-Keene Health Care Service Plan Act of 1975, as amended, and the regulations promulgated thereunder.

2.16. Organization and Review of Care. So long as not in conflict with Provider's established policies and procedures, Provider shall comply with LVCHO's or its designated representatives' policies and procedures governing patient relations, scheduling, billing and other administrative matters relating to the organization of the administrative aspects of the delivery of care, as they may be established or amended from time to time.

2.17. Changes in Capacity. Provider will continue to accept LVCHO Covered Persons for so long as Provider has the capacity to provide or arrange Covered Services to Covered Persons. In the event that Provider becomes incapable of providing Covered Services to Covered Persons, Provider shall notify LVCHO immediately and no less than 30 days prior to closing the office or practice to Covered Persons. LVCHO and Provider agree that Provider shall use the best, good faith efforts to notify LVCHO promptly in the event that Provider becomes aware of any facts or circumstances that could limit Provider's capacity.

Provider agrees to accept a Covered Person who is newly enrolled with a Payer if the newly enrolled Covered Person is a current patient of Provider through any other health care service plan, health insurance or self-pay arrangement, notwithstanding that the Provider's practice is otherwise closed.

2.18. Cooperation. Provider shall cooperate with LVCHO and its other Participating Providers to assure Covered Services are available to all Covered Persons including, but not limited (i) Covered Persons referred to Provider by another Participating Provider with prior LVCHO

authorization, or (iii) Covered Persons utilizing any LVCHO/Payer point-of-service benefits. Payment for such services shall be at the fee schedule attached hereto in the applicable payer Exhibit B, Cost of Care.

3. DUTIES OF LVCHO

3.1. Administration. LVCHO or its designated representative shall provide all administrative services under this Agreement. LVCHO's administrative services shall include, without limitation, scheduling for all Bureau of Prisons Covered Persons, budgeting, funds management, claims and payment administration as applicable, coordination of benefits, transportation to and from the Provider's location, utilization management, quality improvement and compliance with all State and federal regulatory requirements.

3.2. Security. LVCHO will ensure inmates are escorted by two Federal guards, and transported in a secure prison van, except if an inmate is from the Low Security Camp. The Low Security Camp houses inmates referred to as inmate Campers that are authorized to drive alone to medical appointments and therefore, do not require security accompaniment. LVCHO will notify Provider when a low security camper is scheduled.

3.3. Assist Provider. LVCHO agrees to assist and cooperate with Provider in the development and initial implementation of procedures necessary to carry out the intent of this Agreement.

3.4. Limitation on LVCHO's Influence on Professional Medical Judgment. LVCHO shall not intervene in any manner in the exercise of the professional judgment by Provider in the care of Covered Persons, nor shall LVCHO make any agreement with others that may have the effect of limiting or restricting the professional medical judgment of Provider. Notwithstanding the foregoing, LVCHO may maintain Utilization Management and Quality Improvements programs.

4. COMPENSATION

Provider shall receive the Cost of Care rates set forth in Exhibit B attached hereto and incorporated herein by reference to this Agreement as payment in full (except for applicable Co-payments and deductibles) for Covered Services provided to Covered Persons affiliated with a particular Payer program. Provider shall submit all claims for reimbursement under this Agreement to LVCHO no later than sixty (60) calendar days from the date Covered Services are provided. Provider shall submit such claims in accordance with LVCHO's policies and procedures. Provider acknowledges and agrees that if Provider fails to submit claims as specified by this Article, LVCHO reserves that right to deny payment for such claims. Both Provider and LVCHO understand and agree that LVCHO shall not be obligated to pay Provider an amount greater than Provider's full charges for Covered Services provided to Covered Persons under this Agreement.

5. TERM OF AGREEMENT

The initial term of this Agreement shall commence at 12:00 a.m. on May 2, 2017 and shall continue until 11:59 p.m. on June 30, 2018. This Agreement shall automatically renew for successive

one-year terms, unless terminated earlier as set forth herein.

6. TERMINATION

6.1. Termination Without Cause. This Agreement may be terminated after the initial term without cause by either party upon at least thirty (30) days notice to the other party prior to the expiration of an annual term period.

