

AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

between

SANTA BARBARA COUNTY

and

NURSECORE MANAGEMENT SERVICES, LLC.

THIS AGREEMENT (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter COUNTY) and NurseCore Management Services, LLC. having its principal place of business at 930 Laguna Street, Santa Barbara, CA 93101 (hereafter CONTRACTOR) wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the services specified herein.

WHEREAS, COUNTY owns and operates ambulatory clinics in Lompoc, Santa Maria, Santa Barbara and Carpinteria; and

WHEREAS, COUNTY is mandated to serve as the safety net medical provider; and

WHEREAS, COUNTY has six clinics county-wide to staff with appropriately trained and licensed nurses and other clinical staff, and although County consistently recruits to fill vacant positions, it continues to require substitute nurses and other clinical staff; and

WHEREAS, COUNTY desires to contract with NurseCore Management Services, LLC., a medical placement service with access to licensed medical Professionals; and

WHEREAS, on July 1, 2007 COUNTY executed Purchase Agreement CN06893 with CONTRACTOR in the amount of \$99,000 for the period of July 1, 2007 through June 30, 2009, and now. COUNTY has determined that during the term of this Purchasing Agreement it will incur greater costs than originally anticipated and will exceed the \$99,000 limit before the end of the COUNTY's fiscal year. On this basis, COUNTY is converting the Purchase Agreement to a Board Contract. This Agreement, which is made to cancel, nullify, and supersede Purchase Agreement CN06893, provides for Agreement in a total contract amount of \$180,000 for Fiscal Years 2008-10.

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

1. **DESIGNATED REPRESENTATIVE.** Dan Reid, Public Health Department Assistant Deputy Director, Primary Care & Family Health Division, at phone number 805.681.5173 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Marcie Bruce, NurseCore Management Services, LLC., at phone number 805.564.4221 is the authorized representative for CONTRACTOR. Changes in designated representatives shall be made only after advance written notice to the other party.

2. **NOTICES.** Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by first class mail, postage prepaid, delivered as follows:

To COUNTY: Dan Reid
Primary Care & Family Health Division
Public Health Department
County of Santa Barbara
300 N. San Antonio Road
Santa Barbara, CA 93110

To CONTRACTOR: Marcie Bruce
NurseCore Management Services, LLC
930 Laguna Street
Santa Barbara, CA 93101

or at such other address or to such other person that the parties may from time to time designate. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the U.S. mail.

3. **SCOPE OF SERVICES.** CONTRACTOR agrees to provide services to COUNTY in accordance with EXHIBIT A attached hereto and incorporated herein by reference.

4. **TERM.** CONTRACTOR shall commence performance on April 1, 2009 and end performance upon completion, but no later than June 30, 2010 unless otherwise directed by COUNTY or unless earlier terminated. Purchase order CN06893 is hereby cancelled and rendered void.

5. **COMPENSATION OF CONTRACTOR.** CONTRACTOR shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference. Billing shall be made by invoice, which shall include the contract number assigned by COUNTY and which is delivered to the address given in Section 2. **NOTICES.** above following completion of the increments identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from presentation of invoice.

6. **INDEPENDENT CONTRACTOR.** CONTRACTOR shall perform all of its services under this Agreement as an independent contractor and not as an employee of COUNTY. CONTRACTOR understands and acknowledges that CONTRACTOR shall not be entitled to any of the benefits of a COUNTY employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure.

7. **STANDARD OF PERFORMANCE.**

- A) CONTRACTOR represents that CONTRACTOR has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, CONTRACTOR shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which CONTRACTOR is engaged. All products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement, shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession. CONTRACTOR shall correct or revise any errors or omissions, at COUNTY's request without additional compensation. Permits and/or licenses shall be obtained and maintained by CONTRACTOR without additional compensation.
- B) All Professionals assigned to COUNTY pursuant to this Agreement shall be considered employees of CONTRACTOR only. CONTRACTOR shall assume sole and exclusive responsibility for the payment of wages to said Professionals for services performed by them, be responsible for withholding federal and state income taxes, paying Federal Social

Security taxes, maintaining unemployment insurance, and maintaining workers' compensation in an amount, and under such terms, as required by the applicable State Labor Code.

- C) CONTRACTOR shall comply with all federal laws, regulations and procedures regarding legal status to work and reside in the United States, including completion of required Immigration and Naturalization Service forms upon hire of Professionals.
- D) COUNTY may not modify or in any way alter the employment agreement entered into by Professionals and CONTRACTOR, including but not limited to, payment of additional bonuses, modification of hourly wage, adjustment of benefits, or changes to hours commitments. Any adjustment requests must be submitted directly to CONTRACTOR in writing.

8. **TAXES.** COUNTY shall not be responsible for paying any taxes on CONTRACTOR's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

9. **CONFLICT OF INTEREST.** CONTRACTOR covenants that CONTRACTOR presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CONTRACTOR.

10. **RESPONSIBILITIES OF COUNTY.** COUNTY shall provide all information reasonably necessary by CONTRACTOR in performing the services provided herein.

11. **OWNERSHIP OF DOCUMENTS.** COUNTY shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, and any material necessary for the practical use of the data and/or documents from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. CONTRACTOR shall not release any materials under this section except after prior written approval of COUNTY.

No materials produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country except as determined at the sole discretion of COUNTY. COUNTY shall have the unrestricted authority to publish, disclose, distribute, and otherwise use in whole or in part, any reports, data, documents or other materials prepared under this Agreement.

12. **RECORDS, AUDIT, AND REVIEW.** CONTRACTOR shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting practices. COUNTY shall have the right to audit and review all such documents and records at any time during CONTRACTOR's regular business hours or upon reasonable notice.

13. **INDEMNIFICATION AND INSURANCE.** CONTRACTOR shall agree to defend, indemnify and save harmless the COUNTY and to procure and maintain insurance in accordance with the provisions of EXHIBIT C attached hereto and incorporated herein by reference.

14. **NONDISCRIMINATION.** COUNTY hereby notifies CONTRACTOR that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this

Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance.

15. **NONEXCLUSIVE AGREEMENT.** CONTRACTOR understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

16. **ASSIGNMENT.** CONTRACTOR shall not assign any of CONTRACTOR's rights nor transfer any of its obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

17. **NOTICE OF TERMINATION OF AGREEMENT OR SERVICES OF PROFESSIONAL.**

A) **By COUNTY.** COUNTY may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time, whether for COUNTY's convenience or because of the failure of CONTRACTOR to fulfill the obligations herein. Upon receipt of notice, CONTRACTOR shall immediately discontinue all services effected (unless the notice directs otherwise), and deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process.

1. For Convenience. COUNTY may terminate this Agreement upon thirty (30) days written notice. Following notice of such termination, CONTRACTOR shall promptly cease work and notify COUNTY as to the status of its performance.
2. For Cause. Should CONTRACTOR or Professional default in the performance of this Agreement or materially breach any of its provisions, COUNTY may, at COUNTY's sole option, terminate this Agreement by written notice, which shall be effective upon receipt by CONTRACTOR.
3. COUNTY agrees to notify CONTRACTOR in writing 30 days prior to its termination of any services of Professional covered by this Agreement regardless of whether such termination comes before, is coincident with, or follows the duration date set forth in the most recent written confirmation covering such services, provided however that COUNTY may terminate such services immediately upon written notice (including, but not limited to, proper documentation) to CONTRACTOR for cause.

Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for service performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of COUNTY is necessary to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the decision of COUNTY shall be final. The foregoing is cumulative and shall not affect any right or remedy which COUNTY may have in law or equity.

B) By CONTRACTOR.

1. For Convenience. CONTRACTOR may terminate this Agreement upon thirty (30) days written notice. Following notice of such termination, CONTRACTOR shall promptly cease work and notify COUNTY as to the status of the CONTRACTOR's performance.
2. For Cause: If CONTRACTOR plans to terminate any Professional for cause, it shall give COUNTY immediate notice. If any Professional providing services under this Agreement has terminated its relationship with CONTRACTOR, CONTRACTOR shall notify COUNTY immediately of such termination upon receipt of notice from Professional.
3. Should COUNTY fail to pay CONTRACTOR all or any part of the payment set forth in EXHIBIT B, CONTRACTOR may, at CONTRACTOR's option terminate this Agreement if such failure is not remedied by COUNTY within thirty (30) days of written notice to COUNTY of such late payment.

18. **SECTION HEADINGS.** The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

19. **SEVERABILITY.** If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

20. **REMEDIES NOT EXCLUSIVE.** No remedy herein conferred upon or reserved to COUNTY 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.

21. **TIME IS OF THE ESSENCE.** Time is of the essence in this Agreement and each covenant and term is a condition herein.

22. **NO WAIVER OF DEFAULT.** No delay or omission of COUNTY to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

23. **ENTIRE AGREEMENT AND AMENDMENT.** In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement supersedes the COUNTY's previous purchasing contract with CONTRACTOR (CN06893). This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

24. **SUCCESSORS AND ASSIGNS.** All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

25. **COMPLIANCE WITH LAW.** CONTRACTOR shall, at CONTRACTOR's sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY be a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and COUNTY.

26. **CALIFORNIA LAW.** 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.

27. **EXECUTION OF COUNTERPARTS.** This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

28. **AUTHORITY.** All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, CONTRACTOR hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CONTRACTOR is obligated, which breach would have a material effect hereon.

29. **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.

30. **BUSINESS ASSOCIATE.** The County is considered to be a "Hybrid Entity" under the Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. 1320d et seq. and its implementing regulations including but not limited to 45 Code of Federal Regulations parts 142, 160, 162, and 164, ("Privacy and Security Rule"). The Contractor is considered to be a "Business Associate" under the Privacy Rule. Contractor must also comply with the Security Rule as a Business Associate, if under this Agreement; it receives, maintains or transmits any health information in electronic form in connection with a transaction covered by part 162 of title 45 of the Code of Federal Regulations.

The County and Contractor acknowledge that HIPAA mandates them to enter into a business associate agreement in order to safeguard protected health information that may be accessed during the performance of this Agreement. The parties agree to the terms and conditions set forth in Exhibit E, HIPAA Business Associate Agreement.

31. **NON-APPROPRIATIONS.** In the event that funds are not appropriated, budgeted, or otherwise made available in the consecutive years of this Agreement, then County shall immediately notify Contractor of such occurrence and the Agreement may be terminated by County. Subsequent to the termination of this Agreement under this provision, County shall have no obligation to make payments with regard to the remainder of the term.

Agreement for Services of Independent Contractor between the **County of Santa Barbara** and **NurseCore Management Services, LLC**

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective April 1, 2009.

COUNTY OF SANTA BARBARA

ATTEST:
MICHAEL F. BROWN
CLERK OF THE BOARD

By: _____
Deputy

By: _____
Chair, Board of Supervisors

Date: _____

APPROVED AS TO FORM:
DENNIS MARSHALL
COUNTY COUNSEL

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

By: _____
Deputy County Counsel

By: _____
Deputy

APPROVED:
ELLIOT SCHULMAN, MD, MPH
DIRECTOR/HEALTH OFFICER
PUBLIC HEALTH DEPARTMENT

APPROVED AS TO INSURANCE FORM
RAY AROMATORIO, ARM, AIC
RISK PROGRAM ADMINISTRATOR

By: _____
Director

By: _____
Risk Program Administrator

Agreement for Services of Independent Contractor between the **County of Santa Barbara** and **NurseCore Management Services, LLC**.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective April 1, 2009.

CONTRACTOR

BY: _____
NurseCore Management Services, LLC

PRINTED NAME: _____

DATE: _____

EXHIBIT A

STATEMENT OF WORK

CONTRACTOR.

I. DESCRIPTION OF SERVICES

- A. CONTRACTOR is in the business of providing trained medical professionals on a temporary basis to COUNTY.
- B. CONTRACTOR shall match the skills and experience levels of its Professionals to the specific needs of COUNTY.
- C. CONTRACTOR's Professionals shall report to their designated supervisor before they begin working.
- D. CONTRACTOR shall maintain an employee file on each of its Professionals containing the following:
 - 1. A completed application which includes skills, specialties and preferences;
 - 2. Documentation of special education or training;
 - 3. Skills inventories;
 - 4. Two recent work references;
 - 5. TB test and evidence of health status in accordance with State regulations;
 - 6. Dates hired and oriented;
 - 7. Job description;
 - 8. Performance evaluation;
 - 9. Copy of current license, registration or certification, as applicable;
 - 10. INS Form I-9 and documents establishing identity and work authorization.
- E. CONTRACTOR will not actively solicit COUNTY employees for employment with CONTRACTOR.
- F. CONTRACTOR is and shall remain in compliance with all state and federal laws applicable to the employment of the Professional assigned to COUNTY.
- G. CONTRACTOR agrees not to discriminate in the assignment of its Professionals on the basis of race, creed, color, national origin, sex, age disability, or veteran status.
- H. If, in the sole discretion of COUNTY, any Professional assigned by CONTRACTOR is incompetent, negligent, or has engaged in misconduct, COUNTY may require such person to leave its premises and shall inform CONTRACTOR of this action immediately. COUNTY's obligation to compensate CONTRACTOR for said services shall be limited to the hours actually worked by such person and COUNTY shall have no further obligation with respect to such assignment.

- I. CONTRACTOR's workweek begins at 7 am Monday and continues through the 11 pm shift the following Sunday and will be billed accordingly.
- J. Upon request by COUNTY, CONTRACTOR shall assign as many such Professionals as are available for such assignment. CONTRACTOR cannot guarantee at any time that all staffing requests will be filled.
- K. CONTRACTOR shall give COUNTY (24) twenty-four hours notice regarding Professionals which CONTRACTOR cannot provide on orders placed in advance for weekly positions.
- L. COUNTY shall make every effort to request Professional at least eight (8) hours prior to reporting time. If Professional is requested less than two (2) hours prior to reporting time, COUNTY will be billed for the entire shift.
- M. If COUNTY changes or cancels an order less than two (2) hours before reporting time, COUNTY shall be liable for four (4) hours at the hourly rate for the Professional involved. COUNTY then reserves the right to then employ the Professional for four (4) hours.
- N. CONTRACTOR shall notify COUNTY within thirty (30) minutes of a request for staff for emergency or same day periods.
- O. COUNTY orders will receive priority over orders of non-contract facilities.

COUNTY.

- A. All Professionals provided by CONTRACTOR for the term of this contract are the employees of CONTRACTOR. The COUNTY will take no steps to recruit those Professionals provided by CONTRACTOR to become employees of the COUNTY during the term of the Agreement. COUNTY understands CONTRACTOR is not an employment agency and that its employees are assigned to the COUNTY to render temporary service and are not assigned to become employed by the COUNTY. The COUNTY further acknowledges the considerable expense incurred by CONTRACTOR to advertise, recruit, interview, evaluate, reference check, and supervise its employees. Accordingly, the COUNTY may not hire CONTRACTOR's Professionals unless it first arranges with CONTRACTOR the manner by which CONTRACTOR is to be compensated for its expenses and loss of revenue as provided in Attachment B.
- B. COUNTY agrees not to discriminate in the assignment of its Professionals on the basis of race, creed, color, national origin, sex, age, disability, or veteran status.
- C. The COUNTY shall communicate its needs as precisely and specifically as possible so that the appropriate Professional may be assigned. The Professional assigned shall be assigned to perform the specific duties as agreed. The COUNTY understands that CONTRACTOR will use its best efforts to fill their requests but that CONTRACTOR may not always be able to fill all their staffing needs.
- D. COUNTY will orient Professionals to the COUNTY and its rules and regulations, including the physical layout and equipment on any unit to which such Professionals are assigned.
- E. COUNTY nursing supervisors will assist CONTRACTOR, on a continuing basis, with evaluation of CONTRACTOR's Professionals by providing performance information and/or access to clinical areas for observation by CONTRACTOR's Clinical Director.
- F. COUNTY shall allow CONTRACTOR's Professionals, at no expense to COUNTY, to attend appropriate COUNTY staff development programs.

- G. COUNTY will immediately notify CONTRACTOR of any problems regarding CONTRACTOR's Professionals. COUNTY shall notify CONTRACTOR immediately of the initiation of any complaint, inquiry, investigation, or review with or by any licensing or regulatory authority, peer review organization, hospital committee, or other committee, organization or body which reviews quality of medical care which complaint, inquiry, investigation, or review directly or indirectly, evaluates or focuses on the quality of care provided by CONTRACTOR either in any specific instance or in general.
- H. COUNTY will make available to CONTRACTOR copies of all documentation about problems or incidents in which CONTRACTOR employees are involved.

EXHIBIT B

COMPENSATION PAYMENT ARRANGEMENTS

Periodic Compensation (with attached Exhibit B1 Schedule of Fees)

The COUNTY will reimburse CONTRACTOR for all services provided to COUNTY as outlined in EXHIBIT A.

1. For CONTRACTOR services to be rendered under this contract, CONTRACTOR shall be paid a total contract amount, including cost reimbursements, not to exceed \$229,000: \$65,000 for Fiscal Year 08/09 starting on April 1, 2009 through June 30, 2009 and \$164,000 for Fiscal Year 09/10 starting July 1, 2009 and ending on June 30, 2010.
2. PAYMENT for services and/or reimbursement of costs shall be made upon CONTRACTOR's satisfactory performance, based upon the scope and methodology contained in **EXHIBIT A** as determined by COUNTY. Payment for services and/or reimbursement of costs shall be based upon the costs, expenses, overhead charges and hourly rates for Professional, as defined in **EXHIBIT B1 (Schedule of Fees)**. Invoices submitted for payment that are based upon **EXHIBIT B1** must contain sufficient detail to enable an audit of the charges and provide supporting documentation if so specified in **EXHIBIT A**.
3. CONTRACTOR shall semi-monthly submit to the County designated Regional Clinic Manager an invoice or certified claim on the County Treasury for the service performed over the period specified. These invoices or certified claims must cite the assigned Board Contract Number. The County designated Regional Clinic Manager shall evaluate the quality of the service performed and if found to be satisfactory and within the cost basis of **EXHIBIT B1** shall initiate payment processing.
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.
5. BILLING: CONTRACTOR shall insure that Professional does not bill patient, Medi-Cal or other health insurance for services which CONTRACTOR bills to the COUNTY.

EXHIBIT B1

Schedule of Fees BILLING RATE (Per Hour)

FY 2008-09 (July 1, 2008 through June 30, 2009)

	8-5 Weekday	Weekend
Registered Nurse Med/Surg	\$61.95	\$65.95
Registered Nurse/Specialty	\$62.95	\$67.95
Licensed Practical/Vocational Nurse	\$45.95	\$49.95
CMA/Certified Medical Assistant	\$29.95	
Certified Nurse Aide	\$26.95	\$31.95

FY 2009-10 (July 1, 2009 – June 30, 2010)

	8-5 Weekday	Weekend
Registered Nurse Med/Surg	\$58.85	\$61.00
Registered Nurse/Specialty	\$61.00	\$63.25
Licensed Practical/Vocational Nurse	\$44.00	\$46.25
CMA/Certified Medical Assistant	\$29.95	
Certified Nurse Aide	\$26.95	\$31.95

Overtime is defined as those hours worked in excess of eight hours (8) in a day or forty (40) hours in a one-week pay period. Overtime must have COUNTY supervisor approval. The overtime rate is one and one-half (1½) times the regular billing rate for each hour worked. Double time will be charged for time worked over 12 hours in a day or 48 hours in a week.

Holiday rates are paid for the day, evening, and night shifts on New Year's Day, Easter Sunday, Mother's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas. The holiday billing rate is one and one-half (1½) times the regular billing rate for each hour worked.

RECRUITING

If COUNTY wishes to hire a Professional who has been assigned to COUNTY through CONTRACTOR to become a direct employee of COUNTY, in lieu of ninety (90) calendar days or sixty-five (65) working days notice during which time the Professional would be scheduled through CONTRACTOR, COUNTY will pay the following recruiting fee:

\$10,000 per Specialty RN

\$7,000 per RN

\$4,500 per Specialty LVN

\$3,000 per CNA

RATE CHANGES

Rates set forth in this Agreement are subject to change upon fourteen (14) day written notification. Failure by COUNTY to object in writing to CONTRACTOR to said notification prior to the effective date of change shall be deemed acceptance of the new rates.

EXHIBIT C

STANDARD INDEMNIFICATION AND INSURANCE PROVISIONS FOR CONTRACTS REQUIRING PROFESSIONAL LIABILITY INSURANCE

INDEMNIFICATION

Indemnification pertaining to other than Professional Services:

CONTRACTOR shall defend, indemnify and save harmless the COUNTY, its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities arising out of this Agreement or occasioned by the performance or attempted performance of the provisions hereof; including, but not limited to, any act or omission to act on the part of the CONTRACTOR or CONTRACTOR's agents or employees or other independent contractors directly responsible to CONTRACTOR; except those claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities resulting from the sole negligence or willful misconduct of the COUNTY.

CONTRACTOR shall notify the COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement.

Indemnification pertaining to Professional Services:

CONTRACTOR shall indemnify and save harmless the COUNTY, its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities arising out of the negligent performance or attempted performance of the provisions hereof; including any willful or negligent act or omission to act on the part of the CONTRACTOR or his agents or employees or other independent contractors directly responsible to him to the fullest extent allowable by law.

CONTRACTOR shall notify the COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement.

Without limiting the CONTRACTOR's indemnification of the COUNTY, CONTRACTOR shall procure the following required insurance coverages at its sole cost and expense. All insurance coverage is to be placed with insurers which (1) have a Best's rating of no less than A: VII, and (2) are admitted insurance companies in the State of California. All other insurers require the prior approval of the COUNTY. Such insurance coverage shall be maintained during the term of this Agreement. Failure to comply with the insurance requirements shall place CONTRACTOR in default. Upon request by the COUNTY, CONTRACTOR shall provide a certified copy of any insurance policy to the COUNTY within ten (10) working days.

1. **Workers' Compensation Insurance:** Statutory Workers' Compensation and Employers Liability Insurance shall cover all CONTRACTOR's staff while performing any work incidental to the performance of this Agreement. The policy shall provide that no cancellation, or expiration or reduction of coverage shall be effective or occur until at least thirty (30) days after receipt of such notice by the COUNTY. In the event CONTRACTOR is self-insured, it shall furnish a copy of Certificate of Consent to Self-Insure issued by the Department of Industrial Relations for the State of California. This provision does not apply if CONTRACTOR has no employees as defined in

Labor Code Section 3350 et seq. during the entire period of this Agreement and CONTRACTOR submits a written statement to the COUNTY stating that fact.

2. General and Automobile Liability Insurance: The general liability insurance shall include bodily injury, property damage and personal injury liability coverage, shall afford coverage for all premises, operations, products and completed operations of CONTRACTOR and shall include contractual liability coverage sufficiently broad so as to include the insurable liability assumed by the CONTRACTOR in the indemnity and hold harmless provisions of the Indemnification Section of this Agreement between COUNTY and CONTRACTOR. The automobile liability insurance shall cover all owned, non-owned and hired motor vehicles that are operated on behalf of CONTRACTOR pursuant to CONTRACTOR's activities hereunder. CONTRACTOR shall require all subcontractors to be included under its policies or furnish separate certificates and endorsements to meet the standards of these provisions by each subcontractor. COUNTY, its officers, agents, and employees shall be Additional Insured status on any policy. A cross liability clause, or equivalent wording, stating that coverage will apply separately to each named or additional insured as if separate policies had been issued to each shall be included in the policies. A copy of the endorsement evidencing that the policy has been changed to reflect the Additional Insured status must be attached to the certificate of insurance. The limit of liability of said policy or policies for general and automobile liability insurance shall not be less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Any deductible or Self-Insured Retention {SIR} over \$10,000 requires approval by the COUNTY.

Said policy or policies shall include a severability of interest or cross liability clause or equivalent wording. Said policy or policies shall contain a provision of the following form:

"Such insurance as is afforded by this policy shall be primary and non-contributory to the full limits stated in the declarations, if the COUNTY has other valid and collectible insurance for a loss covered by this policy, that other insurance shall be excess only."

If the policy providing liability coverage is on a 'claims-made' form, the CONTRACTOR is required to maintain such coverage for a minimum of three years following completion of the performance or attempted performance of the provisions of this Agreement. Said policy or policies shall provide that the COUNTY shall be given thirty (30) days written notice prior to cancellation or expiration of the policy or reduction in coverage.

3. Professional Liability Insurance. Professional liability insurance shall include coverage for the activities of CONTRACTOR's professional staff with a combined single limit of not less than \$1,000,000 per occurrence or claim and \$2,000,000 in the aggregate. Said policy or policies shall provide that COUNTY shall be given thirty (30) days written notice prior to cancellation, expiration of the policy, or reduction in coverage. If the policy providing professional liability coverage is on a 'claims-made' form, the CONTRACTOR is required to maintain such coverage for a minimum of three (3) years (ten years [10] for Construction Defect Claims) following completion of the performance or attempted performance of the provisions of this Agreement.
4. Insurance for CONTRACTOR's Health Care Professionals. CONTRACTOR is responsible to provide Worker's Compensation, Accident Insurance, Health Insurance, FICA, or withhold taxes, as the Professionals are employees of the CONTRACTOR.

CONTRACTOR provides malpractice insurance for Professionals in accordance with CONTRACTOR's professional liability policy.

CONTRACTOR shall submit to the office of the COUNTY's designated representative certificate(s) of insurance documenting the required insurance as specified above prior to this

Agreement becoming effective. COUNTY shall maintain current certificate(s) of insurance at all times in the office of the County designated representative as a condition precedent to any payment under this Agreement. Approval of insurance by COUNTY or acceptance of the certificate of insurance by COUNTY shall not relieve or decrease the extent to which the CONTRACTOR may be held responsible for payment of damages resulting from CONTRACTOR's services of operation pursuant to the contract, nor shall it be deemed a waiver of COUNTY's rights to insurance coverage hereunder.

In the event the CONTRACTOR is not able to comply with the COUNTY's insurance requirements, COUNTY may, at their sole discretion and at the CONTRACTOR's expense, provide compliant coverage.

The above insurance requirements are subject to periodic review by the COUNTY. The COUNTY's Risk Manager is authorized to change the above insurance requirements, with the concurrence of County Counsel, to include additional types of insurance coverage or higher coverage limits, provided that such change is reasonable based on changed risk of loss or in light of past claims against the COUNTY or inflation. This option may be exercised during any amendment of this Agreement that results in an increase in the nature of COUNTY's risk and such change of provisions will be in effect for the term of the amended Agreement. Such change pertaining to types of insurance coverage or higher coverage limits must be made by written amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of acceptance of the amendment or modification.

EXHIBIT D

---- INTENTIONALLY OMITTED ----

THIS AGREEMENT DOES NOT INCLUDE EXHIBIT D

EXHIBIT E

HIPAA Business Associate Agreement

1. Use and Disclosure of Protected Health Information

Except as otherwise provided in this Exhibit, the Contractor may use or disclose Protected Health Information ("PHI")¹ to perform functions, activities or services for or on behalf of the County, as specified in the underlying Agreement, provided that such use or disclosure does not violate HIPAA or other law. The uses and disclosures of PHI may not exceed the limitations applicable to the County under the regulations except as authorized for management, administrative or legal responsibilities of the Contractor. PHI includes without limitation "Electronic Protected Health Information" ("E PHI")².

2. Requirement to Train Own Employees

The Contractor has a responsibility to provide effective training for all members of its workforce (including its own employees, management, staff, volunteers and independent contractors) who will or who are likely to have any access to or exposure to PHI or E PHI. Members of the Contractor's workforce who use, disclose, handle, view, process, distribute, access, audit, create, receive or have any exposure to PHI or E PHI must receive training on both the HIPAA Privacy Rule and the HIPAA Security Rule. Privacy Rule Training shall meet the requirements of 45 Code of Federal Regulations Section 164.530 (b). Security Rule Training shall meet the requirements of 45 Code of Federal Regulations Section 164.308 (a)(5).

3. Further Disclosure of PHI

The Contractor shall not use or further disclose PHI other than as permitted or required by the underlying Agreement, or as required by law.

4. Safeguarding PHI

The Contractor shall use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by the underlying Agreement. Contractor shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of E PHI that Contractor creates, receives, maintains or transmits on behalf of County. The actions taken by the Contractor to safeguard E PHI shall include, but may not be limited to:

- a. Encrypting E PHI that it stores and transmits;
- b. Implementing strong access controls, including physical locks, firewalls, and strong passwords;
- c. Using antivirus software that is upgraded regularly;
- d. Adopting contingency planning policies and procedures, including data backup and disaster recovery plans; and
- e. Conducting periodic security training.

¹ "Protected Health Information" means individually identifiable health information including, without limitation, all information, data, documentation and materials, including without limitation, demographic, medical and financial information, that relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and 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.

² "Electronic Protected Health Information" means Protected Health Information, which is transmitted by Electronic Media (as defined in the HIPAA Security and Privacy Rule) or maintained in Electronic Media.

5. Unauthorized Use or Disclosure of PHI

The Contractor shall report to the County any use or disclosure of the PHI not provided for by the underlying Agreement or otherwise in violation of the Privacy Rule or Security Rule. Contractor shall report to County any security incidents within 10 days of becoming aware of such incidents. For purposes of this paragraph, "security incident" shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system.

6. Agents and Subcontractors of the Business Associate

The Contractor shall ensure that any agent, including a subcontractor, to which the Contractor provides PHI received from, or created or received by the Contractor on behalf of the County, shall comply with the same restrictions and conditions that apply through the underlying Agreement to the Contractor with respect to such information. The Contractor shall ensure that any agent to whom it provides PHI, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect such PHI. Contractor shall not use subcontractors or agents, unless it receives prior written consent from County.

7. Access to PHI

At the request of the County, and in the time and manner designated by the County, the Contractor shall provide access to PHI in a Designated Record Set to an Individual or the County to meet the requirements of 45 Code of Federal Regulations Section 164.524.

8. Amendments to Designated Record Sets

The Contractor shall make any amendment(s) to PHI in a Designated Record Set that the County directs or at the request of the Individual, and in the time and manner designated by the County in accordance with 45 Code of Federal Regulations Section 164.526.

9. Documentation of Uses and Disclosures

The Contractor shall document such disclosures of PHI and information related to such disclosures as would be required for the County to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 Code of Federal Regulations Section 164.528. Contractor agrees to implement a process that allows for an accounting to be collected and maintained by Contractor and its agents or subcontractors for at least six years prior to the request, but not before the compliance date of the Privacy Rule.

10. Accounting of Disclosures

The Contractor shall provide to the County or an Individual, in the time and manner designated by the County, information collected in accordance with 45 Code of Federal Regulations Section 164.528, to permit the County to respond to a request by the Individual for an accounting of disclosures of PHI in accordance with 45 Code of Federal Regulations Section 164.528.

11. Records Available to Covered Entity and Secretary

The Contractor shall make available records related to the use, disclosure, security and privacy protection of PHI received from the County, or created or received by the Contractor on behalf of the County, to the County or to the Secretary of the United State Department of Health and Human Services for purposes of investigating or auditing the County's compliance with the HIPAA privacy and security regulations, in the time and manner designated by the County or the Secretary.

12. Destruction of PHI

- a. Upon termination of the underlying Agreement for any reason, the Contractor shall:
- (1) Return all PHI received from the County, or created or received by the Contractor on behalf of the County required to be retained by the Privacy Rule; or
 - (2) Return or destroy all other PHI received from the County, or created or received by the Contractor on behalf of the County.

This provision also shall apply to PHI in possession of subcontractors or agents of the Contractor. The Contractor, its agents or subcontractors shall retain no copies of the PHI. However, Contractor, its agents or subcontractors shall retain all protected information throughout the term of the underlying Agreement and shall continue to maintain the information required under Section 9 of this Exhibit for a period of six years after termination of the underlying Agreement.

- b. In the event the Contractor determines that returning or destroying the PHI is not feasible, the Contractor shall provide the County notification of the conditions that make return or destruction not feasible. If the County agrees that the return of the PHI is not feasible, the Contractor shall extend the protections of this Exhibit to such PHI and limit further use and disclosures of such PHI for so long as the Contractor, or any of its agents or subcontractors, maintains such PHI.

13. Amendments

The Parties agree to take such action as is necessary to amend the underlying Agreement as necessary for the County to comply with the requirements of the Privacy Rule and its implementing regulations.

14. Mitigation of Disallowed Uses and Disclosures

The Contractor shall mitigate, to the extent practicable, any harmful effect that is known to the Contractor of a use or disclosure of PHI by the Contractor in violation of the requirements of the underlying Agreement or the Privacy Rule.

15. Termination of AGREEMENT

The County shall terminate the underlying Agreement upon knowledge of a material breach by the Contractor of which the Contractor fails to cure.

16. Definitions

Terms used, but not otherwise defined, in this Exhibit shall have the same meaning as those in the Privacy Rule.

17. Interpretation

Any ambiguity in this Exhibit shall be resolved to permit County to comply with the Privacy Rule and Security Rule.

Contract Summary Form: Contract Number : _____ - _____ - _____ - _____ - _____

D1. Fiscal Year:FYs 2008/09 & 2009/10

D2. Budget Unit Number (plus -Ship/-Bill codes in paren's) : 041

D3. Requisition Number.....:

D4. Department Name: Public Health Department

D5. Contact Person: Dawn McGrew

D6. Phone.....: 681-5205

K1. Contract Type (check one): [] Personal Service [] Capital Project/Construction

K2. Brief Summary of Contract Description/Purpose : Provider of Licensed Nursing Professionals

K3. Original Contract Amount: \$229,000

K4. Contract Begin Date.....: April 1, 2009

K5. Original Contract End Date: June 30, 2010

K6. Amendment History (leave blank if no prior amendments):

<u>Seq#</u>	<u>EffectiveDate</u>	<u>ThisAmndtAmt</u>	<u>CumAmndtTo</u>	<u>DateNewTotal</u>	<u>AmtNewEnd</u>	<u>EndDate</u>	<u>Purpose (2-4 words)</u>
		\$	\$		\$		

K7. Department Project Number

B1. Is this a Board Contract? (Yes/No).....: Yes

B2. Number of Workers Displaced (if any).....: 0

B3. Number of Competitive Bids (if any): N/A

B4. Lowest Bid Amount (if bid).....: \$

B5. If Board waived bids, show Agenda Date

B6. ... and Agenda Item Number: #

B7. Boilerplate Contract Text Unaffected?).....Yes ¶¶ 7, 17 23,, & 31; Exhibit C Section 4

F1. Encumbrance Transaction Code: 1701

F2. Current Year Encumbrance Amount: N/A

F3. Fund Number.....: 0042

F4. Department Number.....: 041

F5. Division Number (if applicable).....: 3001

F6. Account Number: 7460

F7. Cost Center number (if applicable).....:

F8. Payment Terms.....: Net 30

V1. Vendor Numbers (A=uditor; P=urchasing): Auditor 003616

V2. Payee/Contractor Name: NurseCore Management Systems, LLC

V3. Mailing Address: 930 Laguna St.,

V4. City State (two-letter) Zip (include +4 if known) : Santa Barbara, CA 93101

V5. Telephone Number.....: 800.780.3500

V6. Contractor's Federal Tax ID Number (EIN or SSN) : On File

V7. Contact Person.....: Marcie Bruce

V8. Workers Comp Insurance Expiration Date.....: Waived

V9. Liability Insurance Expiration Date[s]: Professional Liability 4/1/09

V10. Professional License Number: N/A

V11. Verified by (name of County staff): Dawn McGrew

V12. Company Type (Check one): [] Individual [] Sole Proprietorship [X] Partnership [] Corporation

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

Date : Authorized Signature.....:
