

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

**STANDARD AGREEMENT**

STD 213 (Rev. 03/2019)

AGREEMENT NUMBER

19-11110

PURCHASING AUTHORITY NUMBER (If Applicable)

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

California Department of Public Health

CONTRACTOR NAME

Adventist Health System/West

2. The term of this Agreement is:

START DATE

5/13/2020

THROUGH END DATE

5/12/2021

3. The maximum amount of this Agreement is:

\$1,000,000.00

One Million Dollars and Zero Cents

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

Exhibits	Title	Pages
Exhibit A	Temporary Covid-19 Rural Surge Safety Net Services Agreement; includes the following Exhibits: Exhibit B - Additional Terms required for FEMA Reimbursement Exhibit C - Program Fee Exhibit D - HIPPA Business Associate Addendum	32
Exhibit E	Budget Detail and Payment	1
Exhibit F	General Terms and Conditions*	GTC 04/2017
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Items shown with an asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto.

These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

**CONTRACTOR**

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

Adventist Health System/West

CONTRACTOR BUSINESS ADDRESS

1 Adventist Health Way

CITY

Roseville

STATE

CA

ZIP

95661

PRINTED NAME OF PERSON SIGNING

Bill Wing

TITLE

CFO

CONTRACTOR AUTHORIZED SIGNATURE

Bill Wing

Digitally signed by Bill Wing

Date: 2020.05.15 10:04:06 -07'00'

DATE SIGNED

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

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**STATE OF CALIFORNIA**

CONTRACTING AGENCY NAME

California Department of Public Health

CONTRACTING AGENCY ADDRESS

1616 Capitol Avenue, Suite 74.262, MS 1802

CITY

Sacramento

STATE

CA

ZIP

95814

PRINTED NAME OF PERSON SIGNING

Tim Bow

TITLE

Procurement Officer

CONTRACTING AGENCY AUTHORIZED SIGNATURE

**Timothy Bow**Digitally signed by Timothy Bow  
Date: 2020.05.14 12:02:12 -07'00'

DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

EO N-25-20 COVID-19/Proclamation of A State of  
Emergency/PCC 1102

**TEMPORARY COVID-19 RURAL SURGE SAFETY NET**  
**SERVICES AGREEMENT**

This TEMPORARY COVID-19 RURAL SURGE SAFETY NET SERVICES AGREEMENT (the "Agreement") is entered into as of the last date signed below (the "Execution Date") by and between the California Department of Public Health ("CDPH"), on the one hand, and on the other hand, Adventist Health System/West, a California nonprofit religious corporation, d/b/a Adventist Health, on behalf of itself and as disclosed agent for its affiliates, which include hospitals, clinics and other licensed or authorized entities under the laws of the State of California that provide or arrange for healthcare services (collectively, "Contractor"). Hereinafter, CDPH and Contractor may individually be called "Party" or collectively as the "Parties."

**RECITALS:**

**WHEREAS**, CDPH determined that grounds exist to contract with an operator to provide critical and "essential" medical services, pursuant to the Governor's Proclamation of a State of Emergency dated March 4, 2020, the Governor's Emergency Declaration, Executive Order N-25-20 dated March 12, 2020, and Executive Order N-39-20 dated March 30, 2020, all as amended or supplemented subsequently (collectively, the "Executive Orders");

**WHEREAS**, all agencies of the state government shall perform any and all activities consistent with the direction of the State, pursuant to the Executive Orders;

**WHEREAS**, Contractor, in association with Medically Home Group ("MHG") and Huron Consulting Group ("Huron"), is rapidly implementing a "virtual hospital" model of care through a suite of services, technology and clinical and business processes to support a unique, patient-specific episode of medical care at home that replaces (i) the acute care delivered for certain patients in hospitals and (ii) the post-acute, restorative care that immediately follows (the "Virtual Hospital Program" or the "Program"). The Program is designed and implemented to be flexible and scalable to target hot spots requiring rapid COVID-19 response across rural and urban geographies by associating with local providers and leveraging Contractor's physicians and nursing staff. Contractor is currently activating the Program to stand up 100 beds of capacity across geographies in the State devoted to rural counties based on CDPH's interest;

**WHEREAS**, Contractor, through the Program, will provide tele-health services on behalf of CDPH for the purpose of providing overflow healthcare services in response to the novel coronavirus-related health crisis at the home of the patient. It is anticipated that the Program, at least initially, will support rural counties where COVID-19 patients may not have any other possible access to healthcare services, with the ability to flex to urban environments, if needed;

**WHEREAS**, Contractor will provide medical equipment and instruments, supplies, technology, all necessary medical and administrative staffing and access to medical

treatment as part of the Program to allow Californians impacted by COVID-19 to be provided with necessary healthcare services at home; and

**WHEREAS**, the Parties wish to document their Agreement with respect to the provision of such services between the Contractor and CDPH.

**NOW, THEREFORE**, in consideration of the promises and agreements contained herein, the Parties mutually agree as follows:

1. **The Program:** The Program shall generally consist of the following capabilities, targeted to respond to the COVID-19 pandemic:
  - a. 24/7 staffed clinical command center lead by physicians and powered by nurses (the "Command Center") with three physical locations in St. Helena, Ukiah and Hanford, California to collectively support the Service Area (as defined in Section 4) under this Agreement. The Command Center will have a single contact point or number, where a patient referral is virtually routed to the appropriate Command Center location. Additionally, Contractor shall designate an individual to provide services as a referral coordinator or project manager (the "Project Manager") who will be the primary point of contact related to the Program and liaison for referring hospitals and counties. The Project Manager shall be Aylin Iranossian-Hemelians, MHA C: 818-618-2484 | D: 323-647-6385 x76385 [iranosa@ah.org](mailto:iranosa@ah.org).
  - b. Program beds will be assigned on an as-needed basis by the Command Center in coordination with the Project Manager based on location and the needs and the best interests of each patient admitted into the Program ("Program Patients").
  - c. Generally, the admitting hospital facility ("Admitting Hospital") will be (i) the local Contractor hospital at which the Program Patient presents to an emergency department or discharged from a medical/surgical unit or ICU ("Original Contractor Hospital"); or (ii) the Contractor hospital closest to the non-Contractor hospital ("Referring Hospital") from which the Program Patient was referred or transferred.
  - d. Patients' participation in the Program will be voluntary.
  - e. Whether or not affiliated with Contractor, initially targeted Program Patients include:
    - a. COVID-19 inpatients;
    - b. Non-COVID patients with certain acute-care diagnoses and conditions, initially focused on ambulatory sensitive conditions, including, but not limited to, CHF, COPD, pneumonia, asthma, cellulitis, gastroenteritis, UTI, and expand to include patients based on medical need as determined by the Command Center teams, including and in coordination with the Program Manager, as Program capacity allows; and

- c. Patients transferred or referred by emergency departments (for substitution for hospitalization) and inpatient early discharges (by medical/surgical units or ICU step-down units) either from within the Original Contractor Hospital or from Referring Hospitals.
  - f. Contractor shall ensure Admitting Hospitals accept all forms of insurance, including Medicare and Medi-Cal, as well as uninsured Program Patients.
  - g. The deployment and configuration of a temporary "virtual hospital unit" of the Admitting Hospital located in the Program Patient's home, enabled by technology. The Program's technology includes: (i) biometric monitoring; (ii) custom-configured tablet computer and special-purpose telephone to facilitate two-way communication between Program Patient and Command Center; (iii) back-up power supply; (iv) back-up cellular communication system; and (v) an emergency response system, and as further described in **Schedule 4**.
  - h. Contractor will set up a rapid response field-level network of providers primarily consisting of nurses, home health aides, paramedics/EMTs, technicians, phlebotomists and nutritionists ("Rapid Response Providers"), organized into teams by geographical locations as more specifically described in **Schedule 3**. The teams of Rapid Response Providers, uniquely trained and outfitted for the intended service, will be dispatched to Program Patients at bedside to provide appropriate acute-level hospital care at home. Rapid Response Providers, who are "tethered" by technology to the Command Center's physicians, nurses and service coordinators, will deliver care at the Program Patient's bedside, including the Rapid Response Services (as defined in **Schedule 1**) and other necessary acute-care services within their scope of practice, and as made allowable by the Executive Orders, and as augmented as needed by items available in the Program Patient's home.
  - i. Tools and systems that actively-engage the Program Patient and family to enhance outcomes. Program Patients will be screened for Program eligibility based on specific criteria, including certain acute-care diagnoses and conditions and basic at-home requirements (e.g., space, accessibility, cellular service area and/or Wi-Fi service, bathroom and kitchen facilities, etc.), and clinical protocols, prior to being admitted to the Program. Eligibility determinations shall be made by appropriate Command Center personnel, including physicians.
  - j. Program Patients who require additional hospital care or non-Program services shall be physically transferred or referred to the first referring hospital (either the Original Contractor Hospital or Referring Hospital, as applicable), or to the closest hospital to the Program Patient's residence, by the Admitting Hospital.

2. **Use of Program Patient Home:** CDPH acknowledges and agrees that Contractor will require, and shall be allowed, temporary access and egress to a Program Patient's home/personal residence ("Property") for use as the Program location to provide Program services pursuant to this Agreement and appropriate written consents obtained from Program Patients.
3. **CDPH Approval for the Program:** By way of this Agreement, CDPH approves Contractor to provide and arrange for Program services at each Program Patient's Property during the term of this Agreement. CDPH acknowledges and agrees that Contractor's services and the Program provided to Program Patients hereunder (i) will be deemed to comply with applicable state and local laws and regulations governing such hospital and healthcare services, relying on the Executive Orders and the applicable state regulatory agencies' adoption of waivers as authorized by the Executive Orders, including, but not limited to, CDPH's AFL 20-26 dated March 20, 2020 and the paramedicine waiver implemented by the EMS Authority (collectively, the "State Waivers"); and (ii) are consistent with the Federal Government's Section 1135 blanket waivers, including but not limited to CMS's grant of California's Section 1135 waivers dated March 26, 2020 (collectively, the "Federal Waivers"). CDPH further acknowledges and agrees that implementation of a "virtual hospital unit" pursuant to and during the term of this Agreement is not a change in services or licensed beds that will require an application to be submitted to CDPH by an Admitting Hospital as required under AFL 20-26.

**Service Area:** During the term of this Agreement, the Parties agree Contractor shall provide a total of 100 Program beds. As of the Execution Date, Contractor shall make the Program available in Zones 2, 3 and 4, and in Initial Zone 1 as immediately available as possible, as described on **Exhibit A**. The Initial Zone 1 shall comprise the Tahoe Basin and the Yosemite Gateway within Zone 1 as described in **Exhibit A**, including acceptance of referrals from corresponding Referring Hospitals that support such areas. Thereafter, Contractor shall work in good faith towards expanding its capacity to cover other defined areas within Zone 1 ("Expanded Zone 1") in consultation with CDPH<sup>1</sup> in separate phases. Hospitals whether or not affiliated with Contractor as indicated on **Exhibit A** can participate in the Program and refer and transfer patients who are eligible to be Program Patients.

If, as and when CDPH determines there is a need or otherwise wishes to expand the service areas covered by the Program beyond those initially

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<sup>1</sup> Among other variables, the Parties will consider cell coverage in expanding coverage to other defined areas within Zone 1.

described on **Exhibit A** (Zone 1, Zones 2, 3 and 4), CDPH shall notify Contractor's project representative as indicated in Section 16 below. If Contractor wishes to expand the Service Area, Contractor's program representative shall contact CDPH's project representative as indicated in Section 16 below of the same. In either case, within three (3) business days of being contacted by the other Party, the Parties shall commence good faith discussions regarding the expansion of the Service Area, including the anticipated go-live date in an expanded county beyond the initial Zones where Contractor is able to provide Program services ("Flex County(ies)"). **Exhibit A** shall be updated to reflect addition of a Flex County(ies) and additional Referring Hospitals pursuant to a written amendment to this Agreement signed by both Parties. CDPH acknowledges and agrees that Contractor generally shall require three (3) to four (4) weeks to implement and engage staffing and resources as necessary prior to the Program going-live in any Flex County.

4. **Term:** The start date of this Agreement shall be the Execution Date, and the initial term of this Agreement shall end on the earlier of: (i) the date that is 12 months from the Execution Date, or (ii) the date the California Governor declares an end of the State of Emergency and lifts the Executive Orders. The Parties may extend the term of this Agreement by mutual agreement.
5. **Care Provider Staffing:** Contractor shall provide or arrange for the services of all care providers, including Command Center physicians (e.g., ED, hospitalists, primary care and as necessary, various specialists), nurse practitioners, physician assistants and registered nurses and the Rapid Response Providers, necessary to service all Program Patients on an inpatient acute-level care (collectively, the "Care Providers") during the term of this Agreement. All Care Providers shall be uniquely trained and outfitted to provide services to Program Patients, whether virtually or at the Program Patient's bedside on-demand, within the scope of their licensed, certified or authorized practice in compliance with applicable standards of relevant professional societies, applicable local, state, and federal laws and regulations, including HIPAA rules and regulations, subject to applicable Federal Waivers and State Waivers; in a manner designed to meet or exceed the recognized standard of care for such Care Provider practicing under the same or similar circumstances. All Care Providers shall be (i) duly licensed, certified or authorized to provide their applicable services with the State's professional licensing agencies, as applicable, subject to applicable Federal Waivers and State Waivers; and (ii) appropriately credentialed and/or holding appropriate medical staff privileges at the Admitting Hospital, as applicable.
  - a. Care Providers shall generally provide the services (including Rapid Response Services) described in **Schedule 1** (collectively, "Care Provider Services").

- b. Contractor initially anticipates providing the services of Care Providers at the Command Centers at the staffing target levels as described on **Schedule 2** ("Command Center Staffing Levels") where Contractor shall have the ability and flexibility to flex up or down as necessary to ensure appropriate clinical services coverage of Program Patients and their individual diagnoses and conditions in consultation with and under the supervision of the treating physician(s) at the Command Center.
  - c. Contractor initially anticipates making the Rapid Response Providers and Rapid Response Services available for Program Patients in accordance with the hours and availability targets set forth on **Schedule 3** ("Rapid Response Providers and Rapid Response Services Availability").
6. **Program Technology, Supplies, Equipment and Related Support Services.** Contractor shall provide and procure all necessary Program technology, equipment, medical and non-medical supplies and related support services, including, but not limited to those items and services described in **Schedule 4**, which are needed by a Program Patient at his or her Property, including those typically available for inpatient acute-level care, augmented by facilities and supplies available at the Property. In providing and procuring such items and services, Contractor agrees to comply with applicable federal, state, and local laws, regulations, and guidance, subject to applicable Federal Waivers and State Waivers.
7. **Program Reports.** To aid CDPH in its capacity as a health oversight agency for its health oversight activities, including in CDPH's conduct of public health surveillance and interventions, as permitted by applicable federal and state laws and regulations, Contractor shall prepare two Program reports on a monthly basis, including information and details related to Program Patients, hospital referrals, Program Patient volumes, clinical outcomes, payor mix data, etc., as reasonably requested by CDPH. The two Program reports shall consist of (a) an Individual Patient Program Report and (b) an Aggregate Patient Program Report, each of which shall include at least the following Data Elements. The Data Elements for each report can be modified by agreement between the Parties based on the performance of Contractor and needs of CDPH:

Individual Patient Program Report Data Elements

- Program Patient name
- Permanent and/or temporary displacement address
- Telephone number
- Disaster-related medical conditions or pre-existing condition flare up



- Specific services rendered
- Cause of injury or illness
- Date and time
- Location of treatment
- Provider
- Provider license number
- Medi-Cal/Medicare ID number
- Provider signature
- Documentation of care to specify moment of care or stabilization
- Indicate whether treatment for medical stabilization or regular medical care

Aggregate Patient Program Report Data Elements

- Number of Program Patients admitted into Program
- Listing of referring hospitals
- Payer mix
- Safety events (including but not limited to falls, pressure ulcers, CAUTI, or other unusual occurrence relative to patients)
- Length of stay
- HCAPHS scores
- Readmission rate versus discharge rate
- Readmission rate at 30 days
- Referring hospital satisfaction with process

**8. Additional State Obligations:**

- a. The California Department of Health Care Services has approved the methodology for billing Program Patients who are Medi-Cal beneficiaries, fee-for-service and managed care. CDPH will in good faith cooperate with and assist Contractor in discussions with the California Department of Health Care Services to secure Medi-Cal reimbursement for Program services provided pursuant to this Agreement.
- b. CDPH shall, in good faith, cooperate with Contractor to facilitate changes to the Program and this Agreement as necessary to accommodate changes, modifications or revocations of applicable Federal Waivers, State Waivers or other applicable law or regulation, including the lifting of the Executive Orders, that affect the Program and services rendered pursuant to this Agreement.

**9. Compensation:** Subject to the Additional Legal Terms required for FEMA Reimbursement and Contractor's execution of the Certification Regarding

Lobbying, which are incorporated in **Exhibit B**, CDPH shall pay Contractor a Program Fee as set forth in **Exhibit C** (the "Fee").<sup>2</sup>

10. **Liability:** The Emergency Services Act, Government Code sections 8659 and 8657(b), and Civil Code section 1714.5(b) provide for immunity from liability, except for willful conduct, to all healthcare workers for services rendered during an emergency or disaster declared by the Governor.
11. **Limitation Against Practice of Medicine.** Notwithstanding any provision contained herein, this Agreement is not intended to constitute the use of a medical license or the practice of medicine by anyone other than a licensed physician or do any other act or create any other arrangements in violation of any applicable federal or state laws or successor statutes or regulations. Contractor and its Care Providers shall remain entirely independent of CDPH as to (i) the diagnosis and treatment of patients; (ii) the prescription, order, or administration of any drug or medicine; and (iii) all other applicable medical, professional and ethical affairs. Contractor accepts responsibility to its patients for the nature and character of all professional medical services rendered by Contractor, the Care Providers or its agents, employees or independent contractors.
12. **Waiver of Liability.** CDPH shall not be liable to Contractor, and Contractor agrees to waive all claims against CDPH, for any injury or damage to any person or property in or about the Property, by or from any cause whatsoever, except for claims against CDPH to the extent that a final judgment of a court of competent jurisdiction establishes that the injury or damage was solely caused by CDPH's gross negligence or willful misconduct.
13. **Governing Law/Venue.** This Agreement is governed by laws of California. Jurisdiction and venue with respect to any disputes arising hereunder shall be proper only in the Sacramento County.
14. **Severability:** In the event that any of the provisions of this Agreement are held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, such provisions will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect.

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<sup>2</sup> CDPH acknowledges that Contractor has and will incur significant effort and expenses to stand up the Program and (i) the Fee will cover only a portion of Contractor's total costs, which is estimated as approximately \$7 million; and (ii) Contractor has obtained additional funding to cover the remainder of Contractor's anticipated Program costs.

- 15. Notice; Project Representatives:** All notices required hereunder shall be made in writing to the applicable project representative at the below contact information during the term of this Agreement:

<b>CDPH</b> Attention: Cassie Dunham California Dept. of Public Health Licensing and Certification Program P.O. 997377, MS 3001 Sacramento, CA 95899-7377  Telephone: (916) 324-1261 Email: <a href="mailto:cassie.dunham@cdph.ca.gov">cassie.dunham@cdph.ca.gov</a>	<b>Contractor</b> Attention: Bill Wing, President Adventist Health ONE Adventist Health Way Roseville, CA 95661  Telephone: (916) 406-1369 Email: <a href="mailto:WingBD@ah.org">WingBD@ah.org</a>
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Direct all inquiries to and notices to:

<b>CDPH</b> Attention: Jen Hill California Dept. of Public Health Licensing and Certification Program 1616 Capitol Avenue, MS 3202 Sacramento, CA 95814  Telephone: (916) 552-8722 Email: <a href="mailto:Jennifer.Hill3@cdph.ca.gov">Jennifer.Hill3@cdph.ca.gov</a>	<b>Contractor</b> Attention: Bill Wing, President Adventist Health ONE Adventist Health Way Roseville, CA 95661  Telephone: (916) 406-1369 Email: <a href="mailto:WingBD@ah.org">WingBD@ah.org</a>  Copy to: Attention: Meredith Jobe, General Counsel Office of General Counsel Adventist Health ONE Adventist Health Way Roseville, CA 95661  Telephone: (916) 406-1573 Email: <a href="mailto:JobeMS@ah.org">JobeMS@ah.org</a>
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Either project representative may make changes to the contact information in the sections above by giving written notice to the other Party.

- 16. Amendments:** This Agreement may be amended at any time by signature approval of the Parties' signatories or their respective designees.
- 17. Termination of Agreement:** Either Party shall have the right to terminate this Agreement for cause by providing thirty (30) days' prior written notice of such cause, and the receiving Party of such notice shall have fifteen (15) days to

cure. This Agreement may also be terminated at any time without cause by mutual agreement of the Parties.

18. **Subcontractors:** No subcontracts may be used in the performance of the Contractor's duties unless with prior written approval from the CDPH project representative. Contractor must request approval from CDPH for a subcontract at least five (5) business days before the effective date of the subcontract. Notwithstanding the foregoing, CDPH hereby approves Contractor's use of MHG and Huron as subcontractors hereunder, including subcontractors engaged by Contractor, MHG or Huron as Rapid Response Providers and their provision of related Rapid Response Services.
19. **Exhibits and Schedules:** The exhibits and schedules attached herein to this Agreement form an integral part of the Agreement and are incorporated into this Agreement wherever reference is made to them to the same extent as if they were set out in full at the point at which such reference is made.
20. **Force Majeure:** Neither Party shall be liable for nonperformance or defective or late performance of any of its obligations under this Agreement to the extent and for such periods of time as such nonperformance, defective performance or late performance is due to reasons outside such Party's control, including acts of God, war (declared or undeclared), terrorism, action of any governmental authority, civil disturbances, riots, revolutions, vandalism, accidents, fire, floods, explosions, sabotage, nuclear incidents, lightning, weather, earthquakes, storms, sinkholes, failure of transportation infrastructure, disruption of public utilities, supply chain interruptions, information systems interruptions or failures, breakdown of machinery or strikes (or similar nonperformance, defective performance or late performance of employees, suppliers or subcontractors); provided, however, that in any such event, each Party shall use its good faith efforts to perform its duties and obligations under this Agreement.
21. **Capacity to Enter into Agreement:** The persons executing this Agreement on behalf of their respective entities hereby represent and warrant that they have the right, power, legal capacity, and appropriate authority to enter into this Agreement on behalf of the entity for which they sign.

*[signature page follows]*

The Parties have executed this Agreement as of the date set forth below.

Contractor:

Adventist Health System/West

By: Bill Wing

Date May 14, 2020

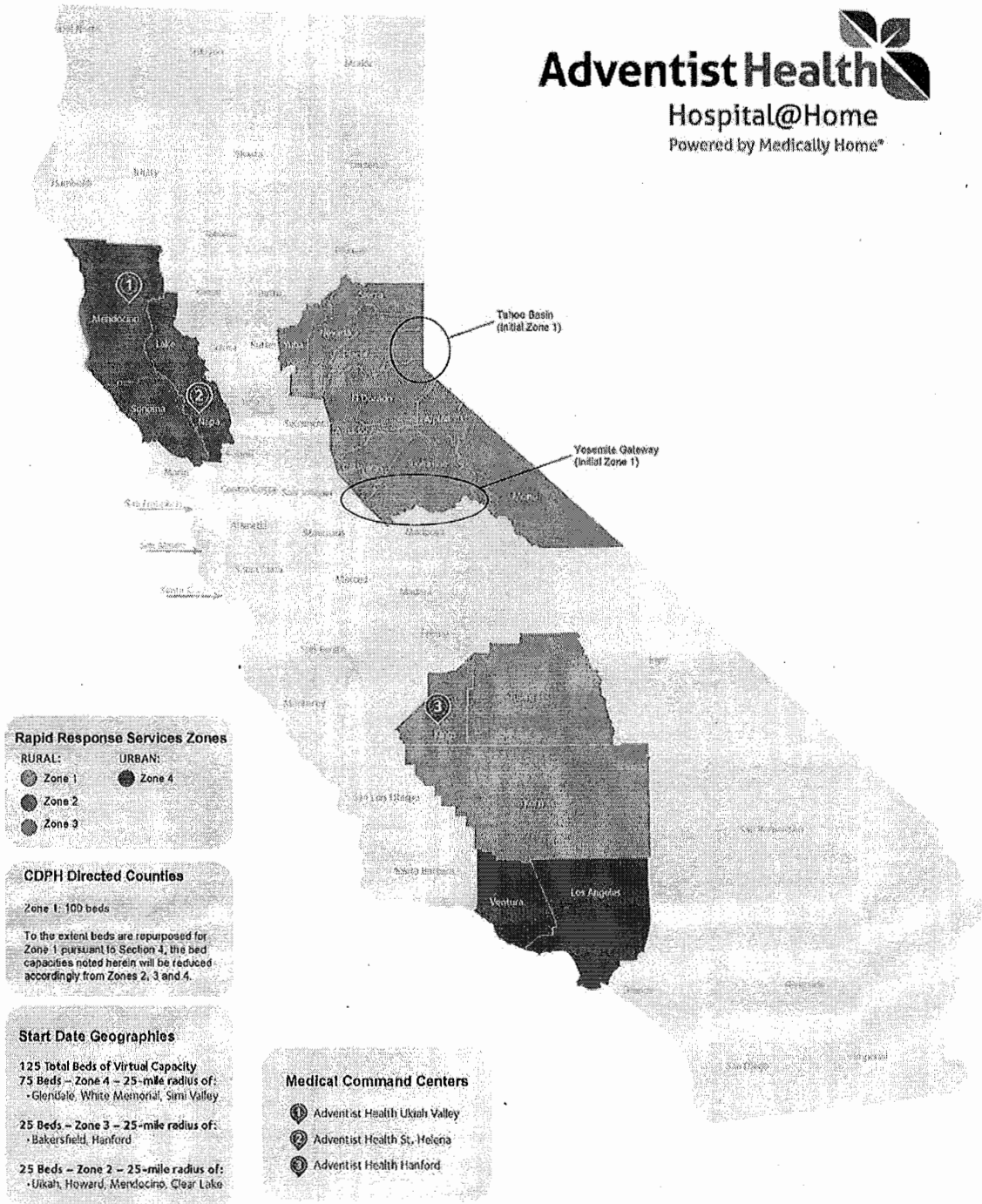
Title: Bill Wing, CFO

CDPH:

By: Jim B... Date 5/14/2020

Title: Procurement Officer, Emergency Operations

# EXHIBIT A SERVICE AREA



Initial Zone 1 Target Referring Hospitals

<b>Hospital Name</b>	<b>County</b>
Barton Memorial Hospital	El Dorado
Tahoe Forest Hospital	Nevada
Sutter Auburn Faith Hospital	Placer
Mark Twain Medical Center	Calaveras
	Tuolumne <sup>3</sup>

Initial Zones 2, 3 and 4 Non-Contractor Hospitals

<b>Hospital Name</b>	<b>County</b>
Bakersfield Heart Hospital	Kern
Bakersfield Memorial Hospital	Kern
Kern Medical Center	Kern
Kern Valley Hospital	Kern
Mercy Hospital - Bakersfield	Kern
Mercy Southwest Hospital	Kern
Ridgecrest Regional Hospital	Kern
Sutter Lakeside Hospital	Lake
Alhambra Hospital Medical Center	Los Angeles
Antelope Valley Hospital	Los Angeles
Beverly Hospital	Los Angeles
California Hospital Medical Center - Los Angeles	Los Angeles

<sup>3</sup> Currently, the only acute care hospital located within Tuolumne County is Contractor hospital, Adventist Health Sonora.



Cedars-Sinai Marina Del Rey Hospital	Los Angeles
Cedars-Sinai Medical Center	Los Angeles
Centinela Hospital Medical Center	Los Angeles
Children's Hospital of Los Angeles	Los Angeles
City of Hope Helford Clinical Research Hospital	Los Angeles
Coast Plaza Hospital	Los Angeles
College Medical Center	Los Angeles
Community Hospital of Huntington Park	Los Angeles
East Los Angeles Doctors Hospital	Los Angeles
Emanate Health Foothill Presbyterian Hospital	Los Angeles
Emanate Health Inter-Community Hospital	Los Angeles
Emanate Health Queen of The Valley Hospital	Los Angeles
Encino Hospital Medical Center	Los Angeles
Garfield Medical Center	Los Angeles
Glendale Memorial Hospital and Health Center	Los Angeles
Glendora Oaks Behavioral Health Hospital	Los Angeles
Greater El Monte Community Hospital	Los Angeles
Henry Mayo Newhall Hospital	Los Angeles
Hollywood Presbyterian Medical Center	Los Angeles
Huntington Memorial Hospital	Los Angeles
Kaiser Foundation Hospital - Baldwin Park	Los Angeles
Kaiser Foundation Hospital - Downey	Los Angeles

Kaiser Foundation Hospital - Los Angeles	Los Angeles
Kaiser Foundation Hospital - Panorama City	Los Angeles
Kaiser Foundation Hospital - South Bay	Los Angeles
Kaiser Foundation Hospital - West LA	Los Angeles
Kaiser Foundation Hospital - Woodland Hills	Los Angeles
Keck Hospital of USC	Los Angeles
LA Downtown Medical Center	Los Angeles
LAC/Harbor-UCLA Medical Center	Los Angeles
LAC+USC Medical Center	Los Angeles
Lakewood Regional Medical Center	Los Angeles
Los Angeles Community Hospital	Los Angeles
Los Angeles Community Hospital at Bellflower	Los Angeles
Los Angeles Convention Center (Temporary COVID-19 Hospital)	Los Angeles
Los Angeles County Olive View-UCLA Medical Center	Los Angeles
Los Angeles Field Hospital (Temporary COVID-19 Hospital)	Los Angeles
Martin Luther King, Jr. Community Hospital	Los Angeles
Memorial Hospital of Gardena	Los Angeles
MemorialCare Long Beach Medical Center	Los Angeles
Methodist Hospital Of Southern California	Los Angeles
Mission Community Hospital - Panorama Campus	Los Angeles
Monterey Park Hospital	Los Angeles

Northridge Hospital Medical Center	Los Angeles
Norwalk Community Hospital	Los Angeles
Olympia Medical Center	Los Angeles
Pacifica Hospital of the Valley	Los Angeles
Palmdale Regional Medical Center	Los Angeles
PIH Health Good Samaritan Hospital	Los Angeles
PIH Health Hospital - Downey	Los Angeles
PIH Health Hospital - Whittier	Los Angeles
Pomona Valley Hospital Medical Center	Los Angeles
Providence Cedars-Sinai Tarzana Medical Center	Los Angeles
Providence Holy Cross Medical Center	Los Angeles
Providence Little Company of Mary MC - San Pedro	Los Angeles
Providence Little Company of Mary Medical Center Torrance	Los Angeles
Providence Saint John's Health Center	Los Angeles
Providence Saint Joseph Medical Center	Los Angeles
Rancho Los Amigos National Rehabilitation Center	Los Angeles
Ronald Reagan UCLA Medical Center	Los Angeles
San Dimas Community Hospital	Los Angeles
San Gabriel Valley Medical Center	Los Angeles
Santa Monica - UCLA Medical Center and Orthopaedic Hospital	Los Angeles
Sherman Oaks Hospital	Los Angeles

## EXECUTION VERSION

Southern California Hospital at Hollywood	Los Angeles
Southern California Hospital at Culver City	Los Angeles
St. Francis Medical Center	Los Angeles
St. Mary Medical Center - Long Beach	Los Angeles
St. Vincent Medical Center (Temporary COVID-19 Hospital)	Los Angeles
Torrance Memorial Medical Center	Los Angeles
USC Kenneth Norris Jr. Cancer Hospital	Los Angeles
USC Verdugo Hills Hospital	Los Angeles
Valley Presbyterian Hospital	Los Angeles
West Covina Medical Center	Los Angeles
West Hills Hospital And Medical Center	Los Angeles
Whittier Hospital Medical Center	Los Angeles
Mendocino District Coast Hospital	Mendocino
Queen of the Valley Medical Center	Napa
Healdsburg District Hospital	Sonoma
Sutter Santa Rosa Regional Hospital	Sonoma
Santa Rosa Memorial Hospital	Sonoma
Kaiser Foundation Santa Rosa	Sonoma
Kaweah Delta Medical Center	Tulare
Kaweah Delta Mental Health Hospital	Tulare
Community Memorial Hospital-San Buenaventura	Ventura
Ventura County Medical Center	Ventura
Los Robles Hospital & Medical Center	Ventura

**EXECUTION VERSION**

Ojai Valley Community Hospital	Ventura
St. John's Pleasant Valley Hospital	Ventura
Ventura County Medical Center - Santa Paula Hospital	Ventura
St. John's Regional Medical Center	Ventura

**EXHIBIT B****ADDITIONAL LEGAL TERMS REQUIRED FOR FEMA REIMBURSEMENT****A. Remedies**

In the event of a breach by the Contractor of any term or provision of this Agreement, CDPH shall have the right to pursue all available remedies at law or equity, including recovery of damages and specific performance of this Agreement. The Parties hereto agree that monetary damages would not provide adequate compensation for any losses incurred by reason of a breach by it of any of the provisions of this Agreement and hereby further agrees that, in the event of any action for specific performance in respect of such breach, it shall waive the defense that a remedy at law would be adequate. Except as expressly provided elsewhere in this Agreement, each Party's rights and remedies under this Agreement are cumulative and in addition to, not exclusive of or in substitution for, any rights or remedies otherwise available to that Party.

**B. Compliance with the Contract Work Hours and Safety Standards Act (where applicable)**

1. Overtime requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph B.1 of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph B.1 of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph B.1 of this section.

3. Withholding for unpaid wages and liquidated damages. The Office of Emergency Services shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be

determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph B.2 of this section.

4. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph B.1 through B.4 of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs B.1 through B.4 of this section.

### **C. Clean Air Act**

1. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq.

2. The Contractor agrees to report each violation to CDPH and understands and agrees that CDPH will, in turn, report each violation as required to assure notification to the California Governor's Office of Emergency Services, Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.

3. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

### **D. Federal Water Pollution Control Act**

1. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. Sections 1251 et seq.

2. The Contractor agrees to report each violation to CDPH and understands and agrees that CDPH will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.

3. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

### **E. Debarment and Suspension Clause**

1. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Contractor is required to verify that none of the Contractor,

its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

2. The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

3. This certification is a material representation of fact relied upon by CDPH. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to CDPH, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

4. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**F. Byrd Anti- Lobbying Amendment, 31 U.S.C. § 1352 (as amended)**

1. Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the state.

**APPENDIX A, 44 C.F.R. PART 18- CERTIFICATION REGARDING LOBBYING**

The undersigned Contractor certifies, to the best of his or her knowledge, that:

A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.



B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

C. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

CONTRACTOR

By \_\_\_\_\_

Date \_\_\_\_\_

#### **G. Procurement of Recovered Materials**

1. In the performance of this Agreement, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:

- i. Competitively within a timeframe providing for compliance with the contract performance schedule;
- ii. Meeting contract performance requirements; or
- iii. At a reasonable price.

2. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>

3. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

#### **H. Access to Records**

1. The following access to records requirements apply to this Agreement:

- i. The Contractor agrees to provide CDPH, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.
- ii. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- iii. The Contractor agrees to provide the FEMA Administrator or his or her authorized representatives access to construction or other work sites pertaining to the work being completed under the Agreement.
- iv. In compliance with the Disaster Recovery Act of 2018, CDPH and the Contractor acknowledge and agree that no language in this Agreement is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

#### **I. Changes & Modifications**

Any cost of a change, modification, change order, or constructive change to the Agreement must be allowable and allocable within the scope of this Agreement, and reasonable for the completion of project scope. Changes can be made by either Party to alter the method, price, or schedule of the work without breaching the Agreement if both Parties approve in writing.

#### **J. Department of Homeland Security Seal, Logo, Flags**

The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

#### **K. Compliance with Federal Law, Regulations, and Executive Orders**

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The Contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

**L. No Obligation by Federal Government**

The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the Agreement.

**M. Program Fraud and False or Fraudulent Statements or Related Acts**

The Contractor acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Agreement.

## EXHIBIT C

### PROGRAM FEE

Within ten (10) business days of the Parties' execution of this Agreement, CDPH shall make a one-time, lump sum payment of **\$1,000,000** to Contractor as the Fee pursuant to the terms of this Agreement, less a ten percent (10%) withholding as noted below.

In accordance with the California Public Contract Code Section 12112, CDPH shall withhold, from the total amount or from the invoiced payment amount to the Contractor, an amount equal to ten percent (10%) of the Fee. Such retained amount shall be held by CDPH and only released to the Contractor upon CDPH Project Representative/ Contract Manager's determination that the Contractor has satisfactorily completed all of the required services related to the services within the scope of work. Essential elements to fulfill required services under the Agreement include assignment of Contractor's Program Manager, meeting the 100-bed target, if needed, in the counties designated under the Agreement and providing the required Program reports to CDPH called for in the Agreement.

The ten percent (10%) payment withholding shall not be applied to reimbursements or requests for direct costs associated with equipment purchases, operating expense items, and other procurements CDPH agrees were not contemplated to be provided by Contractor under this Agreement.

## **EXHIBIT D**

### **HIPAA BUSINESS ASSOCIATE ADDENDUM**

#### **I. Recitals**

- A. CDPH and Contractor have entered into that certain Temporary COVID-19 Rural Surge Safety Net Services Agreement (the "Agreement"), pursuant to which Contractor is implementing and operating the "Virtual Hospital Program" or "Program," as defined under the Agreement, as a "Covered Entity" health care provider, as such term is defined under 45 C.F.R. 160.103. As a Covered Entity, Contractor is permitted to provide certain "Reports" to CDPH to aid CDPH in its capacity as a health oversight agency for its health oversight activities in accordance with 45 C.F.R. § 164.512(d).
- B. This HIPAA Business Associate Addendum or "BAA" shall apply only to the extent that, pursuant to the underlying contract between the parties (the "Agreement"), Contractor is creating, receiving, maintaining or transmitting "Protected Health Information" or "Personal Information" on behalf of CDPH where CDPH is acting in its capacity as a "Covered Entity" and Contractor is acting as a "Business Associate" of CDPH (as such terms are defined under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (the "HITECH Act"), 42 U.S.C. section 17921 et seq., and their implementing privacy and security regulations at 45 CFR Parts 160 and 164 ("the HIPAA regulations")).
- C. To the extent that CDPH discloses to Business Associate certain information pursuant to the terms of the Agreement, some of which may constitute Protected Health Information ("PHI"), including protected health information in electronic media ("ePHI"), under federal law, and personal information ("PI") under state law (as such terms are defined below), and Contractor is acting as a "Business Associate" of CDPH, this BAA shall apply. CDPH and Business Associate are each a party to the Agreement and are collectively referred to as the "parties."
- D. The purpose of this Addendum is to protect the privacy and security of the PHI and PI that may be created, received, maintained, transmitted, used or disclosed pursuant to the Agreement, and to comply with certain standards and requirements of HIPAA, the HITECH Act and the HIPAA regulations, including, but not limited to, the requirement that CDPH must enter into a contract containing specific requirements with Contractor prior to the disclosure of PHI to Contractor, as set forth in 45 CFR Parts 160 and 164 and the HITECH Act.
- E. The terms used in this Addendum, but not otherwise defined, shall have the same meanings as those terms have in the HIPAA regulations. Any reference to statutory or regulatory language shall be to such language as in effect or as amended.

#### **II. Definitions**

- A. Breach shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations.
- B. Business Associate shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations.

- C. Covered Entity shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations.
- D. Electronic Health Record shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C Section 17921 and implementing regulations.
- E. Electronic Protected Health Information (ePHI) means individually identifiable health information transmitted by electronic media or maintained in electronic media, including but not limited to electronic media as set forth under 45 CFR section 160.103, and for purposes of this BAA shall be limited to the ePHI accessed, used, or disclosed by Contractor in performance of its obligations on behalf of CDPH under the Agreement.
- F. Individually Identifiable Health Information means health information, including demographic information collected from an individual, that is created or received by a health care provider, health plan, employer or health care clearinghouse, and 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, that identifies the individual or where there is a reasonable basis to believe the information can be used to identify the individual, as set forth under 45 CFR section 160.103.
- G. Privacy Rule shall mean the HIPAA Regulation that is found at 45 CFR Parts 160 and 164.
- H. Personal Information or "PI" shall have the meaning given to such term in California Civil Code sections 1798.3 and 1798.29, and for purposes of this BAA shall be limited to the PI accessed, used, or disclosed by Contractor in performance of its obligations on behalf of CDPH under the Agreement.
- I. Protected Health Information or "PHI" means individually identifiable health information that is transmitted by electronic media, maintained in electronic media, or is transmitted or maintained in any other form or medium, as set forth under 45 CFR section 160.103, and for purposes of this BAA shall be limited to the PHI accessed, used, or disclosed by Contractor in performance of its obligations on behalf of CDPH under the Agreement.
- J. Required by law, as set forth under 45 CFR section 164.103, means a mandate contained in law that compels an entity to make a use or disclosure of PHI that is enforceable in a court of law. This includes, but is not limited to, court orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information, and a civil or an authorized investigative demand. It also includes Medicare conditions of participation with respect to health care providers participating in the program, and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.
- K. Secretary means the Secretary of the U.S. Department of Health and Human Services ("HHS") or the Secretary's designee.
- L. Security Incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PHI or PI, or confidential data that is essential to the ongoing operation of the Business Associate's organization and intended for internal use; or interference with system operations in an information system.
- M. Security Rule shall mean the HIPAA regulation that is found at 45 CFR Parts 160 and 164.

- N. Unsecured PHI shall have the meaning given to such term under the HITECH Act, 42 U.S.C. section 17932(h), any guidance issued pursuant to such Act and the HIPAA regulations.

### III. Terms of Agreement

#### A. Permitted Uses and Disclosures of PHI by Business Associate

**Permitted Uses and Disclosures.** Except as otherwise indicated in this Addendum, Business Associate may use or disclose PHI only to perform functions, activities or services specified in the Agreement, for, or on behalf of CDPH, provided that such use or disclosure would not violate the HIPAA regulations, if done by CDPH. Any such use or disclosure must, to the extent practicable, be limited to the limited data set, as defined in 45 CFR section 164.514(e)(2), or, if needed, to the minimum necessary to accomplish the intended purpose of such use or disclosure, in compliance with the HITECH Act and any guidance issued pursuant to such Act, and the HIPAA regulations.

1. **Specific Use and Disclosure Provisions.** Except as otherwise indicated in this Addendum, Business Associate may:
  - a. **Use and disclose for management and administration.** Use and disclose PHI for the proper management and administration of the Business Associate provided that such disclosures are required by law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware that the confidentiality of the information has been breached.
  - b. **Provision of Data Aggregation Services.** Use PHI to provide data aggregation services to CDPH. Data aggregation means the combining of PHI created or received by the Business Associate on behalf of CDPH with PHI received by the Business Associate in its capacity as the Business Associate of another covered entity, to permit data analyses that relate to the health care operations of CDPH.

#### B. Prohibited Uses and Disclosures

1. Business Associate shall not disclose PHI about an individual to a health plan for payment or health care operations purposes if the PHI pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full and the individual requests such restriction, in accordance with 42 U.S.C. section 17935(a) and 45 CFR section 164.522(a).
2. Business Associate shall not directly or indirectly receive remuneration in exchange for PHI, except with the prior written consent of CDPH and as permitted by 42 U.S.C. section 17935(d)(2).

#### C. Responsibilities of Business Associate

Business Associate agrees:

1. **Nondisclosure.** Not to use or disclose Protected Health Information (PHI) other than as permitted or required by the Agreement or as required by law.

2. **Safeguards.** To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI, including electronic PHI, that it creates, receives, maintains, uses or transmits on behalf of CDPH, in compliance with 45 CFR sections 164.308, 164.310 and 164.312, and to prevent use or disclosure of PHI other than as provided for by the Agreement. Business Associate shall implement reasonable and appropriate policies and procedures to comply with the standards, implementation specifications and other requirements of 45 CFR section 164, subpart C, in compliance with 45 CFR section 164.316. Business Associate shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Business Associate's operations and the nature and scope of its activities, and which incorporates the requirements of section 3, Security, below. Business Associate will provide CDPH with its current and updated policies.
3. **Security.** To take any and all steps necessary to ensure the continuous security of all computerized data systems containing PHI and/or PI, and to protect paper documents containing PHI and/or PI. These steps shall include, at a minimum:
  - a. Complying with all of the data system security precautions listed in Attachment A, the Business Associate Data Security Requirements;
  - b. Achieving and maintaining compliance with the HIPAA Security Rule (45 CFR Parts 160 and 164), as necessary in conducting operations on behalf of CDPH under the Agreement;
  - c. Providing a level and scope of security that is at least comparable to the level and scope of security established by the Office of Management and Budget in OMB Circular No. A-130, Appendix III - Security of Federal Automated Information Systems, which sets forth guidelines for automated information systems in Federal agencies; and
  - d. In case of a conflict between any of the security standards contained in any of these enumerated sources of security standards, the most stringent shall apply. The most stringent means that safeguard which provides the highest level of protection to PHI from unauthorized disclosure. Further, Business Associate must comply with changes to these standards that occur after the effective date of the Agreement.
  - e. Business Associate shall designate a Security Officer to oversee its data security program who shall be responsible for carrying out the requirements of this section and for communicating on security matters with CDPH.

**D. Mitigation of Harmful Effects.** To mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate or its subcontractors in violation of the requirements of this Addendum.

**E. Business Associate's Agents and Subcontractors.**

1. To enter into written agreements with any agents, including subcontractors and vendors, to whom Business Associate provides PHI or PI received from or created or



received by Business Associate on behalf of CDPH, that impose the same restrictions and conditions on such agents, subcontractors and vendors that apply to Business Associate with respect to such PHI and PI under this Addendum, and that comply with all applicable provisions of HIPAA, the HITECH Act and the HIPAA regulations.

2. In accordance with 45 CFR section 164.504(e)(1)(ii), upon Business Associate's knowledge of a material breach or violation by its subcontractor of the agreement between Business Associate and the subcontractor, Business Associate shall:
  - a. Provide an opportunity for the subcontractor to cure the breach or end the violation and terminate the agreement if the subcontractor does not cure the breach or end the violation within the time specified by CDPH; or
  - b. Immediately terminate the agreement if the subcontractor has breached a material term of the agreement and cure is not possible.

**F. Availability of Information to CDPH and Individuals.** To provide access and information:

1. To provide access as CDPH may require, and in the time and manner designated by CDPH (upon reasonable notice and during Business Associate's normal business hours) to PHI in a Designated Record Set, to CDPH (or, as directed by CDPH), to an Individual, in accordance with 45 CFR section 164.524. Designated Record Set means the group of records maintained for CDPH that includes medical, dental and billing records about individuals; enrollment, payment, claims adjudication, and case or medical management systems maintained for CDPH health plans; or those records used to make decisions about individuals on behalf of CDPH. Business Associate shall use the forms and processes developed by CDPH for this purpose and shall respond to requests for access to records transmitted by CDPH within fifteen (15) calendar days of receipt of the request by producing the records or verifying that there are none.
2. If Business Associate maintains an Electronic Health Record with PHI, and an individual requests a copy of such information in an electronic format, Business Associate shall provide such information in an electronic format to enable CDPH to fulfill its obligations under the HITECH Act, including but not limited to, 42 U.S.C. section 17935(e).
3. If Business Associate receives data from CDPH that was provided to CDPH by the Social Security Administration, upon request by CDPH, Business Associate shall provide CDPH with a list of all employees, contractors and agents who have access to the Social Security data, including employees, contractors and agents of its subcontractors and agents.

**G. Amendment of PHI.** To make any amendment(s) to PHI that CDPH directs or agrees to pursuant to 45 CFR section 164.526, in the time and manner designated by CDPH.

**H. Internal Practices.** To make Business Associate's internal practices, books and records relating to the use and disclosure of PHI received from CDPH, or created or received by Business Associate on behalf of CDPH, available to CDPH or to the Secretary of the U.S. Department of Health and Human Services in a time and manner designated by CDPH or by the Secretary, for purposes of determining CDPH's compliance with the HIPAA regulations. If any information needed for this purpose is in the exclusive possession of any other entity or person and the other entity or person fails or refuses to furnish the information to Business

Associate, Business Associate shall so certify to CDPH and shall set forth the efforts it made to obtain the information.

- I. **Documentation of Disclosures.** To document and make available to CDPH or (at the direction of CDPH) to an Individual such disclosures of PHI, and information related to such disclosures, necessary to respond to a proper request by the subject Individual for an accounting of disclosures of PHI, in accordance with the HITECH Act and its implementing regulations, including but not limited to 45 CFR section 164.528 and 42 U.S.C. section 17935(c). If Business Associate maintains electronic health records for CDPH as of January 1, 2009, Business Associate must provide an accounting of disclosures, including those disclosures for treatment, payment or health care operations, effective with disclosures on or after January 1, 2014. If Business Associate acquires electronic health records for CDPH after January 1, 2009, Business Associate must provide an accounting of disclosures, including those disclosures for treatment, payment or health care operations, effective with disclosures on or after the date the electronic health record is acquired, or on or after January 1, 2011, whichever date is later. The electronic accounting of disclosures shall be for disclosures during the three years prior to the request for an accounting.
- J. **Breaches and Security Incidents.** During the term of the Agreement, Business Associate agrees to implement reasonable systems for the discovery and prompt reporting of any breach or security incident, and to take the following steps:

1. **Notice to CDPH.** (1) To notify CDPH **immediately by telephone call plus email or fax** upon the discovery of a breach of unsecured PHI or PI in electronic media or in any other media if the PHI or PI was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, or upon the discovery of a suspected security incident that involves data provided to CDPH by the Social Security Administration. (2) To notify CDPH **within 24 hours by email or fax** of the discovery of any suspected security incident, intrusion or unauthorized access, use or disclosure of PHI or PI in violation of the Agreement and this Addendum, or potential loss of confidential data affecting the Agreement. A breach shall be treated as discovered by Business Associate as of the first day on which the breach is known, or by exercising reasonable diligence would have been known, to any person (other than the person committing the breach) who is an employee, officer or other agent of Business Associate.

Notice shall be provided to the CDPH Program Contract Manager, the CDPH Privacy Officer and the CDPH Information Security Officer. If the incident occurs after business hours or on a weekend or holiday and involves electronic PHI, notice shall be provided by calling the CDPH ITSD Service Desk. Notice shall be made using the "CDPH Privacy Incident Report" form, including all information known at the time. Business Associate shall use the most current version of this form, which is posted on the CDPH Privacy Office website ([www.CDPH.ca.gov](http://www.CDPH.ca.gov)),

Upon discovery of a breach or suspected security incident, intrusion or unauthorized access, use or disclosure of PHI or PI, Business Associate shall take:

- a. Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment; and
- b. Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.

2. **Investigation and Investigation Report.** To immediately investigate such security incident, breach, or unauthorized access, use or disclosure of PHI or PI. Within 72 hours of the discovery, Business Associate shall submit an updated "CDPH Privacy Incident Report" containing the information marked with an asterisk and all other applicable information listed on the form, to the extent known at that time, to the CDPH Program Contract Manager, the CDPH Privacy Officer, and the CDPH Information Security Officer:
3. **Complete Report.** To provide a complete report of the investigation to the CDPH Program Contract Manager, the CDPH Privacy Officer, and the CDPH Information Security Officer within ten (10) working days of the discovery of the breach or unauthorized use or disclosure. The report shall be submitted on the "CDPH Privacy Incident Report" form and shall include an assessment of all known factors relevant to a determination of whether a breach occurred under applicable provisions of HIPAA, the HITECH Act, the HIPAA regulations and/or state law. The report shall also include a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure. If CDPH requests information in addition to that listed on the "CDPH Privacy Incident Report" form, Business Associate shall make reasonable efforts to provide CDPH with such information. If necessary, a Supplemental Report may be used to submit revised or additional information after the completed report is submitted, by submitting the revised or additional information on an updated "CDPH Privacy Incident Report" form. CDPH will review and approve the determination of whether a breach occurred and individual notifications are required, and the corrective action plan.
4. **Notification of Individuals.** If the cause of a breach of PHI or PI is attributable to Business Associate or its subcontractors, agents or vendors, Business Associate shall notify individuals of the breach or unauthorized use or disclosure when notification is required under state or federal law and shall pay any costs of such notifications, as well as any costs associated with the breach. The notifications shall comply with the requirements set forth in 42 U.S.C. section 17932 and its implementing regulations, including, but not limited to, the requirement that the notifications be made without unreasonable delay and in no event later than 60 calendar days. The CDPH Program Contract Manager, the CDPH Privacy Officer, and the CDPH Information Security Officer shall approve the time, manner and content of any such notifications and their review and approval must be obtained before the notifications are made.
5. **Responsibility for Reporting of Breaches.** If the cause of a breach of PHI or PI is attributable to Business Associate or its agents, subcontractors or vendors, Business Associate is responsible for all required reporting of the breach as specified in 42 U.S.C. section 17932 and its implementing regulations, including notification to media outlets and to the Secretary. If a breach of unsecured PHI involves more than 500 residents of the State of California or its jurisdiction, Business Associate shall notify the Secretary of the breach immediately upon discovery of the breach. If Business Associate has reason to believe that duplicate reporting of the same breach or incident may occur because its subcontractors, agents or vendors may report the breach or incident to CDPH in addition to Business Associate, Business Associate shall notify CDPH, and CDPH and Business Associate may take appropriate action to prevent duplicate

reporting. The breach reporting requirements of this paragraph are in addition to the reporting requirements set forth in subsection 1, above.

6. **CDPH Contact Information.** To direct communications to the above referenced CDPH staff, the Contractor shall initiate contact as indicated herein. CDPH reserves the right to make changes to the contact information below by giving written notice to the Contractor. Said changes shall not require an amendment to this Addendum or the Agreement to which it is incorporated.

<b>CDPH Program Contract Manager</b>	<b>CDPH Privacy Officer</b>	<b>CDPH Information Security Officer</b>
See the Scope of Work exhibit for Program Contract Manager information	Privacy Officer Privacy Office, c/o Office of Legal Services California Department of Public Health 1415 L Street, 5 <sup>th</sup> Floor Sacramento, CA 95814  Email: <a href="mailto:privacy@cdph.ca.gov">privacy@cdph.ca.gov</a> Telephone: (877) 421-9634	Chief Information Security Officer Information Security Office California Department of Public Health P.O. Box 997413, MS 6302 Sacramento, CA 95899-7413  Email: <a href="mailto:cdphiso@cdph.ca.gov">cdphiso@cdph.ca.gov</a> Telephone: IT Service Desk (916) 440-7000 or (800) 579-0874

**K. Termination of Agreement.** In accordance with Section 13404(b) of the HITECH Act and to the extent required by the HIPAA regulations, if Business Associate knows of a material breach or violation by CDPH of this Addendum, it shall take the following steps:

1. Provide an opportunity for CDPH to cure the breach or end the violation and terminate the Agreement if CDPH does not cure the breach or end the violation within the time specified by Business Associate; or
2. Immediately terminate the Agreement if CDPH has breached a material term of the Addendum and cure is not possible.

**L. Due Diligence.** Business Associate shall exercise due diligence and shall take reasonable steps to ensure that it remains in compliance with this Addendum and is in compliance with applicable provisions of HIPAA, the HITECH Act and the HIPAA regulations, and that its agents, subcontractors and vendors are in compliance with their obligations as required by this Addendum.

**M. Sanctions and/or Penalties.** Business Associate understands that a failure to comply with the provisions of HIPAA, the HITECH Act and the HIPAA regulations that are applicable to Business Associate may result in the imposition of sanctions and/or penalties on Business Associate under HIPAA, the HITECH Act and the HIPAA regulations.

#### **IV. Obligations of CDPH**

CDPH agrees to:

- A. Notice of Privacy Practices.** Provide Business Associate with the Notice of Privacy Practices that CDPH produces in accordance with 45 CFR section 164.520, as well as any changes to such notice.
- B. Permission by Individuals for Use and Disclosure of PHI.** Provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect the Business Associate's permitted or required uses and disclosures.
- C. Notification of Restrictions.** Notify the Business Associate of any restriction to the use or disclosure of PHI that CDPH has agreed to in accordance with 45 CFR section 164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of PHI.
- D. Requests Conflicting with HIPAA Rules.** Not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA regulations if done by CDPH.

#### **V. Audits, Inspection and Enforcement**

**A.** From time to time, CDPH may inspect the facilities, systems, books and records of Business Associate to monitor compliance with the Agreement and this Addendum. Business Associate shall promptly remedy any violation of any provision of this Addendum and shall certify the same to the CDPH Privacy Officer in writing. The fact that CDPH inspects, or fails to inspect, or has the right to inspect, Business Associate's facilities, systems and procedures does not relieve Business Associate of its responsibility to comply with this Addendum, nor does CDPH:

1. Failure to detect or

2. Detection, but failure to notify Business Associate or require Business Associate's remediation of any unsatisfactory practices constitute acceptance of such practice or a waiver of CDPH' enforcement rights under the Agreement and this Addendum.

**B.** If Business Associate is the subject of an audit, compliance review, or complaint investigation by the Secretary or the Office of Civil Rights, U.S. Department of Health and Human Services, that is related to the performance of its obligations pursuant to this HIPAA Business Associate Addendum, Business Associate shall notify CDPH and provide CDPH with a copy of any PHI or PI that Business Associate provides to the Secretary or the Office of Civil Rights concurrently with providing such PHI or PI to the Secretary. Business Associate is responsible for any civil penalties assessed due to an audit or investigation of Business Associate, in accordance with 42 U.S.C. section 17934(c).

## **VI. Termination**

**A. Term.** The Term of this Addendum shall commence as of the effective date of this Addendum and shall extend beyond the termination of the Agreement and shall terminate when all the PHI provided by CDPH to Business Associate, or created or received by Business Associate on behalf of CDPH, is destroyed or returned to CDPH, in accordance with 45 CFR 164.504(e)(2)(ii)(I).

**B. Termination for Cause.** In accordance with 45 CFR section 164.504(e)(1)(ii), upon CDPH' knowledge of a material breach or violation of this Addendum by Business Associate, CDPH shall:

1. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Agreement if Business Associate does not cure the breach or end the violation within the time specified by CDPH; or
2. Immediately terminate the Agreement if Business Associate has breached a material term of this Addendum and cure is not possible.

**C. Judicial or Administrative Proceedings.** Business Associate will notify CDPH if it is named as a defendant in a criminal proceeding for a violation of HIPAA. CDPH may terminate the Agreement if Business Associate is found guilty of a criminal violation of HIPAA. CDPH may terminate the Agreement if a finding or stipulation that the Business Associate has violated any standard or requirement of HIPAA, or other security or privacy laws is made in any administrative or civil proceeding in which the Business Associate is a party or has been joined.

**D. Effect of Termination.** Upon termination or expiration of the Agreement for any reason, Business Associate shall return or destroy all PHI received from CDPH (or created or received by Business Associate on behalf of CDPH) that Business Associate still maintains in any form, and shall retain no copies of such PHI. If return or destruction is not feasible, Business Associate shall notify CDPH of the conditions that make the return or destruction infeasible, and CDPH and Business Associate shall determine the terms and conditions under which Business Associate may retain the PHI. Business Associate shall continue to extend the protections of this Addendum to such PHI, and shall limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate.

## VII. Miscellaneous Provisions

- A. *Disclaimer.*** CDPH makes no warranty or representation that compliance by Business Associate with this Addendum, HIPAA or the HIPAA regulations will be adequate or satisfactory for Business Associate's own purposes or that any information in Business Associate's possession or control, or transmitted or received by Business Associate, is or will be secure from unauthorized use or disclosure. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.
- B. *Amendment.*** The parties acknowledge that federal and state laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Addendum may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations and other applicable laws relating to the security or privacy of PHI. Upon CDPH' request, Business Associate agrees to promptly enter into negotiations with CDPH concerning an amendment to this Addendum embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations or other applicable laws. CDPH may terminate the Agreement upon thirty (30) days written notice in the event:
1. Business Associate does not promptly enter into negotiations to amend this Addendum when requested by CDPH pursuant to this Section; or
  2. Business Associate does not enter into an amendment providing assurances regarding the safeguarding of PHI that CDPH in its sole discretion, deems sufficient to satisfy the standards and requirements of HIPAA and the HIPAA regulations.
- C. *Assistance in Litigation or Administrative Proceedings.*** Business Associate shall make itself and any subcontractors, employees or agents assisting Business Associate in the performance of its obligations under the Agreement, available to CDPH at no cost to CDPH to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CDPH, its directors, officers or employees based upon claimed violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy, which involves inactions or actions by the Business Associate, except where Business Associate or its subcontractor, employee or agent is a named adverse party.
- D. *No Third-Party Beneficiaries.*** Nothing express or implied in the terms and conditions of this Addendum is intended to confer, nor shall anything herein confer, upon any person other than CDPH or Business Associate and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever.
- E. *Interpretation.*** The terms and conditions in this Addendum shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the HIPAA regulations and applicable state laws. The parties agree that any ambiguity in the terms and conditions of this Addendum shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act and the HIPAA regulations.
- F. *Regulatory References.*** A reference in the terms and conditions of this Addendum to a section in the HIPAA regulations means the section as in effect or as amended.

- G. *Survival.*** The respective rights and obligations of Business Associate under Section VI.D of this Addendum shall survive the termination or expiration of the Agreement.
- H. *No Waiver of Obligations.*** No change, waiver or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.



## Attachment A

### Business Associate Data Security Requirements

#### I. Personnel Controls

- A. *Employee Training.*** All workforce members who assist in the performance of functions or activities on behalf of CDPH, or access or disclose CDPH PHI or PI must complete information privacy and security training, at least annually, at Business Associate's expense. Each workforce member who receives information privacy and security training must sign a certification, indicating the member's name and the date on which the training was completed. These certifications must be retained for a period of six (6) years following contract termination.
- B. *Employee Discipline.*** Appropriate sanctions must be applied against workforce members who fail to comply with privacy policies and procedures or any provisions of these requirements, including termination of employment where appropriate.
- C. *Confidentiality Statement.*** All persons that will be working with CDPH PHI or PI must sign a confidentiality statement that includes, at a minimum, General Use, Security and Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the workforce member prior to access to CDPH PHI or PI. The statement must be renewed annually. The Contractor shall retain each person's written confidentiality statement for CDPH inspection for a period of six (6) years following contract termination.
- D. *Background Check.*** Before a member of the workforce may access CDPH PHI or PI, a thorough background check of that worker must be conducted, with evaluation of the results to assure that there is no indication that the worker may present a risk to the security or integrity of confidential data or a risk for theft or misuse of confidential data. The Contractor shall retain each workforce member's background check documentation for a period of three (3) years following contract termination.

#### II. Technical Security Controls

- A. *Workstation/Laptop encryption.*** All workstations and laptops that process and/or store CDPH PHI or PI must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as Advanced Encryption Standard (AES). The encryption solution must be full disk unless approved by the CDPH Information Security Office.
- B. *Server Security.*** Servers containing unencrypted CDPH PHI or PI must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.

- C. *Minimum Necessary.*** Only the minimum necessary amount of CDPH PHI or PI required to perform necessary business functions may be copied, downloaded, or exported.
- D. *Removable media devices.*** All electronic files that contain CDPH PHI or PI data must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, Blackberry, backup tapes etc.). Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES.
- E. *Antivirus software.*** All workstations, laptops and other systems that process and/or store CDPH PHI or PI must install and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.
- F. *Patch Management.*** All workstations, laptops and other systems that process and/or store CDPH PHI or PI must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within 30 days of vendor release.
- G. *User IDs and Password Controls.*** All users must be issued a unique user name for accessing CDPH PHI or PI. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password, at maximum within 24 hours. Passwords are not to be shared. Passwords must be at least eight characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed every 90 days, preferably every 60 days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three of the following four groups from the standard keyboard:
- Upper case letters (A-Z)
  - Lower case letters (a-z)
  - Arabic numerals (0-9)
  - Non-alphanumeric characters (punctuation symbols)
- H. *Data Destruction.*** When no longer needed, all CDPH PHI or PI must be wiped using the Gutmann or US Department of Defense (DoD) 5220.22-M (7 Pass) standard, or by degaussing. Media may also be physically destroyed in accordance with NIST Special Publication 800-88. Other methods require prior written permission of the CDPH Information Security Office.
- I. *System Timeout.*** The system providing access to CDPH PHI or PI must provide an automatic timeout, requiring re-authentication of the user session after no more than 20 minutes of inactivity.

- J. *Warning Banners.*** All systems providing access to CDPH PHI or PI must display a warning banner stating that data is confidential, systems are logged, and system use is for business purposes only by authorized users. User must be directed to log off the system if they do not agree with these requirements.
- K. *System Logging.*** The system must maintain an automated audit trail which can identify the user or system process which initiates a request for CDPH PHI or PI, or which alters CDPH PHI or PI. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to authorized users. If CDPH PHI or PI is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least 3 years after occurrence.
- L. *Access Controls.*** The system providing access to CDPH PHI or PI must use role based access controls for all user authentications, enforcing the principle of least privilege.
- M. *Transmission encryption.*** All data transmissions of CDPH PHI or PI outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files containing PHI can be encrypted. This requirement pertains to any type of PHI or PI in motion such as website access, file transfer, and E-Mail.
- N. *Intrusion Detection.*** All systems involved in accessing, holding, transporting, and protecting CDPH PHI or PI that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

### **III. Audit Controls**

- A. *System Security Review.*** All systems processing and/or storing CDPH PHI or PI must have at least an annual system risk assessment/security review which provides assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews should include vulnerability scanning tools.
- B. *Log Reviews.*** All systems processing and/or storing CDPH PHI or PI must have a routine procedure in place to review system logs for unauthorized access.
- C. *Change Control.*** All systems processing and/or storing CDPH PHI or PI must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability of data.

### **IV. Business Continuity / Disaster Recovery Controls**

- A. *Emergency Mode Operation Plan.*** Contractor must establish a documented plan to enable continuation of critical business processes and protection of the

security of electronic CDPH PHI or PI in the event of an emergency. Emergency means any circumstance or situation that causes normal computer operations to become unavailable for use in performing the work required under the Agreement for more than 24 hours.

- B. *Data Backup Plan.*** Contractor must have established documented procedures to backup CDPH PHI to maintain retrievable exact copies of CDPH PHI or PI. The plan must include a regular schedule for making backups, storing backups offsite, an inventory of backup media, and an estimate of the amount of time needed to restore CDPH PHI or PI should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of CDPH data.

## **V. Paper Document Controls**

- A. *Supervision of Data.*** CDPH PHI or PI in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by an employee authorized to access the information. CDPH PHI or PI in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.
- B. *Escorting Visitors.*** Visitors to areas where CDPH PHI or PI is contained shall be escorted and CDPH PHI or PI shall be kept out of sight while visitors are in the area.
- C. *Confidential Destruction.*** CDPH PHI or PI must be disposed of through confidential means, such as cross cut shredding and pulverizing.
- D. *Removal of Data.*** CDPH PHI or PI must not be removed from the premises of the Contractor except with express written permission of CDPH.
- E. *Faxing.*** Faxes containing CDPH PHI or PI shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending the fax.
- F. *Mailing.*** Mailings of CDPH PHI or PI shall be sealed and secured from damage or inappropriate viewing of PHI or PI to the extent possible. Mailings which include 500 or more individually identifiable records of CDPH PHI or PI in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless the prior written permission of CDPH to use another method is obtained.

## SCHEDULE 1

### CARE PROVIDER SERVICES

In providing the services of the Care Providers, Contractor, either directly or through its employed or contracted professionals, shall retain control with respect to all clinical and professional determinations and shall be responsible for the supervision of all Care Providers involved in the provision of the Care Provider Services.

Command Center Services: Virtual care provided 24 hours/ day, 7 days/ week by physicians, nurses and service coordinators operating from each Command Center location. Services include:

- Physician, Program Manager and facility case management referral of patient to Program when appropriate
- Physician determination of whether patient needs observation or inpatient care, including non-Program services and transfers/referrals to Original Contractor Hospital or Referring Hospital, or specialty services referral
- Physician / hospitalist screening, identification and admission of potential Program Patients
- Physician / hospitalist virtual completion of HSP, admission orders and medication reconciliation
- Physician / hospitalist completion of virtual daily rounds for Program Patients
- Nurse practitioners completion of in-home Program Patient visits (Day 1 and Day 3) and as needed
- Virtual nursing care and nursing assistance in daily virtual rounds and plan of care processes for Program Patients
- Staff coordination of care management resources on Program admissions for establishing eligibility and coordinating care prior to patient leaving referring facility
- Program case management screening of patients for eligibility for Program participation
- Program case management coordination of Program Patient admission and service provider orders/services to be delivered to Program Patient in the Property
- Program case management coordination of Program Patient care during Program hospitalization and discharge
- Physician processing and review of lab order and other test results
- Specialty physician services, as needed

Rapid Response Services: Rapid-response network of Rapid Response Providers to provide in-home, acute-level care to Program Patients as needed within the scope of each such provider's practice, as applicable. "Rapid Response Services" include:

- Technology-enabled biometric and vital testing
- In person nursing including administering infusions and infusion therapy to administer infusion medications
- Skilled nursing care and rehabilitation services
- Home health aides assisting Program Patients with vitals and activities of daily living such as ambulating, transfers, bathing and homemaking
- Phlebotomy services
- Pharmacy filling of medication orders, including infusion drugs

- Removal and/or destruction of unused medication from patient's home
- Removal of medical waste from patient's home
- Delivery of supplies and miscellaneous items as needed
- Durable medical equipment supplies delivered to patient home
- In-home mobile imaging including x-ray, ultrasound, echocardiogram and EKG
- Transport of patients from facility to Property for Program hospitalization
- Nutrition services including diet and nourishment programs and care

## SCHEDULE 2

### COMMAND CENTER STAFFING TARGETS

#### Command Center Staffing Hours and Availability:

Command Center clinical staffing (comprising of physicians and nurses) provides for **24/7 immediate patient response time** to the 100 virtual patient beds, based on the staffing of Care Providers and Program service coordinators outlined below. Additional nursing and other care services provided in the home are *in addition to* the Command Center services.

- Virtual Physicians
  - 1:14 ratio of Physicians to Program Patients
  - 8 MD Staffing (in seats)
  - 2x FTE Conversion Ratio (bodies to seats)
  - = 16 Implied FTEs
- Virtual Nurses
  - 1:5 ratio of Nurses to Program Patients
  - 20 RNs Staffing (in seats)
  - 4.7x FTE Conversion Ratio (bodies to seats)
  - = 95 Implied FTEs
- Approximate Resource Needs for Initial Launch of 100 virtual beds:
  - Virtual Hospitalists = 16 FTEs
  - Nurse Practitioners = 8 FTEs
  - Nursing = 95 FTEs
  - Service Coordinators = 15 FTEs

## SCHEDULE 3

### RAPID RESPONSE PROVIDERS AND RAPID RESPONSE SERVICES TARGET AVAILABILITY

#### Staffing Levels of Rapid Response Provider Teams\*

- **Rapid Response RNs:** Manage home admission process, assessments, and urgent or unscheduled needs
  - Response time < 1 hour
  - ~ 10 FTEs
- **Infusion Support & Skilled Nursing:** Provide schedule nursing such as infusions and wound care
  - Response time < 4 hours
  - ~ 20 FTEs
- **Home Health Aides:** Assist patients with vitals and activities of daily living such as ambulating, transfers, bathing and homemaking
  - Response time < 4 hours
  - ~ 12 FTEs
- **Transportation Services:** Transport patients from facility to their homes and back to facility, if needed
  - Response time < 4 hours
  - ~ 6 FTEs
- **Courier Services:** Deliver specimens, supplies, and miscellaneous items as needed
  - Response time < 1 hour
  - ~ 8 FTEs
- **Mobile Imaging/ Diagnostics:** Conduct mobile Xrays, EKGs, Echocardiograms, and Ultrasounds
  - Response time < 4 hours
  - Resources will vary

\*Approximate resource needs for initial launch of 100 virtual beds



## **SCHEDULE 4**

### **PROGRAM TECHNOLOGY, SUPPLIES, EQUIPMENT AND RELATED SERVICES**

Program Patients will be provided with certain technology, supplies and equipment as needed to support individual patient care. Additionally, the Command Center will be equipped with help service and support systems and tools to respond to the technological needs of Program Patients through the Rapid Response Providers. The electronic medical record system and patient data transmission systems will be compliant with applicable rules and regulations under applicable federal and state laws, including HIPAA.

Technology: To enable virtual care from Command Center physicians and nurses, Program Patients will be provided with technology including but not limited to the following:

- Biometric/ vitals monitoring tools
- Patient outcome reporting tools
- Custom-configured tablet (iPad) with video-visit capability with appropriate Program software and applications
- Special-purpose phone to facilitate two-way (patient and family) communication with Command Center personnel for inbound and outbound calls
- Cradlepoint router
- Back-up power supply and back-up cellular communication tools, or replacement products, dispatched to patients as soon as possible but no later than [4 hours] of patient outreach to the Command Center
- Emergency response system
- Integrated tools for monitoring the status of equipment in home that support remote troubleshooting

Supplies and Equipment: Contractor shall provide and procure all medical supplies and equipment necessary for Rapid Response Providers to provide Rapid Response Services as needed to Program Patients, as well as additional supplies and equipment as needed for Program Patient's at-home care including, but not limited to the following:

- Pulse oximetry
- Vital signs monitoring machines (with thermometers)
- Oxygen supplies- tank, cannulas, masks
- Suction
- An AED at minimum
- Glucometer
- IV Poles
- Scales
- UPS services
- PPE for Rapid Response Providers including but not limited to: N95 respirators or higher, isolation gowns, eye protection, and gloves
- Appropriate training for Rapid Response Providers on the use of appropriate PPE while treating COVID-19 Program Patients at patient's home

Technology Support: To support the Program Services from Command Center physicians and nurses and triage of as-needed in-person care from Rapid Response Providers, the following technological services and support systems will be in place:

- System Availability with 99% guaranteed system uptime and accessibility via the Internet measured on a monthly basis, subject to scheduled downtime performed after hours or as otherwise reasonably determined by the Command Center taking into consideration Program Patients' needs. Such downtime shall not exceed 4 hours per month, where at least 2 business days' advance notice will be provided regarding any scheduled downtime. ("Accessibility via the Internet" is defined as the system being accessible from any working internet connection – by cellular service or WiFi or cabled internet service – and does not take into account Program Patient's home internet connection.)
- Help Desk Services and Support, including:
  - Priority 1 Issues – Resolved within 4 hours
    - Includes problems that present no work around, adversely affect patient care, risk compromise of PHI, or affect multiple users and cause disruption to business including issues where there is an inability to log into the service, issues where there is an inability to register patients, issues across multiple modalities, or issues where there is an inability to load patient information.
  - Priority 2 Issues – Resolved within 8 hours
    - Includes problems that do not adversely affect patient care or cause financial liability but repeatedly affect system use or data integrity such as issues across one or more modules when system itself is still running, issues impacting functions with multiple redundant modalities, persistent connectivity issues with a single modality, transaction processing problems affecting > 20% of transactions, intermittent screen or pathway termination issues.
  - Priority 3 Issues – Resolved within 16 business hours
    - Includes problems that do not impact the operation or use of the system such as user hardware or software malfunction, single occurrence of inaccurate data, or wrong or missing data in a report or inquiry.
  - Priority 4 Issues – Resolved within 16+ business hours
    - Includes downtime of single-sign on or other identity infrastructure that prevents login, downtime of integrations with EHR.

**Exhibit E**  
**Budget and Payment**

**1. Invoicing.**

1.1 The State will not reimburse the Contractor for costs incurred prior to the commencement date or after the expiration date of the Agreement.

1.2 The Contractor shall submit invoice to the following:

Agreement # 19-11110

Attention: Jen Hill

California Department of Public Health

Center for Health Care Quality, Licensing and Certification Program

MS 3001

PO Box 997377

Sacramento, CA 95899-7377

1.3 All documentation to support expenditure submissions for reimbursement must be submitted to the State at least five (5) business days prior to the desired payment date. The documentation shall be provided, if possible, in accordance with generally accepted accounting principles and shall include any: timesheets, purchase documents, receipts, bank statements from accounts used to pay for facility operations, copies of pay checks, etc.

**2. Compensation**

2.1 Compensation for Contractor under this Agreement shall not exceed \$1,000,000.00 for more details see Exhibit A, Service Agreement page 26 of 32.