6.2. Termination With Cause. This Agreement may be terminated for cause:

6.2.1. By LVCHO immediately if necessary for the protection of patients or as required by applicable quality improvement policies and procedures.

6.2.2. By LVCHO immediately if Provider ceases to meet the licensing, certification, insurance or other professional requirements described in the agreement.

6.2.3. By LVCHO immediately if Provider is suspended, restricted or excluded from any state or federal payer program, such as Medi-Cal or Medicare.

6.2.4. By LVCHO immediately if Provider is charged or convicted of a felony or criminal charges.

6.2.5. By LVCHO immediately with reference to any particular Payer agreement that is terminated.

6.2.6. By LVCHO upon thirty (30) days written notice in the event of Provider's failure to provide care at standards required by LVCHO or its designated representative. The written notice of termination shall contain specific reference to the deficiencies which support the findings. The Agreement will terminate at the end of the thirty (30) day notice period unless the deficiencies are cured within such period.

6.2.7. By LVCHO against Provider, or by Provider against LVCHO, for material breach of this Agreement, including but not limited to any breach of LVCHO's policies and procedures, failure to submit proper and/or accurate documentation for the payment of claims or any other material breach, failure to make payment of a clean claim in accordance with Exhibit B, or failure make timely payment of a clean claim, if such breach continues for thirty (30) days following written notice thereof and is not cured within that thirty (30) day period.

6.2.8. By LVCHO against Provider, effective as of the commencement date, if Provider fails to meet LVCHO's criteria for participating as a contracting provider under this Agreement in the LVCHO network.

6.4. Repayment Upon Termination. Within ninety (90) days of termination of this Agreement, an accounting shall be made of monies due and owing either party and payment shall be forthcoming to settle such balance within thirty (30) days of such accounting.

7. RECORDS DATA COLLECTION. CITATIONS AND RIGHT TO INSPECT RECORDS

7.1. Provider's Business Records. Both Parties shall maintain and provide such health and business records and information relating to this Agreement, in such form and containing such information, as shall be necessary for the proper administration of the LVCHO program and Provider's legal requirements as a public health facility and consistent with state and federal law as well as any accrediting organizations. The duties imposed by this Article 7 shall not terminate upon termination of this Agreement, whether by rescission or otherwise. Costs of copying records shall be the obligation of the requesting party, and copies of said records shall be provided only in accordance with applicable laws and regulations regarding confidentiality.

7.2. Confidentiality of Records. Provider and LVCHO shall safeguard the confidentiality of Covered Person patient health records and treatment in accordance with all state and federal laws. Provider shall establish and maintain reasonable procedures and reasonable safeguards so that information, records or data pertaining to Covered Persons in carrying out the terms of the Agreement is not used or disclosed by Provider or its agents, officers, affiliates or employees, except as permitted or required by state or federal law. Access to Covered Person identifiable information shall be limited by Provider to persons or agencies which require the information in order to perform duties or as required by law. Such records shall be maintained by Provider for a period of at least five (5) years after the termination of this Agreement or such longer time period as may be required by law.

7.3. Right to Inspect. With prior written notice, Provider and LVCHO shall provide access, at reasonable times upon demand by either Party, Accreditation Organizations, Payers, including the Federal Bureau of Prisons, or appropriate governmental agencies, for such entities to inspect services, facilities, equipment, books, and records relating to the performance of this Agreement including, but not limited to, Covered Person patient records, and income received for Covered Services rendered to Covered Persons. With reference to Covered Services provided to Federal Bureau of Prison (BOP) inmates, Provider understands and agrees that authorized representatives of the BOP may be present to oversee and inspect the delivery of Covered Services to such inmates as permitted by law.

7.4. Maintenance of Patient Records. Provider shall maintain adequate records relating to Covered Services provided to each Covered Person, in such form and containing such information as are required by applicable state and federal laws (and in accordance with usual and customary practices in the United States), including medical histories, records, and reports from other providers, hospital discharge summaries, records of Emergency Services received by Covered Persons, and such other reasonable and relevant information as LVCHO may require. As necessary and consistent with all applicable laws, Provider shall forward to LVCHO, within 24 hours of the visit, any necessary and appropriate clinical information pertaining to Covered Persons. This can be done via fax at 805-740-2035 or via encrypted e-mail to whiteb@lvcho.org. All claims and other items to be sent to the LVCHO mailing address P.O. Box 368, Lompoc, CA 93438 Provider shall maintain all of its medical records relating to Covered Persons for the length of time Providers are required to maintain patient records under applicable state and

federal laws, which obligation shall not terminate upon termination of this Agreement.

7.5. Submission of Encounter and Claims Data. Provider shall submit encounter and/or claims data for Covered Services for which Provider received payments and/or other data required by LVCHO, including utilization review statistics for Provider. Encountered Data elements and the form of submission pursuant to this section is defined in Exhibit B attached to this Agreement.

8. (intentionally left blank)

9. NOTICE, Designated Representatives

Any notice required to be given hereunder shall be in writing sent by registered or certified mail, return receipt requested, by FedEx or other overnight courier that guarantees next day delivery, or by facsimile transmission to the appropriate party at the addresses listed below or at such other addresses as LVCHO or Provider may hereafter designate in writing to the other:

TO LVCHO: Lompoc Valley Community Healthcare Organization, Inc.
 Executive Director
 1593 Chestnut Avenue
 Lompoc, California 93436

TO Provider: Santa Barbara Public Health Department
 Attn: Dana Gamble
 300 N San Antonio Rd
 Santa Barbara, CA 93110

10. MISCELLANEOUS

10.1. Other Agreements. Nothing in this Agreement shall prevent LVCHO or Provider from contracting with each other for the provision of services not covered by this Agreement.

10.2. Confidential and Proprietary Information.

10.2.1 “Confidential Information” shall, with respect to either Party hereto, have the meaning set forth in subdivision (d) Section 3426.1 of the California Civil Code. Confidential Information shall not include an medical record associated to a Covered Person as those records are subject to federal privacy and security laws. Neither Party shall have any obligation with respect to Confidential Information which: (i) is or becomes generally known to the public by any means other than a breach of the obligations of a receiving party; (ii) was previously received by the receiving party without restriction or received by the receiving party from a third party who had a lawful right without restriction to disclose such information; (iii) is independently developed by the receiving party without reference to Confidential Information; or (iv) is subject to disclosure under court order or other lawful process. LVCHO acknowledges and understands that all information that is not Confidential Information as defined in this Section, including but not limited to, this Agreement, are subject to open records laws and regulations such as the California Brown Act and the Public

Records Act, and therefore may be released, disclosed, and posted online, to and for the public.

10.2.3. Provider shall maintain all of the above described confidential information confidential. Disclosure of such confidential information shall be made only if Medically Necessary to the treatment of the particular Covered Person, upon express written authorization from LVCHO or as required by any applicable state or federal law, rule, or regulation.

10.2.4. Provider shall not disclose or use any confidential information for its own benefit or gain either during the term of this Agreement or after the date of termination of this Agreement.

10.2.5 Upon termination of this Agreement, Provider shall provide and return to LVCHO all confidential information in its possession in a manner to be specified by LVCHO. Additionally, in accordance with all state and federal laws and upon request, Provider shall copy all of the active Covered Person patient medical files in Provider's possession and forward such files to a Provider designated by LVCHO as legally permitted. The copies of such medical files may be in a summary form. The reasonable costs of copying Covered Person patient medical files will be paid by LVCHO. Provider shall cooperate with LVCHO in maintaining the confidentiality of such of Covered Person medical files.

10.3. Assignment. This Agreement and the rights, interests, and benefits hereunder shall not be assigned, transferred, pledged, or hypothecated in any way by Provider or LVCHO and shall not be subject to execution, attachment, or similar process nor shall the duties imposed herein be subcontracted or delegated without the written consent of the other party.

10.4. Invalidity of Sections of this Agreement. The unenforceability or invalidity of any Article, section or subsection of this Agreement shall not affect the enforceability and validity of the balance of this Agreement.

10.5. Captions. Captions in this Agreement are descriptive only and do not affect the intent or interpretation of this Agreement.

10.6 *(intentionally left blank)*

10.7. Amendment. This Agreement may be amended by a written consent of both parties. The parties shall each agree to negotiate in good faith to obtain agreement to any requested amendments.

10.8. Entire Agreement. The provisions of this Agreement, including any amendments, exhibits and attachments hereto, constitute the entire agreement between the parties, and supersede any prior negotiations, understandings or agreements.

10.9. Third Party Rights. This Agreement shall not be construed as conferring upon any party other than the parties to this Agreement any right or benefit, and any and all claims which may arise hereunder may be enforced solely by Provider or by LVCHO.

10.10 (*intentionally left blank*)

10.11. Force Majeure. No party to this Agreement shall be liable nor deemed to be in default for any delay or failure in performance under this Agreement or other interruption of service or employment deemed resulting, directly or indirectly, from acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, failure of transportation, machinery or supplies, vandalism, strikes or other work interruptions beyond the reasonable control of either party. However, the parties shall make good faith efforts to perform under this Agreement in the event of any such circumstances.

10.12. Changes in Law or Construction of Law. To the extent that changes in law or regulation or definitive changes in the construction of law or regulation articulated by an appropriate regulatory entity, court of law or a mutually accepted opinion of counsel requires the restructuring of the relationship between the parties established by this Agreement, the parties shall negotiate in good faith to revise this Agreement.

10.13. Independent Contractor. The relationship between LVCHO and Provider is an independent contractor relationship. None of the provisions of this Agreement are intended to create any relationship between the parties other than that of independent parties contracting with each other for the purposes of this Agreement. The parties are not in a relationship of joint venture, partnership or employer-employee.

10.14. Non-Solicitation of Members. Provider and LVCHO agree that during the term of this Agreement and for one year after termination Provider, including his or her employees, agents or representatives, shall not make statements that are not necessary for the provision of Covered Services which are intended to persuade Covered Persons to disenroll from LVCHO or Payer or to otherwise discontinue their relationship with either LVCHO or Payer.

10.15 Indemnification and insurance. LVCHO agrees to the indemnification and insurance provisions as set forth in Exhibit C attached hereto and incorporated herein by reference.

10.16 Remedies not exclusive. No remedy herein conferred upon or reserved to either party is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

10.17 California Law and Jurisdiction. This agreement shall be governed by the laws of the state of California. Any litigation regarding this agreement or its contents shall be filed in the county of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara county, if in federal court.

10.18 Survival. All provisions of this agreement which by their nature are intended to survive the termination or expiration of this agreement shall survive such termination or expiration.

10.19 Precedence. In the event of conflict between the provisions contained in the numbered sections of this agreement and the provisions contained in the exhibits, the provisions of the exhibits shall prevail over those in the numbered sections.

10.20 Business Associate. The parties agree to the terms and conditions set forth in Exhibit D - HIPAA business associate Agreement (BAA), attached hereto and incorporated herein by reference.

10.19 Precedence. In the event of conflict between the provisions contained in the numbered sections of this agreement and the provisions contained in the exhibits, the provisions of the exhibits shall prevail over those in the numbered sections.

10.20 Business Associate. The parties agree to the terms and conditions set forth in Exhibit D - HIPAA business associate Agreement (BAA), attached hereto and incorporated herein by reference.

Agreement for Provider Services between the **County of Santa Barbara and Lompoc Valley Community Healthcare Organization, Inc.**

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by COUNTY.

ATTEST:

Mona Miyasato
County Executive Officer
Clerk of the Board

By: _____
Deputy Clerk

COUNTY OF SANTA BARBARA:

By: _____
Chair, Board of Supervisors

Date: _____

RECOMMENDED FOR APPROVAL:

Carrie Topliffe, Interim Director
Department of Public Health

By: _____
Department Head

APPROVED AS TO ACCOUNTING FORM:

Theodore Fallati, CPA
Auditor-Controller

By: _____
Authorized Representative

APPROVED AS TO FORM:

Michael C. Ghizzoni
County Counsel

By: _____
Deputy County Counsel

APPROVED AS TO FORM:

Risk Management

By: _____
Risk Management

Agreement for Provider Services between the **County of Santa Barbara** and **Lompoc Valley Community Healthcare Organization, Inc.**

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by COUNTY.

Lompoc Valley Community Healthcare Organization, Inc.

By: _____
Authorized Representative

Date: _____

Exhibit B

COST OF CARE BUREAU OF PRISONS COST OF CARE

In consideration for the professional services provided by Provider, LVCHO agrees to reimburse provider the following amounts:

- 185% of the current Medicare Resource Based Relative Value Scale (RBRVS) as adjusted by the applicable Rest of California Geographical Practice Cost Index;

Provider shall submit claims for Covered Services to 90 days of service. Claims may be sent electronically via Emdeon or SSI Claimsnet to the LVCHO electronic payor ID – JLSFE. Claims can also be faxed to 904-800-1235.

Alternatively Claims can be mailed to: LVCHO 1593 Chestnut Ave Lompoc, Ca 93436

Claims must be sent within ninety (90) days of the date those Covered Services are rendered. LVCHO may not pay claims received after this ninety (90) day period.

Claims shall include:

1. A completed “CMS 1500” form or all information requested therein without exception, including but not limited to the Encounter Data:
 - a. Patient information (name, date of birth, prisoner identification number)
 - b. Dates of Service
 - c. Referring Physician Information and
 - d. Such other information as requested by LVCHO or the BOP
2. The referral authorization form provided by LVCHO

LVCHO shall pay such claims within 45 days of the receipt of a Clean Claim.

EXHIBIT C

Indemnification and Insurance Requirements

INDEMNIFICATION

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. CONTRACTOR's indemnification obligation applies to COUNTY's active as well as passive negligence but does not apply to COUNTY's sole negligence or willful misconduct.

NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

INSURANCE

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, his agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if CONTRACTOR has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Professional Liability** (Errors and Omissions) Insurance appropriate to the CONTRACTOR'S profession, with limit of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the CONTRACTOR maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by the

CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR’s insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
2. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR’s insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR’s insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
4. **Waiver of Subrogation Rights** – CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the CONTRACTOR to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best’s Insurance Guide rating of “A- VII”.
7. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR’s obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the

Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.

9. **Subcontractors** – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that COUNTY is an additional insured on insurance required from subcontractors.
10. **Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:
 - i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
 - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
 - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONTRACTOR must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.
11. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.

Exhibit D

BUSINESS ASSOCIATE AGREEMENT HIPAA & HITECH

THIS Business Associate HIPAA Agreement (the “**BA Agreement**”) is entered into as of date _____ (the “**Effective Date**”), between Lompoc Valley Community Healthcare Organization (the “**Client**”) and _____ (the “**Company**”), in connection with (i) certain agreements or contracts between the Client and Company, and (ii) all related written agreements that the Parties may enter into in the future “**Other Agreements**.” The Client and the Company are hereinafter referred to collectively as the “**Parties**” and individually as a “**Party**.”

WHEREAS, the Client is a “covered entity” as defined in 45 CFR Part 160.103;

WHEREAS, Company is a “business associate” as defined in 45 CFR Part 160.103;

WHEREAS, each Party may be provided with, have access to, create, view, disseminate “protected health information” (“PHI”), as defined in 45 CFR Part 160.103, relating to the Client’s patients in connection with the License Agreements;

WHEREAS, Client and Company intend to protect the privacy and provide for the protection of PHI in compliance with the **Health Insurance Portability and Accountability Act of 1996**, Public Law 104-101 (“**HIPAA**”) and the regulations promulgated thereunder, including, without limitation, the regulations codified at 45 CFR Parts 160, 162 and 164 (the “**HIPAA Regulations**”), and other applicable laws, in each case, as amended from time to time (collectively the “**HIPAA Laws**”) including the **Health Information Technology for Economic and Clinical Health (HITECH) Act**, enacted as part of the American Recovery and Reinvestment Act of 2009, signed into law on February 17, 2009; and

WHEREAS, the HIPAA Regulations require a business associate to enter into an agreement with a covered entity containing certain requirements with respect to the use and disclosure of PHI which are intended to be memorialized in this BA Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein and the exchange of information pursuant to this BA Agreement, the Parties agree as follows:

1. Definitions.

Capitalized terms used herein without definition shall have the meanings ascribed thereto in the License Agreement or the HIPAA Regulations whichever is applicable.

2. Obligations of Each Party with respect to PHI.

- a. Permitted Uses and Disclosures. A Party shall not use or disclose PHI except for the purpose of performing its obligations under the License Agreements but only to the extent allowed by the HIPAA Law. Further, a Party shall not use PHI in any manner that would constitute a violation of the HIPAA Law. To the extent allowed by the HIPAA Law, a Party may use PHI (i) for the proper management and administration of such Party or the other Party; (ii) to carry out the legal responsibilities of such Party; or (iii) for Data Aggregation Services. In some agreements where this BA Agreement may be used concurrent to a contract agreement for data related services, “**Data Services**” shall include patient specific or non-patient specific Client Supplied Data.
- b. Appropriate Safeguards. Each Party shall implement administrative, physical, and technical safeguards that (i) reasonably and appropriately protect the confidentiality, integrity, and availability of PHI that it creates, receives, maintains or transmits on behalf of the Client, and (ii) prevent the use or disclosure of PHI other than as permitted by this BA Agreement and

the HIPAA Law. Each Party shall maintain a comprehensive written information privacy and security program that includes administrative, technical, and physical safeguards appropriate to the size and complexity of its operations and the nature and scope of its activities.

- c. Duty to Mitigate. Each Party agrees to mitigate, to the extent practicable, any harmful effect that is known to such Party of a use or disclosure of PHI by such Party in violation of the requirements of this BA Agreement.
- d. Reporting of Breach. The Company shall report to the Client, by telephone, any use or disclosure of PHI other than as provided for under the HIPAA Law or by this BA Agreement (“**Breach**”) within a reasonable time of becoming aware of such Breach (but no later than 12 hours thereafter), in accordance with the notice provisions set forth herein. Such notice shall be confirmed, within 48 hours, in writing via facsimile transmission. Company shall take (i) prompt action to cure any deficiencies in its systems that resulted in such Breach; and (ii) any action pertaining to such Security Breach required by the HIPAA Law. Company shall take all actions necessary to enable the Client to notify individuals and the Secretary of any Breach to the extent required by the HIPAA Law.
- e. Identity Theft In the event that Company is engaged to perform any “creditor” related activity in connection with any of the Client’s “covered accounts” (as defined in 16 C.F.R. § 681.2(d)(2), *et seq.*, and commonly referred to as the “**Red Flag Rules**”; see, also 72 F.R. 63727), Company agrees to fully adopt and comply with the Red Flag Rules, which require, among other things, identification of factors that suggest risk of identity theft, and the adoption of an Identity Theft Prevention Program that is compliant with applicable federal regulations, and to conduct its activities in accordance with reasonable policies and procedures to detect, prevent, and mitigate the risk of identity theft.
- f. Access to PHI. Within 10 days of receipt of a request, Company shall make PHI maintained in its database available to the Client or, as directed by the Client, to an individual to enable the Client to fulfill its obligations under Section 164.524 of the HIPAA Regulations. In the event that any individual requests access to PHI directly from Company, Company shall forward such request to the Client. A denial of access to requested PHI shall not be made without the prior written consent of the Client.

As of the Effective Date of this Agreement, Company obligations described above will include additional safeguards required to be taken by Company pursuant to such Section 13401(a). Notwithstanding the foregoing, when Company is present at a facility of Client or its affiliates or is accessing or utilizing a system owned, leased or licensed by Client or its affiliates (“Client Systems”), Company will comply with Client’s standard safeguards to prevent the use or disclosure of PHI (including Client’s standard administrative, physical and technical safeguards to protect the confidentiality, integrity, and availability of Electronic PHI) applicable to such Client facility or such Client System, provided Client has given Company prior notice of such safeguards in writing or in the same manner as Client provides notice of such safeguards to its own employees and other contractors.

Except as provided in Section 13405(d)(2) of the HITECH Act, Company will not directly or indirectly receive remuneration in exchange for any PHI of an Individual unless Client has obtained from the Individual, in accordance with 45 C.F.R. & 164.508, a valid authorization that includes, in accordance with such section, a specification of whether the PHI can be further exchanged for remuneration by the entity receiving PHI of that Individual.

- g. Amendment of PHI. Company shall amend/revise the PHI it maintains in a Designated Record Set as requested by the Client within 10 days of receipt of such request to enable the Client to fulfill its obligations under Section 164.526 of the HIPAA Regulations. If any individual requests an amendment of its PHI directly from Company, Company must notify the Client in writing within five days of the request. Company shall not deny a request to amend PHI from the individual or the without the prior written consent of the Client.

Accounting of Disclosures of PHI. Company shall make available to the Client the information required to provide an accounting of disclosures of PHI to enable the Client to fulfill its obligations under Section 164.528 of the HIPAA Regulations. Company agrees to maintain a process that allows for an

accounting of disclosures of PHI to be collected and provided to the Client in accordance with this subsection. Further, Company agrees that upon termination or expiration of the License Agreements, Company shall provide to the Client an accounting of all such disclosures made during the existence of the License Agreements. At a minimum, such information shall include: (i) the date of disclosure; (ii) the name of the entity or person who received PHI and, if known, the address of the entity or person; (iii) a brief description of PHI disclosed; and (iv) a brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure or a copy of the written request for disclosure. In the event that the request for an accounting is delivered directly to Company, Company shall, within five days of a request, forward it to the Client in writing. It shall be Company's responsibility to prepare, and the Client's responsibility to deliver to the individual, any such accounting requested.

- h. Governmental Access to Records. Upon reasonable request, Company shall make its internal practices, books and records relating to the use and disclosure of PHI available to the Secretary of the U.S. Department of Health and Human Services (the "**Secretary**") for purposes of determining the Business's compliance with the HIPAA Regulations. Notwithstanding the foregoing, no attorney-client, accountant-client or other legal privilege shall be deemed waived by Company or the Client by virtue of this section. Except to the extent prohibited by the HIPAA Law, each Party agrees to notify the other Party of all applicable requests served upon such Party for information or documents by or on behalf of the Secretary.
- i. Minimum Necessary. A Party shall only request, use and disclose the minimum amount of PHI necessary to accomplish the purpose of the request, use or disclosure.
- j. Data Ownership. Company acknowledges that Company has no ownership rights with respect to PHI. Notwithstanding the prior sentence, the Parties agree and the Client acknowledges that Company may use Aggregated Data in its database to the fullest extent allowed by the HIPAA Law and such database(s) and Aggregated Data shall be owned by Client and the Company has no ownership rights with respect to such database(s) or Aggregated Data.
- k. Company Insurance. Company shall obtain and maintain, during the term of the this BA Agreement, reasonable liability insurance covering claims based on any violation by Company of the terms of this BA Agreement, if such insurance is reasonably available. A copy of such policy or a certificate evidencing such policy shall be provided to the Client upon request.
- l. Audits, Inspection and Enforcement. Within 10 days of a written request by the Client, Company shall allow the Client to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of PHI pursuant to this BA Agreement for the purpose of determining whether Company has complied with this BA Agreement; provided, however, that (i) Company shall agree in advance upon the scope, timing and location of such an inspection; (ii) the Client shall protect the confidentiality of all confidential and proprietary information of Company to which it has access during the course of such inspection; and (iii) the Client shall execute a nondisclosure agreement upon terms mutually agreed upon by the Parties, if requested by Company. The fact that the Client inspects, or fails to inspect, or has the right to inspect, Company's facilities, systems, books, records, agreements, policies and procedures does not relieve Company of its responsibility to comply with this BA Agreement, nor does the Client's (i) failure to detect or (ii) detection, but failure to notify Company or require Company's remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of the Client's enforcement rights under this BA Agreement.
- n. State Privacy Laws. Each Party shall comply with state privacy laws to the extent that such state privacy laws are not preempted by HIPAA.

3 Termination.

- a. Breach. A material breach or violation by Company of any provision of this BA Agreement, as determined in good faith by the Client, shall constitute a breach of this BA Agreement and shall provide grounds for immediate termination of the License Agreements by the Client.

As required by Section 13404(b) of the HITECH Act, if Company commits a material breach of its obligations in this Agreement, Client may (a) terminate this Agreement by providing Client

prior written notice if Company fails to cure such breach within thirty (30) days of its receipt of written notice from Client specifying the nature of such breach; (b) immediately terminate this Agreement by providing Client prior written notice if a cure of such breach is not possible.

- b. Judicial or Administrative Proceedings. The Client may terminate the License Agreements, effective immediately, if (i) Company is named as a defendant in a criminal proceeding for an offense related to healthcare or (ii) a finding or stipulation that Company has violated any standard or requirement of any law or regulation relating to healthcare is made in any administrative or civil proceeding in which Company has been joined.
- c. Effect of Termination. Upon termination of this BA Agreement for any reason, The Client shall either return or destroy all PHI, as requested by the Client and shall retain no copies of such PHI. If the Client requests that Company return PHI, such PHI shall be returned in a mutually agreed upon format and timeframe, at no additional charge to the Client. If return or destruction is not feasible, Company shall continue to extend the protections of this BA Agreement to such information, and limit further uses and disclosures of such PHI to those purposes that make the return or destruction of such PHI not feasible. If Company is to destroy the PHI, Company shall certify in writing to the Client that such PHI has been destroyed.
4. Indemnity. Each Party hereby agrees to indemnify and hold harmless the Other Party, their affiliates, and their respective officers, directors, shareholders, employees and agents from and against any and all liability, loss, fines, penalties, damage, claims or causes of action and expenses associated therewith (including, without limitation, court costs and attorneys' fees) caused directly or indirectly by such Party's breach of its obligations under this BA Agreement. The non-defaulting Party may enforce the defaulting Party's obligations hereunder by seeking equitable relief, without bond, which remedy shall be nonexclusive.
5. Disclaimer. A Party makes no warranty or representation that compliance by the other Party with this BA Agreement, HIPAA or the HIPAA Regulations will be adequate or satisfactory for such Party's own purposes. Each Party is solely responsible for all decisions made by it regarding its safeguarding of PHI.
6. Certification. To the extent that the Client determines in good faith it is necessary in order to comply with its legal obligations relating to certification under HIPAA of its security practices, the Client may require Company to certify its compliance with the security provisions of HIPAA, or, at the Client's expense, examine Company facilities, systems, procedures and records as may be necessary to issue such certification.
7. Amendment. The Parties acknowledge that state and federal laws relating to PHI security and privacy are rapidly evolving and that an amendment of this BA Agreement 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 HIPAA Regulations and other applicable laws relating to the security or confidentiality of PHI. The Parties understand and agree that the Client must receive satisfactory written assurance from Company that Company will adequately safeguard all PHI. Upon the request of the Client, Company agrees to promptly enter into negotiation concerning the terms of an amendment to this BA Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HIPAA Regulations or other applicable laws. The Client may terminate the BA Agreements upon 30 days written notice in the event (i) Company does not promptly enter into negotiations to amend this BA Agreement when requested by the Client pursuant to this Section 7 or (ii) Company does not enter into an amendment to this BA Agreement providing assurances regarding the safeguarding of PHI that the Client in good faith deems necessary to satisfy the standards and requirements of HIPAA and the HIPAA Regulations.
8. Assistance in Litigation or Administrative Proceedings. Each Party shall make itself, and its employees or agents assisting it in the performance of its obligations under this BA Agreement, available to the other Party at no cost to such Party, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against such Party, its directors, officers or employees based upon a claimed violation of HIPAA, the HIPAA Regulations or other laws relating to security and privacy, except where a Party or its employee or agent is a named adverse party.

9. No Third Party Beneficiaries. Nothing express or implied in this BA Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
10. Effect on the License Agreements. Except to the extent inconsistent with this BA Agreement, all other terms of the License Agreements shall remain in force and effect.
11. Survival. The provisions of this BA Agreement shall survive the termination or expiration of the License Agreements.
12. Interpretation. The provisions of this BA Agreement shall prevail over any provisions in the License Agreements that may conflict or appear inconsistent with any provision in this BA Agreement. This BA Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA and the HIPAA Regulations. The Parties agree that any ambiguity in this BA Agreement shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the HIPAA Regulations.
13. Governing Law. This BA Agreement shall be construed in accordance with the laws of the United States of America and the State of California when applicable.
14. Notices. All notices required or permitted under this BA Agreement shall be in writing and sent to the other Party as directed by such Party, from time to time, by written notice to the other.
15. Facsimile and Counterparts. This BA Agreement may be signed by facsimile and executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument