



Contract Number

SAP Number

Arrowhead Regional Medical Center

Department Contract Representative	William L. Gilbert
Telephone Number	(909) 580-6150
Contractor	CPS Solutions, LLC
Contractor Representative	Harold Newton
Telephone Number	(909) 210-0943
Contract Term	July 1, 2024 through June 30, 2029
Original Contract Amount	NTE \$60,000,000
Amendment Amount	
Total Contract Amount	NTE \$60,000,000
Cost Center	7710

PHARMACY SERVICES AGREEMENT

WHEREAS, San Bernardino County ("**County**") desires to contract with a vendor on behalf of Arrowhead Regional Medical Center ("**ARMC**") to operate and fully staff ARMC's inpatient and outpatient pharmacies (the "**ARMC Pharmacies**") and provide pharmacy "Services" (as defined below) and pharmacy related clinical Services for the following locations (each a "**Location**"): (a) ARMC, (b) four jails operated by the County Sheriff's Department, and two juvenile detention facilities operated by the County Probation Department (collectively, the "**Correctional Facilities**"), and (c) the health clinics (collectively, the "**Clinics**"); each of which are listed on Attachment D (Locations), collectively the "**ARMC Locations**";

WHEREAS, the County conducted a competitive process through a Request for Proposal ("**RFP**") to find a vendor to provide the Services;

WHEREAS, based on the representations made by CPS Solutions, LLC ("**Contractor**") in its proposal to the RFP, the County finds Contractor qualified to provide the Services, and

WHEREAS, the County desires that the Services be provided by Contractor and Contractor agrees to perform the Services as set forth below;

NOW, THEREFORE, the County and Contractor mutually agree to the following terms and conditions (this "**Contract**");

A. DEFINITIONS

- A.1 340B Program.** Means the County's program for participating in the "340B Drug Assistance Program" (as defined below).
- A.2 Applicable Law.** Means any applicable laws, regulations, ordinances, or court or administrative orders or decrees of any federal, state, local or other governmental unit that has jurisdiction in the given circumstances that apply to a party and/or its affiliates' operations and/or which are related to such party's rights and obligations under this Contract (including those that apply to health care services, environmental, safety, OSHA and data privacy). For the avoidance of doubt, the "340B Statute" (as defined below) is not an "Applicable Law" for Contractor as Contractor cannot qualify as a "Covered Entity" under the 340B Statute.
- A.3 Contract.** Refers to this contract, including all attachments referenced (all of which are incorporated herein), between County and Contractor.
- A.4 Contract Year.** Refers to each 12 month calendar period, beginning on the Effective Date.
- A.5 Services.** Refers to all services to be provided by Contractor to the County under this Contract, including specifically all of the Contractor Responsibilities described in Section B below;

B. CONTRACTOR RESPONSIBILITIES.

- B.1** Staff the ARMC Pharmacies with sufficient levels(as approved by ARMC) of clerical staff, licensed pharmacy technicians, licensed staff pharmacists, a Director of Pharmacy, and other positions and roles for the inpatient and outpatient pharmacies at ARMC. The Director of Pharmacy must be a licensed pharmacist and the selection of which shall be subject to approval by the ARMC Hospital Director.
- B.2 Roles and Responsibilities.**
- B.2.1** Operate ARMC's Pharmacy Department, including the ARMC Pharmacies, and staff the Department with a Director of Pharmacy, licensed pharmacists, licensed pharmacy technicians, and clerks during all hours of operations. For purposes of clarity, the inpatient ARMC Pharmacy is operated 24 hours a day, 7 days a week. The outpatient ARMC Pharmacy is operated Mondays through Fridays, from 8:00 am to 9:00 pm, weekend and County holidays 8:00 am to 7:00pm, or other hours as mutually determined by Contractor and ARMC.
- B.2.2** Contractor shall staff the ARMC emergency department with a licensed pharmacist 24 hours a day, 7 days a week.
- B.2.2** Contractor shall staff the ARMC critical care department with a licensed pharmacist 8 hours a day, 7 days a week, from 8:00 am to 5:00 pm, or other hours as mutually determined by Contractor and ARMC. Upon the medical staff's request, a clinical pharmacist from the ARMC Pharmacies will be available for consultation in the Neonatal Intensive Care Unit (NICU).
- B.2.3** Actively participate in the ARMC/County quality improvement program, responding to concerns regarding care, treatment, service rendered, and undertaking necessary, corrective actions to address issues identified as it relates to pharmacy operations and Services.
- B.2.4** Manage and take overall responsibility for the purchasing of pharmaceuticals and pharmacy supplies for ARMC's Pharmacies in accordance with County policies and ARMC's requirements.
- B.2.5** Furnish, install, and maintain a suitable automated dispensing system with capacity of dispensing outpatient volumes of approximately 500,000 prescriptions annually, in the space provided at ARMC.
- B.2.6** Negotiate all drug pricing to remain within ARMC's \$44,000,000 annual drug budget. Contractor shall inform ARMC's Chief Financial Officer as soon as

- reasonably practicable if Contractor believes the drug budget will be exceeded in any annual period.
- B.2.7** Oversee all inpatient and outpatient dispensing doses of all drugs, medications, injectables, chemicals or other pharmaceutical supplies or preparations as may be necessary or required to meet routine and emergency needs of ARMC's patients, including emergency room patients, inpatients, and outpatients.
- B.2.8** Manage all automated dispensing systems (Pyxis, Swisslog, etc.) used by ARMC's pharmacies, County jails and juvenile detention facilities, regardless of whether they are owned by Contractor or County
- B.2.9** Contractor shall supervise, at the direction of the County's "authorizing officer", the Pharmacy Department's participation in the County's 340B Program (including the dispensing of drugs under the 340B Program), on behalf of ARMC in accordance with the County's PPM, including County's definition (from time to time) of 340B Program eligible patients set forth therein, including:
- A. Contractor shall provide software to track the County's 340B Program's mixed use pharmacy inventory. That software provides the tools to assist the County to stay in compliance with current 340B regulations. Implementing procedures and utilization of tools to comply with all Applicable Laws related to County's 340B Program shall be the responsibility of the County and not Contractor. Notwithstanding the foregoing, all Contractor employees and agents performing services for ARMC under this Contract, including, but not limited to the Director of Pharmacy, shall comply with all federal laws and regulations relating to the County's 340B Program.
- B.2.10** **Intentionally Omitted.**
- B.2.10.A** Manage the County's drug purchasing program, maintaining compliance with the current Vizient Group Purchasing Organization (GPO) agreement.
- B.2.10B** Assist the County in the purchase of upgrades, maintenance, and operations of the existing outpatient pharmacy automated dispensing machines.
- B.2.11** Manage the Pharmacy Module in the Hospital Information Management System
- B.2.12** Manage the Outpatient Pharmacy software (i.e., Foundation- FSI, EPIC Willow, etc.).
- B.2.13** Provide the following clinical pharmacy Services including, but not limited to:
- A. Perform daily inpatient rounds with Medicine, Family Practice, Pediatric, Neurosurgery, Pain Management, and Nutrition support
 - B. Consultation services relating to, anticoagulation, pain, lipid, and Hepatitis-C;
 - C. Perform discharge medications to bedside, discharge pharmacy counseling, and post-discharge pharmacy call back to patients;
 - D. Perform emergency department medication reconciliation for inpatient admissions;
 - E. Provide Pharmacokinetic dosing per protocol;
 - F. Ensure antimicrobial procedures are followed, including providing positive culture consultation and medication review;
 - G. Provide clinical pharmacists for critical care units and for interdisciplinary conferences in the NICU;
 - H. Provide a pharmacist to manage disease state per protocol;
 - I. Provide Services to oncology, including medication review, management of chemotherapy side effects, pain management, and desensitization procedures;
 - J. Attend all Code Blue events;
 - K. Attend all Trauma Code events;
 - L. Provide care support for Cardiothoracic surgery.
- B.2.14** Provide drug information Services and manage a formal Drug Information Center.
- B.2.15** Provide to each Family Health Center:

- A: patient polypharmacologic assessments and monitoring on a schedule to be approved by ARMC.
- B. Monthly inspect each Clinic for pharmaceutical regulatory compliance issues, as required by Applicable Law.
- B.2.16** In conjunction with ARMC staff and the medical staff, develop a “Drug Formulary” for ARMC and provide effective formulary management.
- B.2.17** Operate and manage an American Society of Health-System Pharmacist (ASHP) accredited pharmacy Post Graduate residency program at ARMC in compliance with all applicable guidelines and precept ASHP accredited Pharmacy Residents. The number of residents during each academic year will be mutually determined by the parties.
- B.2.17.1** All Pharmacy Residents in the residency program shall be employed by Contractor, and Contractor shall be responsible for payment of all salaries and benefits to the Pharmacy Residents.
- B.2.18** Precept Pharmacy Students (6 to 10 per rotation).
- B.2.19** Maintain a state of constant survey readiness based on the CMS Conditions of Participation, the Accrediting Body Standards, the Board of Pharmacy. Regulations, Title 22, and all other applicable agencies.
- B.2.20** Maintain staffing schedules and submit to ARMC for approval, as requested.
- B.2.21** Maintain active leadership in the medication use and safety process, emphasizing performance improvement for all pharmacy Services.
- B.2.22** Reserved.
- B.2.23** Participate in the geriatric assessment team.
- B.2.24** Perform quarterly educational in-services to promote participation in educational activities by physicians (CME programs), nurses, and other health care professionals.
- B.2.25** Participate in ARMC’s performance improvement program.
- B.2.26** Be responsible for recruiting, hiring, promoting, compensating, and discharging the Director of Pharmacy and all other personnel for ARMC’s inpatient and outpatient pharmacies. This would include paying all salaries and wages and all fringe benefits of its employees, including, without limitation, the employer’s contribution of Social Security, Medicare, and other employment taxes, unemployment compensation, workers’ compensation, and group benefit insurance premiums, to be paid to or on behalf of such employees.
- B.2.27** Observe and ensure that all Contractor staff performing Services in the ARMC Locations comply with all policies, procedures, rules and regulations of the County.
- B.2.28** Participate in the following committees at ARMC and any other requirements as agreed upon by both parties.
- 1) P&T
 - 2) Wound and Skin Care
 - 3) Medication Safety (Chair)
 - 4) Interdisciplinary Practice
 - 5) Patient Safety
 - 6) Continuing Medical Education
 - 7) Specialty Care
 - 8) Graduate Medical Education
 - 9) Infection Control
 - 10) Blood Utilization
 - 11) Electronic Health Initiatives
 - 12) Hazardous Waste
 - 13) Institutional Review Board
 - 14) Survey Preparation
 - 15) Tumor Board(s)
 - 16) Change Control

17) Any other committee/meetings as requested by ARMC

- B.2.29** Provision of in-service training to the nursing staff as deemed appropriate by Contractor or ARMC.
- B.2.30** Delivery of lectures to the medical staff and residents in the Internal Medicine, Family Medicine, Emergency Medicine, Psychiatry, Surgery, and Neurosurgery training programs.
- B.2.31** Contractor shall also replace any personnel that provides services at ARMC Locations at ARMC's request due to any objectionable or unsatisfactory conduct of such personnel.
- B.2.32** The Director of Pharmacy shall:
 - B.2.32.1** Supervise the ARMC Pharmacy Department's operations and all personnel working within the department and shall supervise all procedures undertaken at ARMC that are required to be supervised by a licensed pharmacist, and shall be responsible for establishing and implementing overall administrative policies in connection with the appropriate hospital committees and for governing the department in conformity with established ARMC and County policies and procedures..
 - B.2.32.2** Participate in the Pharmacy and Therapeutics Committee and/or other appropriate hospital committees, by attending the meetings thereof on a regular basis, actively participating in said meetings, implementing the decisions of said committees, and at the request of ARMC participate in meetings of the hospital staff in which any matters, directly or indirectly, relate to the pharmacy department, are scheduled for discussion.
- B.3** Clinical Services shall include the following:
 - B.3.1** Provision of critical care pharmacists;
 - B.3.2** Anticoagulation consultation Services (serving over 400 patients);
 - B.3.3** Lipid consultation;
 - B.3.4** Total Parenteral Nutrition (TPN) consultation;
 - B.3.5** Pain management Services;
 - B.3.6** Compounding Services
 - B.3.7** Consultation involving Hepatitis-C;
 - B.3.8** Protocol-based medication therapy management Services.
- B.4** Special support shall be provided to the following departments, as necessary
 - B.4.1** Emergency Department
 - B.4.2** Infusions Therapy Services
 - B.4.3** Specialty Clinics
 - B.4.4** Family Health Centers
 - B.4.5** Oncology Services
 - B.4.6** **Pharmacist Outpatient Medication Administration Services**
 - B.4.7** Any other departments as requested by ARMC mutually agreed to via an amendment; provided that for existing Locations (excluding expansions thereto), Contractor will upon County's prior written request agree to dispense drugs to County's inpatient, observation, or outpatient patients; provided that Contractor is allowed to do so under existing licenses, accreditations and Applicable Laws.
- B.5** Licensing, Certification, and Credentialing Requirements
 - B.5.1** Ensure all Contractor staff providing Services under this Contract meets the San Bernardino County Human Resources requirements for performing work on

premises and undergoes Contractor's background check. The background check shall include reasonable parameters based on the staff member's position.

B.5.2 Maintain Contractor's accreditation as an ACPE provider of continuing pharmaceutical education.

B.5.3 Provide staffing with appropriate documentation in the following categories:

- 1) Director of Pharmacy (subject to approval, of the ARMC Hospital Director).
- 2) Staff pharmacists who are, California licensed pharmacists in good standing with the California State Board of Pharmacy.
- 3) Licensed pharmacy technicians, in good standing with the California State Board of Pharmacy.
- 4) EPIC certified Pharmacist (EPIC Electronic Health Record System) including maintenance of applicable EHR certifications)
- 5) Clerical personnel for the Outpatient Pharmacy and Inpatient Pharmacy.

B.6 Reporting Requirements – Monitor proven quality measures, for enhanced patient safety and report findings to the Pharmacy & Therapeutics (P&T) committee.

B.7 Care, treatment and/or service quality protocols

- Abide by all Applicable Laws, regulations, and County policies, in regard to the provision of care and treatment, or services.
- Abide by all applicable standards of accrediting and certifying agencies of ARMC.
- Provide a level of care, treatment, and services that would be comparable had the ARMC provided such care, treatment, and service itself.
- Assure that care, treatment, and/or service is provided in a safe, effective, efficient, and timely manner emphasizing the need to improve health outcomes and prevent and reduce medical errors.

B.8 Software/Technology Proficiencies: Contractor staff assigned to provide Services under this Contract to ARMC must have proficiency in the following

- Foundation Systems, Inc. (Outpatient)
- Automated dispensing cabinet – Carefusion (Pyxis)
- CII Safe (Carefusion)
- Abacus (Baxter TPN Compounder System)
- Correctional Institutional Pharmacy System (CIPS)
- Autopharm and Autopack (Swisslog) – automated vertical carousel and packager
- RxStrategies (340B Split Billing Software)
- Cardial Health Wholesaler Ordering
- EPIC Electronic Health Record System (Including maintenance of applicable EHR certifications).

B.9 Work towards achievement of the key performance indicators set forth on Attachment A.

C. GENERAL CONTRACT REQUIREMENTS

C.1 Recitals

The recitals set forth above are true and correct and incorporated herein by this reference.

C.2 Contract Amendments

Contractor agrees any alterations, variations, modifications, or waivers of the provisions of the Contract, shall be valid only when reduced to writing executed and attached to the original Contract and approved by the person(s) authorized to do so on behalf of Contractor and County.

C.3 Contract Exclusivity

This is not an exclusive Contract. The County reserves the right to enter into a contract with other Contractors for the same or similar services. The County does not guarantee or represent that the Contractor will be permitted to perform any minimum amount of work, or receive a minimum amount of compensation, under the terms of this Contract.

C.4 Attorney's Fees and Costs

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney's fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney's fees directly arising from a third-party legal action against a party hereto and payable under Indemnification and Insurance Requirements.

C.5 Background Checks for Contractor Personnel

Contractor shall ensure that its personnel (a) are authorized to work in the jurisdiction in which they are assigned to perform Services; (b) do not use legal or illegal substances in any manner which will impact their ability to provide Services to the County; and (c) are not otherwise disqualified from performing the Services under Applicable Law. If requested by the County and not in violation of Applicable Law, Contractor shall conduct a background check, at Contractor's sole expense, on all its personnel providing Services. If requested by the County, Contractor shall provide the results of the background check of each individual to verify that the individual meets Contractor's standards for employment; provided that CPS may redact all Personal Information when sharing background check information with the County. Such background check shall be in the form generally used by Contractor in its initial hiring of employees or contracting for contractors or, as applicable, during the employment-screening process but must, at a minimum, have been performed within the preceding 12-month period. Contractor personnel who do not meet the County's hiring criteria, in County's sole discretion, shall not be assigned to work on County property or Services], and County shall have the right, at its sole option, to refuse access to any of Contractor's personnel to any County facility.

C.6 Change of Address

Contractor shall notify the County in writing of any change in mailing address within ten (10) business days of the change.

C.7 Choice of Law

This Contract shall be governed by and construed according to the laws of the State of California.

C.8 Compliance with County Policy

In performing the Services and while at any County facilities, Contractor personnel (including subcontractors) shall (a) conduct themselves in a businesslike manner; (b) comply with the policies, procedures, and rules of the County regarding health and safety, and personal, professional and ethical conduct; (c) comply with the finance, accounting, banking, Internet, security, and/or other applicable standards, policies, practices, processes, procedures, and controls of the County; and (d) abide by all Applicable Laws to the County facilities and the provision of the Services, and all amendments and modifications to each of the items addressed in subsections (b), (c), and (d) (collectively, "**County Policies**"). County Policies, and additions or modifications thereto, may be communicated orally or in writing to Contractor or Contractor personnel or may be made available to Contractor or Contractor personnel by conspicuous posting at a County facility, electronic posting, or other means generally used by County to disseminate such information to its employees or contractors. Contractor shall be responsible for the promulgation and distribution of County Policies to Contractor personnel to the extent necessary and appropriate.

County shall have the right to require Contractor's employees, agents, representatives and subcontractors to exhibit identification credentials issued by County in order to exercise any right of access under this Contract.

C.9 Confidentiality

Pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health (HITECH) Act, regulations have been promulgated governing the privacy of individually identifiable health information ("**PHI**"). The parties acknowledge that ARMC is a "Covered Entity." and is subject to the requirements of HIPAA and HITECH, and their implementing regulations. The HIPAA Privacy Rule and Security Rule specify requirements with respect to contracts between a Covered Entity and its Business Associates. Contractor shall comply with the attached Business Associate Agreement (Attachment E), which is incorporated herein by this reference. Contractor further agrees to comply with the requirements of other federal and state law that applies to the information collected on behalf of County and maintained by Contractor in connection with Services performed pursuant to Contract.

C.10 Primary Point of Contact

Contractor will designate an individual to serve as the primary point of contact for the Contract. Contractor or designee must respond to County inquiries within two (2) business days. Contractor shall not change the primary contact without written acknowledgement to the County. Contractor will also designate a back-up point of contact in the event the primary contact is not available.

C.11 County Representative

The ARMC Hospital Director or his/her designee shall represent the County in all matters pertaining to the Services to be rendered under this Contract, including termination and assignment of this Contract, and shall be the final authority in all matters pertaining to the Services/Scope of Work by Contractor. If this Contract was initially approved by the San Bernardino County Board of Supervisors, then the Board of Supervisors must approve all amendments to this Contract, unless otherwise delegated.

C.12 Damage to County Property

Contractor shall repair, or cause to be repaired, at its own cost, all damages to County vehicles, facilities, buildings or grounds caused by the willful or negligent acts of Contractor or its employees or agents. Such repairs shall be made immediately after Contractor becomes aware of such damage, but in no event later than thirty (30) days after the occurrence.

If the Contractor fails to make timely repairs, the County may make any necessary repairs. The Contractor shall repay all costs incurred by the County for such repairs, by cash payment upon demand, or County may deduct such costs from any amounts due to the Contractor from the County, as determined at the County's sole discretion.

C.13 Debarment and Suspension

To Contractor's knowledge, neither Contractor nor its personnel performing Services under this Contract have been excluded, nor, to Contractor's knowledge, is it about to be excluded from participation in any "Federal Healthcare Program" (as defined below). Contractor agrees to notify County within ten (10) business days of Contractor's receipt of a notice of intent to exclude or actual notice of exclusion of Contractor or any Contractor personnel performing Services under this Contract from any such program. The listing of Contractor or such Contractor personnel on the Office of Inspector General's List of Excluded Individuals and Entities, the General Services Administration's System for Award Management Excluded Parties List System, any state Medicaid exclusion list, or the Office of Foreign Assets Control's (OFAC's) blocked list shall constitute "exclusion" for purposes of this Section. If Contractor is excluded from any Federal Healthcare Program, such exclusion shall be deemed a material breach of this Contract by Contractor. For the purpose of this paragraph, the term "**Federal Healthcare Program**" means the Medicare program, the Medicaid program, TRICARE, any healthcare program of

the Department of Veteran Affairs, the Maternal and Child Health Services Block Grant program, any state children's health insurance program, or any similar program with a publicly available exclusion database. If such Contractor personnel is excluded from such programs, Contractor must immediately, but in no more than one business day, cease use of such personnel in the provision of the Services under this Contract and will exercise diligence and replace that person within a reasonable time.

C.14 Drug and Alcohol Free Workplace

In recognition of individual rights to work in a safe, healthful and productive work place, as a material condition of this Contract, the Contractor agrees that the Contractor and the Contractor's employees, while performing Service for the County, on County property, or while using County equipment:

- C.14.1** Shall not be in any way impaired because of being under the influence of alcohol or an illegal or controlled substance.
- C.14.2** Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal or controlled substance.
- C.14.3** Shall not sell, offer, or provide alcohol or an illegal or controlled substance to another person, except where Contractor or Contractor's employee who, as part of the performance of normal job duties and responsibilities, prescribes or administers medically prescribed drugs.

Contractor shall inform all employees that are performing Service for the County on County property, or using County equipment, of the County's objective of a safe, healthful and productive work place and the prohibition of drug or alcohol use or impairment from same while performing such Service for the County.

Breach of this Section C.14 by Contractor shall be subject to Section J.1 below.

C.15 Duration of Terms

This Contract, and all of its terms and conditions, shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties, provided no such assignment is in violation of the provisions of this Contract.

C.16 Employment Discrimination

During the term of the Contract, Contractor shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. Contractor shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VI and Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and Applicable Laws and County Policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

C.17 Intentionally Omitted.

C.18 Improper Influence

Contractor shall make all reasonable efforts to ensure that no County officer or employee, whose position in the County enables him/her to influence any award of the Contract or any competing offer, shall have any direct or indirect financial interest resulting from the award of the Contract or shall have any relationship to the Contractor or officer or employee of the Contractor.

C.19 Improper Consideration

Contractor shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding this Contract.

A breach of this Section may result in termination of this Contract per Section J.1. This prohibition shall apply to any amendment, extension or evaluation process once a contract has been awarded.

Contractor shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Contractor. The report shall be made to the supervisor or manager charged with supervision of the employee or the County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

C.20 Informal Dispute Resolution

In the event the County determines that service is unsatisfactory, or in the event of any other dispute, claim, question or disagreement arising from or relating to this Contract or breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

C.21 Legality and Severability

The parties' actions under the Contract shall comply with all Applicable Laws. The provisions of this Contract are specifically made severable. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

C.22 Licenses, Permits and/or Certifications

Contractor shall ensure that it has all necessary licenses, permits and/or certifications required by Applicable Laws. The Contractor shall maintain these licenses, permits and/or certifications in effect for the duration of this Contract. Contractor will notify County immediately of loss or suspension of any such licenses, permits and/or certifications. Failure to maintain a required license, permit and/or certification may result in termination of this Contract per Section J.1.

C.23 Intentionally Omitted.

C.24 Mutual Covenants

The parties to this Contract mutually covenant to perform all of their obligations hereunder, to exercise all discretion and rights granted hereunder, and to give all consents in a reasonable manner consistent with the standards of "good faith" and "fair dealing".

C.25 Nondisclosure

Contractor shall hold as confidential and use reasonable care to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, confidential information County's "Confidential Information" (as defined below) that is either: (1) provided by the County to Contractor or an agent of Contractor or otherwise made available to Contractor or Contractor's agent in connection with this Contract; or (2) acquired, obtained, or learned by Contractor or an agent of Contractor in the performance of this Contract. For purposes of this Contract, "**Confidential Information**" means any financial data, operational processes and procedures, business methods, inventions, trade secrets, information (including personally identifiable information and PHI) of a party, including information as to its vendors, personnel, patients and customers, pricing information, or other confidential data, files, software, information or materials in oral, electronic, tangible or intangible form and however stored, compiled, stores, compiles or memorialized and includes, but is not limited to: technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data.

Notwithstanding the foregoing, “Confidential Information” does not include any information or materials which (a) that is or becomes generally available to the public other than as a result of a breach of this Section by the receiving party, (b) that the receiving party receives or have received on a non-confidential basis from a source other than the other party; provided that such source is not known to the receiving party to be subject to a contractual, legal or fiduciary obligation of confidentiality to the disclosing party with respect to such information, or (c) that receiving party can demonstrate has been or is subsequently independently conceived or developed by the receiving party without use or reference to the information from the disclosing party.

C.26 Notice of Delays

Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract that party shall, within twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other party.

C.27 Ownership of Documents

All “Deliverables” (as defined below) prepared by Contractor pursuant to the Contract shall be considered property of the County upon payment for Services (and products, if applicable). All such items shall be delivered to County at the completion of work under the Contract, subject to the requirements of Article D—Term of the Contract. Unless otherwise directed by County, Contractor may retain copies of such items.

As used herein, the term “Deliverables” means only those materials which Contractor is obligated to deliver under this Contract and that is either identified as a “Deliverable” or constitutes a record of the County other than County’s “PPM” (which is addressed below); provided that Contractor Confidential Information and “Contractor IP” (as defined below) shall never be deemed to be Deliverables. The parties agree that: (a) any copyrightable aspects of Deliverables shall be “works made for hire” to the fullest extent permitted by applicable law; and (b) Contractor hereby assigns to County, upon payment in full for such Deliverable(s), Contractor’s worldwide right, title, and interest in such Deliverable(s). Contractor shall promptly execute any documents that County may reasonably request from time to time to give effect to the provisions of this Section.

County acknowledges that Contractor, its affiliates or its/their licensors claim ownership of the “**Contractor’s IP**” which consists of (i) any pre-existing intellectual property (e.g., copyrights, trademarks, patents (“**IP**”)) that Contractor or its affiliates created, owned or licensed prior to Contractor’s retention by County, (ii) any other IP that Contractor or its affiliates develop without using or referencing County’s IP or County’s Confidential Information, (iii) any IP developed by Contractor or its affiliates in the course of providing Services to its/their other clients, and (iv) any IP Contractor and its affiliates license from a third-party. Further, except as expressly otherwise stated in this Contract: (x) this Contract is not a license or assignment of any right, title, or interest in the Contractor IP and (y) County’s permitted use of Contractor IP is limited to the Contract Term.

Upon expiration or termination of this Contract, Contractor agrees that County is entitled to retain and to continue to use Deliverables and County’s PPM (including any portions of which were developed with assistance from Contractor) in connection with the Services; provided, however, that County acknowledges and agrees that Contractor is free to assist its other clients in the creation of policy and procedures manuals that may contain the same or substantially similar content as County’s PPM.

C.28 Access to Records

During the term of this Contract, plus four (4) years after the term, both parties will comply with all applicable requirements of 42 CFR Section 420.302, including without limitation: (i) retaining required documents, and (ii) giving the US Comptroller General, HHS, and their duly authorized representatives access to its contract, books, documents, and records related to the sale under this Contract and those of any organizations related to the parties.

C.29 Air, Water Pollution Control, Safety and Health

Contractor shall comply with all air pollution control, water pollution, safety and health ordinances and statutes, which apply to the work performed pursuant to this Contract.

C.30 Records

Contractor shall maintain all records and books pertaining to the delivery of Services under this Contract and demonstrate accountability for contract performance. All records shall be complete and current and comply with all Contract requirements. Failure to maintain acceptable records shall be considered grounds for withholding of payments for invoices submitted and/or termination of the Contract..

All records relating to the Contractor's personnel, Contractors, subcontractors, Services/Scope of Work and expenses pertaining to this Contract shall be kept in a generally acceptable accounting format. Records should include primary source documents. Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue and expenditures. Fiscal records must comply with the appropriate Office of Management and Budget (OMB) Circulars, which state the administrative requirements, cost principles and other standards for accountancy.

C.31 Relationship of the Parties

Nothing contained in this Contract shall be construed as creating a joint venture, partnership, or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto. In the performance of this Contract, Contractor, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the San Bernardino County. Any provision of this Contract that may appear to give the County any right to direct the Contractor concerning the details of performing the Services/Scope of Work, or to exercise any control over such performance, shall mean only that the Contractor shall follow the direction of the County concerning the end results of the performance.

All provisions of this Contract that relate to reimbursement by County of Contractor's personnel costs (e.g., the Pharmacy Residents or the provision of amenities or other benefits to Contractor personnel by County) are for the convenience of the parties and shall not create a co-employer relationship between the parties. If such provisions are ever deemed to be a factor in creating a co-employer relationship to exist: (a) such provisions shall be struck from this Contract ab initio, and (b) the parties agree that County and Contractor will meet and confer on a different methodology for compensation that does not cause a co-employer relationship to exist and that will fairly compensate Contractor for its Services and such change in methodology shall be set forth in an amendment signed by both parties.

C.32 Release of Information

No news releases, advertisements, public announcements or photographs arising out of the Contract or Contractor's relationship with County may be made or used without prior written approval of the County.

C.33 Strict Performance

Failure by a party to insist upon the strict performance of any of the provisions of this Contract by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Contract thereafter.

C.34 Subcontracting

Contractor shall obtain County's written consent, which County may withhold in its sole discretion, before entering into Contracts with or otherwise engaging any subcontractors who may supply any part of the Services to County. At County's request, Contractor shall provide information regarding the subcontractor's qualifications and a listing of a subcontractor's key personnel including, if requested by the County, resumes of proposed subcontractor personnel. Contractor shall remain directly responsible

to County for its subcontractors and shall indemnify County for the actions or omissions of its subcontractors under the terms and conditions specified in Article G. All approved subcontractors shall be subject to the provisions of this Contract applicable to Contractor Personnel.

For any subcontractor, Contractor shall:

- 34.1** Be responsible for subcontractor compliance with the Contract and the subcontract terms and conditions; and
- 34.2** Ensure that the subcontractor follows County's reporting formats and procedures as specified by County.
- 34.3** Include in the subcontractor's subcontract substantially similar terms as are provided in Articles B. Contractor Responsibilities and C. General Contract Requirements

Upon expiration or termination of this Contract for any reason, County will have the right to enter into direct Contracts with any of the subcontractors.. Contractor agrees that its arrangements with subcontractors will not prohibit or restrict such subcontractors from entering into direct contracts with County.

C. 35 Subpoena

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Services provided under this Contract is served upon Contractor or County, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Contractor and County further agree to cooperate with the other party in any lawful effort by such other party to contest the legal validity of such subpoena or other legal process commenced by a third party as may be reasonably required and at the expense of the party to whom the legal process is directed, except as otherwise provided herein in connection with defense obligations by Contractor for County.

C.36 Intentionally Omitted.

C.37 Time of the Essence

Time is of the essence in performance of this Contract and of each of its provisions.

C.38 Venue

The parties acknowledge and agree that this Contract was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue of any action or claim brought by any party to this Contract will be the Superior Court of California, County of San Bernardino, San Bernardino District. . Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third-party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, County of San Bernardino, San Bernardino District.

C.39 Conflict of Interest

Contractor shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or subcontractors and the County. Contractor shall make a reasonable effort to prevent officers, employees, subcontractors, or members of governing bodies from using their positions for purposes that are, or give the appearance of being motivated by a desire for private gain for themselves or others such as those with whom they have family business, or other ties. Officers, employees, and agents of cities, counties, districts, and other local agencies are subject to applicable conflict of interest codes and state law. In the event the County determines a conflict of interest situation exists, any increase in costs, associated with the conflict of interest situation, may be disallowed by the County and such conflict may constitute grounds for termination of the Contract pursuant to Section J.1. This provision shall not be construed to prohibit employment of persons with whom Contractor's officers, employees, or agents have family, business, or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicant.

All employees or agents of Contractor who provide Services at ARMC Locations shall comply with all applicable conflict of interest laws, rules and requirements, including, but not limited to, Government Code section 1090 et seq. and the County's Conflict of Interest Code. Contractor shall cause its employees or agents who provide Services at ARMC Locations who as a part of their duties under this Contract make or participate in making decisions regarding the procurement or use of medical equipment, pharmaceuticals, medications, or other supplies, or other decisions having a material financial effect, to complete an annual Statement of Economic Interests (Form 700, the current version of which is on Attachment B) or other similar forms as required by the County.

C.40 Intentionally Omitted.

C.41 Intentionally Omitted.

C.42 Intentionally Omitted

C.43 Intentionally Omitted

C.44 Iran Contracting Act

IRAN CONTRACTING ACT OF 2010, Public Contract Code sections 2200 et seq. (Applicable for all Contracts of one million dollars (\$1,000,000) or more). In accordance with Public Contract Code section 2204(a), the Contractor certifies that at the time the Contract is signed, the Contractor signing the Contract is not identified on a list created pursuant to subdivision (b) of Public Contract Code section 2203 as a person (as defined in Public Contract Code section 2202I) engaging in investment activities in Iran described in subdivision (a) of Public Contract Code section 2202.5, or as a person described in subdivision (b) of Public Contract Code section 2202.5, as applicable.

Contractors are cautioned that making a false certification may subject the Contractor to civil penalties, termination of existing contract (under Section J.1), and ineligibility to bid on a contract for a period of three (3) years in accordance with Public Contract Code section 2205.

C.45 Intentionally Omitted

C.46 Intentionally Omitted

C.47 Intentionally Omitted

C.48 Regulatory Agencies

Except for emergencies, or except for situations where contact is required by law or relevant professional canons of ethics (in which case Contractor will use its professional efforts to notify and confer with the County before such contact, the parties recognizing that there may not be time for such in an emergency), Contractor shall not contact the Local Enforcement Agency, South Coast Air Quality Management District or other regulatory agencies concerning any site that is the subject of this Contract without Hospital Director's prior approval.

C.49 Personal Information

To the extent applicable, if Contractor is a business that collects the personal information of a consumer(s) in performing Services pursuant to this Contract, Contractor must comply with the provisions of the California Consumer Privacy Act of 2018 (Cal. Civil Code §§1798.100, et seq, as amended by the California Privacy Rights Act of 2020, Cal. Civ. Code § 1798.100 et seq., and their implementing regulations, collectively the "**CCPA**"). For purposes of this provision, "business," "consumer," and "personal information" shall have the same meanings as set forth at Civil Code section 1798.140. However, the term Personal Information and similar terms (e.g., personal data, collectively "**Personal Information**"), shall have the meaning ascribed to it under Applicable Law (including the CCPA).

Contractor must contact the County immediately upon receipt of any request by a consumer submitted pursuant to the CCPA that requires any action on the part of the County, including but not limited to, providing a list of disclosures or deleting personal information. Contractor must not sell, market or otherwise disclose Personal Information of a consumer provided by the County unless specifically authorized pursuant to terms of this Contract. Each party must immediately provide to the other party any notice provided by a consumer to such party pursuant to Civil Code section 1798.150(b) alleging a violation of the CCPA, that involves Personal Information received or maintained pursuant to this Contract. Each party must immediately notify the other party if it receives a notice of violation from the California Attorney General pursuant to Civil Code section 1798.155(b).

Personal Information is a subset of Confidential Information. Personal Information does not include PHI to the extent such information is solely protected under HIPAA. If information is subject to protection under both HIPAA and a CCPA, the parties shall comply with the requirements herein and of Applicable Law that is applicable to both and if they conflict, the more restrictive of the two requirements shall apply. If either party becomes aware of improper access to and/or disclosure of Personal Information of the other party's personnel, or patients, such party shall promptly notify the other party of such improper access and/or disclosure. The parties agree that Contractor is receiving Personal Information from or on behalf of County ("**County Personal Information**") as a service provider and for a business purpose in connection therewith. Each party agrees to provide the level of privacy protection for Personal Information received on behalf of the other party as is required by Applicable Law (including the CCPA, if applicable) (including taking all appropriate technical and organizational measures). Each party agrees to promptly inform the other party in writing and cooperate with such other party at such other party's sole cost and expense if an individual makes any request to a party to exercise its rights related to Personal Information under Applicable Law (e.g., access to such individual's Personal Information). Further, to the extent required under any Applicable Law, (a) Contractor agrees not to: (1) collect Personal Information on behalf of County except in connection with the foregoing business purpose; (2) sell, share or otherwise monetize County Personal Information, nor (3) if prohibited by an Applicable Law, combine County Personal Information with Personal Information received from or on behalf of: (A) other person(s) or (B) collected from Contractor's own interactions with individuals, and (b) Contractor agrees to comply with any other requirements set forth in any Applicable Laws, and to the extent required by such Applicable Law, such obligation shall be incorporated herein. By signing this Contract, Contractor is certifying that Contractor: (x) understands and (y) will comply with the restrictions in this Section (Personal Information). Further, as to Personal Information Contractor will comply with Contractor's Consumer Privacy Notice located at <https://cps.com/consumer-privacy-notice> and Contractor's Consumer Privacy Policy (a link to which is in Contractor's Consumer Privacy Notice), each as modified by Contractor from time to time and each of which is incorporated herein).

C.50 Executive Order N-6-22 Russia Sanctions

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine (<https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions>), as well as any sanctions imposed under state law (<https://www.dgs.ca.gov/OLS/Ukraine-Russia>). The EO directs state agencies and their contractors (including by agreement or receipt of a grant) to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should it be determined that Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this Contract, subject to Section J.1 below. Contractor shall be provided advance written notice of such termination, allowing Contractor at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the County.

C.51 Campaign Contribution Disclosure (SB 1439)

Contractor has disclosed to the County using Attachment – C – Campaign Contribution Disclosure Senate Bill 1439, whether it has made any campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, Auditor-Controller/Treasurer/Tax Collector and the District Attorney] within the earlier of: (1) the date of the submission of Contractor's proposal to the County, or (2) 12 months before the date this Contract was approved by the Board of Supervisors. Contractor acknowledges that under Government Code section 84308, Contractor is prohibited from making campaign contributions of more than \$250 to any member of the Board of Supervisors or County elected officer for 12 months after the County's consideration of the Contract.

In the event of a proposed amendment to this Contract, the Contractor will provide the County a written statement disclosing any campaign contribution(s) of more than \$250 to any member of the Board of Supervisors or other County elected officer within the preceding 12 months of the date of the proposed amendment.

Campaign contributions include those made by any agent/person/entity on behalf of the Contractor or by a parent, subsidiary or otherwise related business entity of Contractor.

C.52 Force Majeure Event

If either party hereto shall fail to perform its obligations hereunder as a result of accidents, acts of God, weather conditions, or other delays beyond the control of the parties (collectively, "Force Majeure Event"), then such failure to perform shall not be deemed a default hereunder and shall be excused without penalty until such time as said party is capable of performing. Notwithstanding the foregoing, if the Force Majeure Event extends beyond thirty (30) days, the other party shall have the right to terminate this Contract upon notice to the nonperforming party. Any termination under this section shall not be the exclusive remedy available to the terminating party, and such party shall be entitled to pursue any other remedies available under applicable laws.

C.53 Headers

In this Contract: (a) Section headings are for reference only and do not affect the interpretation of this Contract; (b) defined or capitalized terms include the plural as well as the singular; (c) "including" and its derivatives ("include," "e.g.," and others) mean "including, but are not limited to;" and (d) the terms "will", "shall", and "must" are imperative obligations (versus "may," which is optional).

D. TERM OF CONTRACT

This Contract is effective for a term of five years from July 1, 2024 ("**Effective Date**"), but may be terminated earlier only in accordance with the provisions of this Contract.

E. COUNTY RESPONSIBILITIES

- E.1** Provide Contractor with a primary point of contact to collaborate to maximize the success of the Contract.
- E.2** Attend meetings as reasonably requested by Contractor.
- E.3** Pay for all pharmaceuticals and pharmaceutical supplies used by the ARMC Pharmacy Department and the ARMC Locations.
- E.4** Make its existing pharmacy available to Contractor for the operation of the Pharmacy Department and the ARMC Locations, with storage space for pharmaceutical supplies, medications, and other inventory, as is presently available to the pharmacy at ARMC.
- E.5** Provide daily janitorial services and other maintenance services as are customary for the operation of a Pharmacy Department within a hospital of like size.

- E.6** Except as otherwise specified in this Contract, AMRC will provide all equipment and, fixtures necessary for the operations of the Pharmacy Department including all ARMC Locations.
- E.7** Keep the Pharmacy Department premises, including air conditioning, heating and sprinkler systems, air conditioning equipment, plumbing, and electrical installations, in good condition and repair, and if necessary and required by governmental authority, make modifications or replacements thereof.
- E.8** Be solely responsible for: (a) the prescription, dosing and administration of all drugs, medications, injectables, chemicals or other pharmaceutical supplies or preparations for County's patients, (b) the performance of all actions that constitute the clinical practice of medicine, and (c) making all decisions that require clinical judgment, including all decisions regarding the choice of which pharmaceuticals to provide to patients and other decisions regarding and affecting the quality, availability, accessibility and affordability of care to patients.
- E.9** If County receives pharmacy merchandise and goods, then County shall promptly deliver such merchandise and goods, unopened, to the applicable ARMC Pharmacy.
- E.10** County shall make available to the Pharmacy Department and Contractors personnel such other facilities and equipment as are available to other County personnel in general, including, if available, but not limited to, parking facilities, audiovisual equipment, photocopy facilities, Internet accessibility, conference and lecture facilities, library facilities, sterilizing facilities, and dining facilities.
- E.11** County shall provide such facilities and personnel, including nursing support, as may be required to ensure the security of the Pharmacy Department and the ARMC Locations, including ARMC Pharmacies, and the proper administration of pharmaceuticals to patients. The ARMC Chief Executive Officer, ARMC Chief Operating Officer, ARMC Chief Nursing Officer, or County personnel with equivalent authority thereto, will serve as consultants to the Pharmacy Department when reasonably called upon by the Contractor relating to the Services under this Contract.
- E.12** Provide to Contractor's personnel with all patient information necessary to provide pharmaceutical care in a proper and safe manner and in compliance with all applicable local, state, and federal laws, rules and regulations.
- E.13** Provide, and be responsible for all accounting and collection services, including posting, billing, and collection of gross pharmacy revenue to inpatients, emergency room patients, and outpatients) and to any third-party payor or parties responsible for payment of all or any portion of pharmacy revenue.
- E.14** Provide , computer services, forms, documents, and reports, that are reasonably necessary for the operations of the Pharmacy Department.
- E.15** ARMC, with Contractor's assistance and cooperation, is responsible for obtaining all necessary local, state, and federal licenses and permits required for the operation of the ARMC Locations and Pharmacy Department. Subject to approval by the San Bernardino County Board of Supervisors where required by law, County agrees to issue Power of Attorneys to Contractor for purposes of ordering and purchasing under the County's supplier agreements controlled substances on behalf of the County.
- E.16** Provide Contractor and its authorized agents reasonable access to all necessary data, database, documents and information necessary for Contractor to perform Services under this Contract

- E.17** County is responsible for the management and maintenance of the County's/Pharmacy Department's pharmacy charge database master ("**CDM**"). Contractor will participate in the maintenance of the CDM (e.g., addition/deletion of medications, HCPCS codes, pricing) per County/ARMC Policy. Full CDM audits, charge formula analyses and other requests related to the CDM that will require significant Contractor resources fall outside the scope of this Contract.
- E.18** Significant changes to ARMC or another Location's: (a) operations, patient census or mix of patients being supported by the Services, (b) information technology systems (e.g., hardware, software, networks collectively "**Systems**"). and (c) requests for additional services not expressly set forth herein may necessitate a re-negotiation of this Contract, or, in the absence of the parties agreeing on economic terms that fairly compensate Contractor for such additional work, a limitation of the Services to reflect the level of Services that can be supported by the existing Contractor Personnel as of the Effective Date. In addition, County agrees that modifications to, or replacement of, any County provided System (e.g., software updates, configuration changes), any Location (e.g., changes in a department's physical location), and/or other County provided resource, operating process or procedure that will have a material impact on Contractor's ability to provide Services under this Contract (each a "**Proposed Change**") shall require the County to seek prior written approval from Contractor, which will not be unreasonably withheld or delayed (but which may be conditioned upon execution of an Amendment reasonably satisfactory to Contractor). Upon receipt of such a request, Contractor will promptly review the impact of such Proposed Change upon its Services and will propose an Amendment to address any changes to this Contract and additional fees or reimbursed costs that are, in Contractor's reasonable judgment, appropriate given the Proposed Change. The foregoing does not prevent County from making any Proposed Change as necessary to accommodate any emergency situation; however, in such case, and in the event County makes any Proposed Change without first receiving Contractor's approval, County will be responsible for making Contractor whole for any financial impact resulting from such change.
- E.19** County shall comply with all accreditation (e.g., TJC) standards, State Board of Pharmacy Standards, CMS Conditions of Participation and State and/or Local Pharmacy Department of Health Standards pertaining to the operation of pharmaceutical services in a hospital and shall provide the Director of Pharmacy and staff with all of the administrative support reasonably necessary to ensure that such standards are complied with by the County.
- E.20** County shall have the sole and exclusive right to determine and set prices charged to patients or patients' payers. Notwithstanding the above, nothing contained herein in this Contract is intended to fix the price or prices at which County provides pharmaceuticals and pharmaceutical services, nor in any manner, to limit or impair the ability of County to establish such prices as it, in the exercise of its sole discretion, may deem appropriate.
- E.21** Contractor may disclose and identify County as a customer of Contractor.
- E.22** To the extent permitted under Applicable Law, during the term of this Contract and for a period of one (1) year after expiration or termination of this Contract, County shall not employ (directly or indirectly) or enter into a consulting arrangement with: (a) any Contractor personnel; and (b) any individuals presented to County as potential candidates for roles at County to be filled by Contractor; provided that this does not apply to any person who applies for and is hired for an open position that is publicly advertised.
- E.23** Compensate Contractor for the Services in accordance with the terms of this Contract.
- E.24** County is ultimately responsible for the operation of each Location, the results of its operations, and for monitoring compliance of its operations (including those supervised by Contractor). County's actions and omissions are within the sole discretion of County. This Contract does not

transfer compliance or regulatory responsibility to Contractor, and County retains sole responsibility for ensuring that County and its operations comply with all Applicable Laws (including securing all required business associate agreements). As such, Contractor, its Affiliates and their personnel shall not be liable for actions or omission by County as a result of County accepting or rejecting any Contractor recommendation. Notwithstanding the forgoing, this section does not in any way limit Contractor's responsibility or liability for the acts or omissions of the Contractor's own personnel or its agents in connection with the Services.

- E.25** ARMC retains primary and ultimate responsibility for the development, implementation, approval, and ongoing updating and modification of necessary and appropriate policies, protocols and procedures and documenting them in the respective County policy and procedure manuals, which shall include all reasonable and appropriate disaster recovery, back-up and emergency procedures, all County Policies and other County rules and regulations for the Locations operations, including those policy and procedure manuals for the operations supported by the Services (the "**PPM**"). The PPM must meet the requirements of all Applicable Laws. To the extent provided for in this Contract, Contractor may provide non-legal recommendations and/or other advice to County regarding the development, implementation and/or modification of County's PPM; however, County retains primary and ultimate responsibility for its PPM. Further, County is responsible for obtaining any internal, regulatory or other external third party approvals required for its PPM and any modifications thereto.
- E.26** County acknowledges that it may be required to establish and publish in its PPM certain legal interpretations for Contractor to act upon when providing the Services. For example, , if County elects to have a 340B Program, County must establish and publish in its PPM certain legal interpretations of the Section 340B of the Public Health Service Act, as amended and codified at 42 U.S.C. § 256b. (the "**340B Statute**") which authorized the Federal to provide outpatient drugs to eligible health organizations and covered entities at significantly reduced prices ("**340B Drug Assistance Program**") before Contractor can assist with County's 340B Program operations. Contractor cannot provide such legal interpretations as Contractor is not engaged in the practice of law. Any statements or assistance Contractor provides are business opinions or advice concerning business issues. County agrees that it will not rely upon Contractor to provide legal interpretations (and that any such reliance would be unreasonable). County retains sole responsibility for the implementation of County's 340B Program, including its 340B Program's compliance with all Applicable Laws. However, Contractor is responsible for following any legal interpretations regarding the 340B Program in the PPM (or which are otherwise provided to Contractor in writing).
- E.27** Except where disclosure is required by law, County shall hold as confidential and use reasonable care to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, Contractor's Confidential Information that is either: (1) provided by the Contractor to County or an agent of County or otherwise made available to County or County's agent in connection with this Contract; or (2) acquired, obtained, or learned by County or an agent of County in connection with this Contract. In cases where disclosure is required by law, the County shall, prior to such disclosure, promptly notify the Contractor of the proposed disclosure. Notwithstanding the foregoing, Contractor understands that the County is a public entity subject to, among other laws, decisions, rules and statutes, the Ralph M. Brown Act, the California Public Records Act, and the Sunshine Ordinance in its County Code, and that this Contract will be made public at a regularly scheduled public meeting of the San Bernardino County Board of Supervisors as part of the approval process for this Contract.

F. FISCAL PROVISIONS

- F.1** For the Services provided under this Contract, Contractor shall bill the County the amounts specified in Attachment A of this Contract in accordance with the terms of this Contract.

On or before the first day of each calendar month County will pay, in advance, the estimated inpatient and outpatient Fees due Contractor. The estimated amount will be: (a) calculated by Contractor, based on the prior three months average number of patient days and prescriptions (including those that occurred under the Prior Contract) and (b) provided to County in writing and in advance (in a pre-bill invoice). On or before the tenth day following each calendar month, Contractor will submit a monthly statement listing any Reimbursed Costs and a reconciliation of the prior month's actual Fees to the estimated pre-bill invoice. Any overcharge will be credited to the County's next pre-bill invoice, and any undercharge will be paid by the County within thirty (30) days.

- F.2** The maximum amount of payments under this Contract shall not exceed \$60,000,000 and shall be subject to availability of other funds to the County. The consideration to be paid to Contractor, as provided herein, shall be in full payment for all Contractor's Services and expenses incurred in the performance hereof, including travel and per diem.

Contractor bears the risk that it may not be able to generate its anticipated (or any) profit in completing its performance of all required items of work for the specified level of compensation. In no event shall Contractor be entitled to receive compensation for any item of work required of Contractor under the terms of the Contract, which item of work is not performed by Contractor (including Contractor's agents and approved subcontractors).

F.3 Intentionally Omitted

- F.4** Contractor shall accept all payments from County via electronic funds transfer (EFT) directly deposited into the Contractor's designated checking or other bank account. Contractor shall promptly comply with directions and accurately complete forms provided by County required to process EFT payments.

- F.5** County is exempt from Federal excise taxes and no payment shall be made for any personal property taxes levied on Contractor or on any taxes levied on employee wages. The County shall only pay for: any applicable State or local sales or use taxes on the Services rendered or equipment and/or parts supplied to the County pursuant to the Contract, (b) any applicable Federal, State or local sales or use taxes: (i) including in the Reimbursed Costs (e.g., employer portion of employment taxes on Pharmacy Resident salaries and benefits), and (ii) the County would otherwise be liable for in the course of its normal business operations.

F.6 Intentionally Omitted

F.7 Intentionally Omitted

- F.8** Contractor shall adhere to the County's Travel Management Policy (8-02 and 08-02SP1) when travel is pursuant to this Contract and for which reimbursement is sought from the County. In addition, Contractor is encouraged to utilize local transportation services, including but not limited to, the Ontario International Airport.

G. INDEMNIFICATION AND INSURANCE REQUIREMENTS

G.1 Indemnification

Each of the parties hereto agrees to save, defend, indemnify and hold the other harmless from and against any and all claims, actions, causes of action, demands, suits, debts, liens, contracts, agreements, promises, liability, damages, loss, costs or expenses whatsoever resulting from the acts, negligence, or omissions of such party, or resulting from the operation of the Pharmacy Department, including the ARMC Pharmacies and other ARMC Locations and/or the ARMC hospital as the case may be. In addition, each of the parties shall indemnify, defend, save, and

hold the other harmless from ANY and all debts, liabilities or obligations of such party, accruing from, based upon, or arising out of acts or events occurring on or before the Effective Date, except for: (a) such debts, liabilities, and/or obligations as are expressly assumed by the parties herein, and/or (b) are subject to an indemnity under a prior contract between the parties. The parties' indemnification obligations under this Section applies to such party's (including its employees' and subcontractors') "active" as well as "passive" negligence but does not apply to such party's "sole negligence" or "willful misconduct" within the meaning of Civil Code section 2782.

G.2 Additional Insured

All policies, except for Worker's Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of Services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

G.3 Waiver of Subrogation Rights

Contractor shall require the carriers of required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit Contractor and Contractor's employees or agents from waiving the right of subrogation prior to a loss or claim. Contractor hereby waives all rights of subrogation against the County.

G.4 Policies Primary and Non-Contributory

All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

G.5 Severability of Interests

Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross-liability exclusions that preclude coverage for suits between Contractor and County or between County and any other insured or additional insured under the policy.

G.6 Proof of Coverage

Contractor shall furnish Certificates of Insurance to the County Department administering the Contract evidencing the insurance coverage at the time the Contract is executed, additional endorsements, as required shall be provided prior to the commencement of performance of Services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Contractor shall maintain such insurance from the time Contractor commences performance of Services hereunder until the completion of such Services. Within fifteen (15) days of the commencement of this contract, Contractor shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

G.7 Acceptability of Insurance Carrier

Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A- VII".

G.8 Deductibles and Self-Insured Retention

Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.

G.9 Failure to Procure Coverage

In the event that any policy of insurance required under this Contract does not comply with the requirements, is not procured, or is canceled and not replaced, County has the right but not the obligation or duty to cancel this Contract or obtain insurance if it deems necessary and any premiums paid by County will be promptly reimbursed by Contractor or County payments to the Contractor will be reduced to pay for County purchased insurance.

G.10 Insurance Review .

Insurance requirements are subject to periodic review by County. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of County. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to request a change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against County, inflation, or any other item reasonably related to the County's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this contract. Contractor agrees to consider executing any such amendment.

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

- G.11** Contractor agrees to provide insurance set forth in accordance with the requirements herein. If Contractor uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, Contractor agrees to amend, supplement or endorse the existing coverage to do so.

Without in anyway affecting the indemnity herein provided and in addition thereto, Contractor shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

G.11.1 Workers' Compensation/Employer's Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of the Contractor and all risks to such persons under this contract.

G.11.2 Commercial/General Liability Insurance –Contractor shall carry General Liability Insurance covering all operations performed by or on behalf of Contractor providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:

- a. Premises operations and mobile equipment.
- b. Products and completed operations.
- c. Broad form property damage (including completed operations).
- d. Explosion, collapse and underground hazards.
- e. Personal injury.

- f. Contractual liability.
- g. \$2,000,000 general aggregate limit.

G.11.3 Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If Contractor is transporting one or more non-employee passengers in performance of contract Services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If Contractor owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

G.11.4 Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a “dropdown” provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

G.11.5 Professional Liability – Professional Liability Insurance with limits of not less than one million (\$1,000,000) per claim and two million (\$2,000,000) aggregate limits

If insurance coverage is provided on a “claims made” policy, the “retroactive date” shall be shown and must be before the date of the state of the contract work. The claims made insurance shall be maintained or “tail” coverage provided for a minimum of five (5) years after contract completion.

G.11.6 Cyber Liability Insurance – Cyber Liability Insurance with limits of no less than \$1,000,000 for each occurrence or event with an annual aggregate of \$2,000,000 covering privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. The policy shall protect the involved County entities and cover breach response cost as well as regulatory fines and penalties.

H. SUCCESSORS AND ASSIGNS

H.1 This Contract shall be binding upon County and Contractor and their respective successors and assigns.

H.2 Neither the performance of this Contract, nor any part thereof, nor any monies due or to become due thereunder may be assigned by Contractor without the prior written consent and approval of County.

I. RIGHT TO MONITOR AND AUDIT

I.1 The County, State and Federal government shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items related to Contractor’s performance of this Contract, as requested, and shall have absolute right to monitor the performance of Contractor in the delivery of Services provided under this Contract. Contractor shall give full cooperation, in any auditing or monitoring conducted. Contractor shall cooperate with the County, in the implementation, monitoring, and evaluation of this Contract and comply with any and all reporting requirements established by the County.

- I.2 All records pertaining to Services delivered and all fiscal, statistical and management books and records related to such Services shall be available for examination and audit by County representatives for a period of three years after final payment under the Contract or until all pending County, State and Federal audits are completed, whichever is later.

J. CORRECTION OF PERFORMANCE DEFICIENCIES

J.1 If either party (County or Contractor) or any of their personnel fail to perform its duties as specified in this Contract, the non-defaulting party will provide written notice to the defaulting party in accordance with Section K below, informing the defaulting party of its breach or deficiencies and thereby allowing the defaulting party thirty (30) days to rectify the problem after receipt of notice. If said breach or deficiency is not rectified to the reasonable satisfaction of non-defaulting party within said notice period, the non-defaulting party may terminate this Contract with 30 days' written notice. However, if the nature of the default is such that more than thirty (30) days are reasonably required for its cure, then the defaulting party shall, upon written approval of the non-defaulting party, not be deemed to be in default if it commences such cure within said thirty (30) day period and thereafter diligently pursues such cure to completion. Notwithstanding the foregoing, if the nature of the default is such that it is material and incurable, then the non-defaulting party may terminate this Contract upon written notice to the defaulting party.

J.2 Unless a remedy is specifically designated as exclusive, no remedy conferred by any of the specific provision of the Contract is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder, now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies by either party shall not constitute a waiver of the right to pursue other available remedies.

J.3 At least 60 days prior to expiration or upon notice of sooner termination of this Contract, County and Contractor shall immediately make an estimated final accounting, and make final payment of estimated amounts due to Contractor or County on the first business day of the last month of service (the "**Estimated Final Accounting**"). The Estimated Final Accounting shall include any Fees, Reimbursed Costs, or other compensation parameters referenced in this Contract through the final day of service and any past due amounts owed to Contractor by County. Any adjustments to the estimated final accounting shall be made and paid within 30 days of the expiration or termination date.

K. NOTICES

All written notices provided for in this Contract or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

San Bernardino County
Arrowhead Regional Medical Center
400 N Pepper Avenue
Colton CA 92324
Attn: Hospital Director

CPS Solutions, LLC
655 Metro Place South, Suite 450
Dublin, OH 43017
Attn: Chairman and CEO
With a Copy to: General Counsel

Notice shall be deemed communicated two (2) County working days from the time of mailing if mailed as provided in this paragraph.

L. ENTIRE AGREEMENT

This Contract, including all Attachment, Exhibits and other attachments, which are attached hereto and incorporated by reference, and other documents incorporated herein, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Contract not expressly set forth herein are of no force

or effect. This Contract is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Contract and signs the same of its own free will.

M. ELECTRONIC SIGNATURES

This Contract may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Contract. The parties shall be entitled to sign and transmit an electronic signature of this Contract (whether by facsimile, PDF or other mail transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Contract upon request.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, San Bernardino County and Contractor have each caused this Contract to be subscribed by its respective duly authorized officers, on its behalf.

SAN BERNARDINO COUNTY on behalf of Arrowhead
Regional Medical Center

CPS SOLUTIONS, LLC

►

Dawn Rowe, Chair, Board of Supervisors

Dated: _____
SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD
Lynna Monell
Clerk of the Board of Supervisors
San Bernardino County

By _____
Deputy

By ► _____

Name _____

Title _____

Dated: _____

Address _____

FOR COUNTY USE ONLY

Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved by Department
► Charles Phan, Deputy County Counsel	► _____	► William L. Gilbert, Director
Date _____	Date _____	Date _____

ATTACHMENT A **COMPENSATION**

1. As compensation for the Services provided by Contractor, County shall pay the following fees (each a “**Fee**”) set forth in the Base Compensation Table below: (a) an inpatient Fee for each “Patient Day” (as defined below) at the ARMC hospital ,an outpatient Fee for each outpatient prescription dispensed by the ARMC Pharmacies, including Infusion Center medications and medications dispensed via automated Systems at the County’s Clinic and Correctional Facilities, and a fee for each Outpatient Medication Administration. For the purpose of this Agreement, "Outpatient Medication Administration" does not refer to the dispensing of medications, but refers the actual administration of medication by a licensed pharmacist in an outpatient setting as permitted by state law through injection, ingestion, or other route of a prescribed medication, which also requires educating the patient on the medication, obtaining the consent for administration, preparing the dose, screening the patient for possible clinical conflicts, administering the dose by the appropriate route, monitoring the patient for potential reactions, documentation in the health record, and creating a pharmacy and medication charge. For the avoidance of doubt, the fee for Outpatient Medication Administration does not include preparing the dose for dispensing of medication or consultations or counseling of patients as part of the dispensing of medication. The Outpatient Medication Administration Fee is payable only to the extent that ARMC is able to bill for the outpatient medication administration to a third-party payor such as Medi-Cal, Medicare, or other health plan (each a “Health Plan”) under its contract with the Health Plan. The Pharmacy will work with the Patient Accounts Department to ensure that the correct charges are available. The Fees set forth below are for the 1st twelve (12) months of this Contract and shall be adjusted annually as set forth below.

2. “**Patient Days**” means the in-patient days (inpatient and observation dates) for the ARMC hospital for the applicable period (e.g., month); but excluding the number of in-patient days for babies in the newborn nursery at such hospital during such period (however, the in-patient days for babies admitted to an intermediate care, specialty care or PICU shall be included in the calculation of Patient Days).

Base Compensation Table (1st Contract Year)			
Contract Year	Inpatient Fee per Patient Day (Inpatient and Observation Days)	Outpatient Fee per Outpatient Prescription	Fee per Outpatient Medication Administration
1	\$58.50	\$7.69	\$4.46

3. Except as set forth in Section 7 below, the above-referenced Fees are all-inclusive for all Services to be provided by Contractor under this Contract, including, but not

limited to the cost of all labor, insurance, travel, and equipment in the provision of Services.

4. In addition, commencing on the first anniversary of the Effective Date, the Fees shall adjust annually by a fixed increase of 2.00%, and will be further adjusted for any key performance indicators (“**KPI**”) incentives agreed to the parties separately in writing that are achieved by Contractor. County has proposed the KPIs, KPI Thresholds, and KPI Incentives set forth in the table below and the parties agree to work with the County, in good faith, to determine if an objective, practicable and reasonable means can be found to measure each such KPI (or a mutually acceptable alternative) and to determine what the current in-patient ARMC Pharmacy performance is for such KPI. After which, the parties will discuss, and if they mutually agree, document in an amendment to this Contract, signed by both parties, which states what the KPIs, KPI Thresholds, and KPI Incentives will be under this Contract. The amendment for any KPI incentives will be effective on the effective date of the amendment, unless the amendment states otherwise. Failure to meet any or all of the KPIs by the Contractor shall not be considered a breach of this Contract.

Key Performance Indicators (KPI)	KPI Threshold	KPI Incentive
Timeliness Response for ARMC Pharmacy Medications Turnaround Times within 60 minutes (PACU Discharge, IP Discharge)	80%	0.25%
Discharge Pharmacy Counseling within 30 minutes (Inpatient and Observation) – either in person, or via live video feed	80%	0.25%
Post-discharge Pharmacy Call Back within 48 hours	90%	0.25%
Emergency Department Medication Reconciliation for Inpatient Admissions	90%	0.25%
	Total KPI Incentive if all KPI Thresholds met	1.00%

The KPIs, KPI Thresholds, and KPI Incentives will not become applicable unless agreed to by the parties in writing in an amendment to this Contract with the first KPI Incentives, if any, to be added to the Fees upon the effective date of the amendment, unless the amendment states otherwise. Fee increases, based upon KPI Incentive achievements, if any, are shown in the KPI Base Compensation Table below. For example, if the parties were to amend this Contract with agreed upon KPIs effective during the first Contract Year and Contractor were to achieve the KPI threshold for 3 of the 4 KPIs, then the 1st Contract Year Fees (after the 2.00% fixed increase) would be further increased by 0.75% for the 2nd Contract Year.

KPI Base Compensation Table		
Contract Year (CY)	Inpatient Fee per Patient Day (Inpatient and Observation Days)	Outpatient Fee per Outpatient Prescription
1	\$58.50 (Baseline CY* 1)	\$7.69 (Baseline CY 1)
2	CY 1 Rate + 2% + each achieved, if any, CY 1 KPI Incentive % = New Rate CY 2	CY 1 Rate + 2% + each achieved, if any, CY 1 KPI Incentive % = New Rate CY 2
3	CY 2 Rate + 2% + each achieved, if any, CY 2 KPI Incentive % = New Rate CY 3	CY 2 Rate + 2% + each achieved, if any, CY 2 KPI Incentive % = New Rate CY 3
4	CY 3 Rate + 2% + each achieved, if any, CY 3 KPI Incentive % = New Rate CY 4	CY 3 Rate + 2% + each achieved, if any, CY 3 KPI Incentive % = New Rate CY 4
5	CY 4 Rate + 2% + each achieved, if any, CY 4 KPI Incentive % = New Rate CY 5	CY 4 Rate + 2% + each achieved, if any, CY 4 KPI Incentive % = New Rate CY 5

*CY=Contract Year as defined above.

5. County shall also reimburse Contractor, without any markup, for payment of all Pharmacy Resident salaries and benefits (the “**Reimbursed Costs**”) for those Pharmacy Residents that participate in the residency program in the ARMC Pharmacy Department. The reimbursement for benefits shall not exceed 29% of each Pharmacy Resident’s salary. Additionally, the total salary amount for each Pharmacy Resident shall not exceed the equivalent of a Family Medicine first-year resident’s salary at ARMC (which salary amount County will provide in writing and in advance to Contractor for each Contract year upon request from Contractor). There shall be a total of four Pharmacy Residents per academic year, unless otherwise mutually agreed upon by ARMC and Contractor.

End of Attachment

ATTACHMENT B



STATEMENT OF ECONOMIC INTERESTS COVER PAGE A PUBLIC DOCUMENT

Date Initial Filing Received
Filing Official Use Only

Please type or print in ink.

NAME OF FILER (LAST) (FIRST) (MIDDLE)

1. Office, Agency, or Court

Agency Name (Do not use acronyms)

Division, Board, Department, District, if applicable

Your Position

► If filing for multiple positions, list below or on an attachment. (Do not use acronyms)

Agency: Position:

2. Jurisdiction of Office (Check at least one box)

☐ State

☐ Judge, Retired Judge, Pro Tem Judge, or Court Commissioner
(Statewide Jurisdiction)

☐ Multi-County

☐ County of

☐ City of

☐ Other

3. Type of Statement (Check at least one box)

☐ Annual: The period covered is January 1, 2023, through
December 31, 2023.

-or-

The period covered is / / through
December 31, 2023.

☐ Leaving Office: Date Left / /
(Check one circle.)

☐ The period covered is January 1, 2023, through the date
of leaving office.

-or-

☐ The period covered is / / through
the date of leaving office.

☐ Assuming Office: Date assumed / /

☐ Candidate: Date of Election and office sought, if different than Part 1:

4. Schedule Summary (required)

► Total number of pages including this cover page:

Schedules attached

☐ Schedule A-1 - Investments - schedule attached

☐ Schedule C - Income, Loans, & Business Positions - schedule attached

☐ Schedule A-2 - Investments - schedule attached

☐ Schedule D - Income - Gifts - schedule attached

☐ Schedule B - Real Property - schedule attached

☐ Schedule E - Income - Gifts - Travel Payments - schedule attached

-or- ☐ None - No reportable interests on any schedule

5. Verification

MAILING ADDRESS STREET CITY STATE ZIP CODE
(Business or Agency Address Recommended - Public Document)

DAYTIME TELEPHONE NUMBER

EMAIL ADDRESS

()

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete. I acknowledge this is a public document.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date Signed (month, day, year)

Signature (File the originally signed paper statement with your filing official.)

End of Attachment



ATTACHMENT C

Campaign Contribution Disclosure (SB 1439)

DEFINITIONS

Actively supporting the matter: (a) Communicate directly with a member of the Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, District Attorney, Auditor-Controller/Treasurer/Tax Collector] for the purpose of influencing the decision on the matter; or (b) testifies or makes an oral statement before the County in a proceeding on the matter for the purpose of influencing the County's decision on the matter; or (c) communicates with County employees, for the purpose of influencing the County's decision on the matter; or (d) when the person/company's agent lobbies in person, testifies in person or otherwise communicates with the Board or County employees for purposes of influencing the County's decision in a matter.

Agent: A third-party individual or firm who, for compensation, is representing a party or a participant in the matter submitted to the Board of Supervisors. If an agent is an employee or member of a third-party law, architectural, engineering or consulting firm, or a similar entity, both the entity and the individual are considered agents.

Otherwise related entity: An otherwise related entity is any for-profit organization/company which does not have a parent-subsidary relationship but meets one of the following criteria:

- (1) One business entity has a controlling ownership interest in the other business entity;
- (2) there is shared management and control between the entities; or
- (3) a controlling owner (50% or greater interest as a shareholder or as a general partner) in one entity also is a controlling owner in the other entity.

For purposes of (2), "shared management and control" can be found when the same person or substantially the same persons own and manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a regular and close working relationship between the entities.

Parent-Subsidiary Relationship: A parent-subsidiary relationship exists when one corporation has more than 50 percent of the voting power of another corporation.

Contractors must respond to the questions on the following page. If a question does not apply respond N/A or Not Applicable.

1. Name of Contractor: CPS Solutions, LLC
2. Is the entity listed in Question No.1 a nonprofit organization under Internal Revenue Code section 501(c)(3)?
 Yes ☐ If yes, skip Question Nos. 3-4 and go to Question No. 5
 No ☒
3. Name of Principal (i.e., CEO/President) of entity listed in Question No. 1, if the individual actively supports the matter and has a financial interest in the decision: _____
4. If the entity identified in Question No.1 is a corporation held by 35 or less shareholders, and not publicly traded ("closed corporation"), identify the major shareholder(s): PPS Holdings, Inc.
5. Name of any parent, subsidiary, or otherwise related entity for the entity listed in Question No. 1 (see definitions above):

Company Name	Relationship
PPS Holdings, Inc.	Sole parent of CPS Solutions, LLC
*See Attachment 1	*See Attachment 1

6. Name of agent(s) of Contractor:

Company Name	Agent(s)	Date Agent Retained (if less than 12 months prior)
n/a	n/a	n/a
n/a	n/a	n/a

7. Name of Subcontractor(s) (including Principal and Agent(s)) that will be providing services/work under the awarded contract if the subcontractor (1) actively supports the matter and (2) has a financial interest in the decision and (3) will be possibly identified in the contract with the County or board governed special district.

Company Name	Subcontractor(s):	Principal and//or Agent(s):
n/a	n/a	n/a
n/a	n/a	n/a

8. Name of any known individuals/companies who are not listed in Questions 1-7, but who may (1) actively support or oppose the matter submitted to the Board and (2) have a financial interest in the outcome of the decision:

Company Name	Individual(s) Name
none known	n/a
none known	n/a

9. Was a campaign contribution, of more than \$250, made to any member of the San Bernardino County Board of Supervisors or other County elected officer on or after January 1, 2023, by any of the individuals or entities listed in Question Nos. 1-8?

No ☒ If **no**, please skip Question No. 10.

Yes ☐ If **yes**, please continue to complete this form.

10. Name of Board of Supervisor Member or other County elected officer: _____

Name of Contributor: _____

Date(s) of Contribution(s): _____

Amount(s): _____

Please add an additional sheet(s) to identify additional Board Members/County elected officer to whom anyone listed made campaign contributions.

By signing the Contract, Contractor certifies that the statements made herein are true and correct. Contractor understands that the individuals and entities listed in Question Nos. 1-8 are prohibited from making campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer while award of this Contract is being considered and for 12 months after a final decision by the County.

End of Attachment

ATTACHMENT D

LOCATIONS

Contractor will provide Services to the following County locations:

1. Arrowhead Regional Medical Center located at 400 N. Pepper St., Colton CA 92324
2. The following Clinics:
 - Fontana Family Health Center, 16888 Baseline Avenue, Fontana, CA 92336
 - Mckee Family Health Center, 1499 E Highland Ave, San Bernardino, CA 92404
 - Westside Family Health Center, 850 Foothill Blvd, Rialto, CA 92376
 - Redlands Family Health Center, 800 E. Lugonia Ave Suite F, Redlands, CA 92374
3. The following Correctional Facilities:
 - West Valley Detention Center, 9500 Etiwanda Avenue, Rancho Cucamonga, CA 91739
 - Central Detention Center, 630 East Rialto Avenue, San Bernardino, CA 92415
 - High Desert Detention Center, 9438 Commerce Way, Adelanto, CA 92301
 - Glen Helen Rehabilitation Center, 18000 Institution Road, Devore, CA 92407
 - Juvenile Hall Detention Center, 21101 Dale Evans Parkway, Apply Valley, CA 92307
 - Central Hall Juvenile Detention Center, 900 E Gilbert St, San Bernardino, CA 92415

Although the personnel that Contractor provides to ARMC may provide services to all of the foregoing locations, it is anticipated that such personnel will primarily work out of the ARMC Main Campus, located at 400 N. Pepper Avenue, Colton, CA 92324.

End of Attachment

ATTACHMENT E
BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("Agreement") supplements and is made a part of the contract ("Contract") by and between the San Bernardino County on behalf of Arrowhead Regional Medical Center (hereinafter "Covered Entity") and CPS Solutions, LLC (hereinafter "Business Associate"). This Agreement is effective as of the effective date of the Contract.

RECITALS

WHEREAS, Covered Entity ("CE") wishes to disclose certain information to Business Associate ("BA") pursuant to the terms of the Contract, which may include Protected Health Information (PHI); and

WHEREAS, CE and BA intend to protect the privacy and provide for the security of the PHI disclosed to BA pursuant to the Contract in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (HITECH Act), their implementing regulations, and other applicable laws; and

WHEREAS, The Privacy Rule and the Security Rule require CE to enter into a contract containing specific requirements with BA prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, sections 164.314, subdivision (a), 164.502, subdivision (e), and 164.504, subdivision (e) of the Code of Federal Regulations (C.F.R.) and contained in this Agreement; and

WHEREAS, Pursuant to HIPAA and the HITECH Act, BA shall fulfill the responsibilities of this Agreement by being in compliance with the applicable provisions of the HIPAA Standards for Privacy of PHI set forth at 45 C.F.R. sections 164.308 (Administrative Safeguards), 164.310 (Physical Safeguards), 164.312 (Technical Safeguards), 164.316 (Policies and Procedures and Documentation Requirements), and, 164.400, et seq. and 42 United States Code (U.S.C.) section 17932 (Breach Notification Rule), in the same manner as they apply to a CE under HIPAA;

NOW THEREFORE, in consideration of the mutual promises below and the exchange of information pursuant to this Agreement, the parties agree as follows:

A. Definitions

Unless otherwise specified herein, capitalized terms used in this Agreement shall have the same meanings as given in the Privacy Rule, the Security Rule, the Breach Notification Rule, and HITECH Act, as and when amended from time to time.

1. Breach shall have the same meaning given to such term under the HIPAA Regulations [45 C.F.R. §164.402] and the HITECH Act [42 U.S.C. §§17921 et seq.], and includes the definition set forth in 22 California Code of Regulations (C.C.R.) § 79901(b).
2. Business Associate (BA) shall have the same meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including but not limited to 42 U.S.C. section 17921 and 45 C.F.R. section 160.103, and includes the definition set forth in 22 C.C.R. § 79901(c).
3. Covered Entity (CE) shall have the same meaning given to such term as under the Privacy Rule and Security Rule, including, but not limited to 45 C.F.R. section 160.103.
4. Designated Record Set shall have the same meaning given to such term under 45 C.F.R. section 164.501.
5. Detect(ed) shall have the same meaning given to such term under 22 C.C.R. § 79901(f).
6. Electronic Protected Health Information (ePHI) means PHI that is maintained in or transmitted by electronic media as defined in the Security Rule, 45 C.F.R. section 164.103.
7. Individual shall have the same meaning given to such term under 45 C.F.R. section 160.103.
8. Medical Information shall have the same meeting given to such term under 22 C.C.R. § 79901(l).

9. Privacy Rule means the regulations promulgated under HIPAA by the United States Department of Health and Human Services (HHS) to protect the privacy of Protected Health Information, including, but not limited to, 45 C.F.R. Parts 160 and 164, subparts A and E.
10. Protected Health Information (PHI) shall have the same meaning given to such term under 45 C.F.R. section 160.103, limited to the information received from, or created or received by Business Associate from or on behalf of, CE.
11. Security Rule means the regulations promulgated under HIPAA by HHS to protect the security of ePHI, including, but not limited to, 45 C.F.R. Part 160 and 45 C.F.R. Part 164, subparts A and C.
12. Unsecured PHI shall have the same meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act, including, but not limited to 42 U.S.C. section 17932, subdivision (h).

B. Obligations and Activities of BA

1. Permitted Uses and Disclosures

BA may use and disclose PHI: (i) for the proper management and administration of BA; (ii) to carry out the legal responsibilities of BA, including performing the Contract; (iii) for purposes of Treatment, Payment and Operations (TPO); (iv) as required by law; or (v) for Data Aggregation purposes for the Health Care Operations of CE. Prior to making any other disclosures, BA must obtain a written authorization from the Individual.

If BA discloses PHI to a third party under B.(1)(i) or (ii) (other than as required by law), BA must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such PHI will be held confidential as provided pursuant to this Agreement and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify BA of any breaches of confidentiality of the PHI, to the extent it has obtained knowledge of such breach. [42 U.S.C. section 17932; 45 C.F.R. sections 164.504(e)(2)(i), 164.504(e)(2)(i)(B), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(ii)]

2. Prohibited Uses and Disclosures

- i. BA shall not use, access or further disclose PHI other than as permitted or required by this Agreement and as specified in the attached Contract or as required by law. Further, BA shall not use PHI in any manner that would constitute a violation of the Privacy Rule or the HITECH Act. BA shall disclose to its employees, subcontractors, agents, or other third parties, and request from CE, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder.
- ii. BA shall not use or disclose PHI for fundraising or marketing purposes.
- iii. BA shall not disclose PHI to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates. (42 U.S.C. section 17935(a) and 45 C.F.R. section 164.522(a)(1)(i)(A).)
- iv. BA shall not directly or indirectly receive remuneration in exchange for PHI, except with the prior written consent of CE and as permitted by the HITECH Act (42 U.S.C. section 17935(d)(2); and 45 C.F.R. section 164.508); however, this prohibition shall not affect payment by CE to BA for services provided pursuant to this Agreement.

3. Appropriate Safeguards

- i. BA shall implement appropriate safeguards to prevent the unauthorized use or disclosure of PHI, including, but not limited to, administrative, physical and technical safeguards that reasonably protect the confidentiality, integrity and availability of the PHI BA creates, receives, maintains, or transmits on behalf of the CE, in accordance with 45 C.F.R. sections 164.308, 164.310, 164.312 and 164.316. [45 C.F.R. sections 164.504(e)(2)(ii)(b) and 164.308(b).]

- ii. In accordance with 45 C.F.R. section 164.316, BA shall maintain reasonable and appropriate written policies and procedures for its privacy and security program in order to comply with the standards, implementation specifications, or any other requirements of the Privacy Rule and applicable provisions of the Security Rule.
- iii. BA shall provide appropriate training for its workforce on the requirements of the Privacy Rule and Security Rule as those regulations affect the proper handling, use confidentiality and disclosure of the CE's PHI.

Such training will include specific guidance relating to sanctions against workforce members who fail to comply with privacy and security policies and procedures and the obligations of the BA under this Agreement.

4. Subcontractors

BA shall enter into written agreements with agents and subcontractors to whom BA provides CE's PHI that impose the same restrictions and conditions on such agents and subcontractors that apply to BA with respect to such PHI, and that require compliance with all appropriate safeguards as found in this Agreement.

5. Reporting of Improper Access, Use or Disclosure or Breach

Every Breach shall be reported immediately, but no later than five (5) calendar days upon discovery, to CE's Office of Compliance. Upon discovery of a Breach, BA shall complete the following actions:

- i. Provide CE's Office of Compliance with the following information, to the extent known to BA, to include but not limited to:
 - a) Name and address of the facility where the breach occurred;
 - b) Date and time the Breach occurred;
 - c) Date and time the Breach was discovered or Detected;
 - d) Number of staff, employees, subcontractors, agents or other third parties and the names and titles of each person allegedly involved, including the person who performed the Breach, witnessed the Breach, used the Medical Information, or the person to whom the disclosure was made;
 - e) Name of patient(s) affected;
 - f) Number of potentially affected Individual(s) with contact information;
 - g) Description of how the Breach allegedly occurred; and
 - h) Description of the Medical Information that was Breached, including the nature and extent of the Medical Information involved, including the types of individually identifiable information and the likelihood of re-identification.
- ii. Conduct and document a risk assessment by investigating without unreasonable delay and in no case later than five (5) business days of discovery of the Breach to determine the following:
 - a) The nature and extent of the PHI involved, including the types of identifiers and likelihood of re-identification;
 - b) The unauthorized person who had access to the PHI;
 - c) Whether the PHI was actually acquired or viewed; and
 - d) The extent to which the risk to PHI has been mitigated.
- iii. Provide a completed risk assessment and investigation documentation to CE's Office of Compliance within ten (10) calendar days of discovery of the Breach with a determination as to whether a Breach has occurred. At the discretion of CE, additional information may be requested.

- a) If BA and CE agree that a Breach has not occurred, notification to Individual(s) is not required.
 - b) If a Breach has occurred, notification to the Individual(s) is required and BA must provide CE with affected Individual(s) name and contact information so that CE can provide notification.
 - c) The risk assessment and investigation documentation provided by BA to CE shall, at a minimum, include a description of any corrective or mitigative actions taken by BA.
- iv. Make available to CE and governing State and Federal agencies in a time and manner designated by CE or governing State and Federal agencies, any policies, procedures, internal practices and records relating to a Breach for the purposes of audit or should the CE reserve the right to conduct its own investigation and analysis.

6. Access to PHI

To the extent BA maintains a Designated Record Set on behalf of CE, BA shall make PHI maintained by BA or its agents or subcontractors in Designated Record Sets available to CE for inspection and copying within ten (10) business days of a request by CE to enable CE to fulfill its obligations under the Privacy Rule. If BA maintains ePHI, BA shall provide such information in electronic format to enable CE to fulfill its obligations under the HITECH Act. If BA receives a request from an Individual for access to PHI, BA shall immediately, but no later than one (1) business day forward such request to CE.

7. Amendment of PHI

If BA maintains a Designated Record Set on behalf of the CE, BA shall make any amendment(s) to PHI in a Designated Record Set that the CE directs, pursuant to 45 C.F.R. section 164.526, or take other measures as directed by CE to satisfy CE's obligations under 45 C.F.R. section 164.526, in the time and manner designated by the CE.

8. Access to Records

BA shall make internal practices, books, and records, including policies and procedures, relating to the use, access and disclosure of PHI received from, or created or received by BA on behalf of, CE available to the Secretary of HHS, in a time and manner designated by the Secretary, for purposes of the Secretary determining CE's compliance with the Privacy Rule and Security Rule and patient confidentiality regulations. Any documentation provided to the Secretary shall also be provided to the CE upon request.

9. Accounting for Disclosures

BA, its agents and subcontractors shall document disclosures of PHI and information related to such disclosures as required by HIPAA. This requirement does not apply to disclosures made for purposes of TPO. BA shall provide an accounting of disclosures to CE or an Individual, in the time and manner designated by the CE. BA agrees to implement a process that allows for an accounting to be collected and maintained by BA and its agents or subcontractors for at least six (6) years prior to the request. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received PHI and, if known, the address of the entity or person; (iii) a brief description of PHI disclosed; and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the Individual's authorization, or a copy of the written request for disclosure.

10. Termination

CE may, upon written notice to BA, immediately terminate this Contract, and any related agreements, if CE determines that BA has breached a material term of this Agreement.

11. Return of PHI

Upon termination of this Contract and Agreement, BA shall return all PHI required to be retained by the BA or its subcontractors, employees or agents on behalf of the CE. In the event the BA determines that returning the PHI is not feasible, the BA shall provide the CE with written notification of the conditions that make return not feasible. Additionally, for any PHI that CE directs BA to destroy and that is feasible for BA to destroy, the BA must follow established policies and procedures to ensure PHI is safeguarded and disposed of adequately in accordance with 45 C.F.R. section 164.310, and must submit to the CE a certification of destruction of PHI. For destruction of ePHI, the National Institute of Standards and Technology (NIST) guidelines must be followed. BA further agrees to extend any and

all protections, limitations, and restrictions contained in this Agreement, to any PHI retained by BA or its subcontractors, employees or agents after the termination of this Agreement, and to limit any further use, access or disclosures.

12. Breach by the CE

Pursuant to 42 U.S.C. section 17934, subdivision (b), if the BA is aware of any activity or practice by the CE that constitutes a material Breach or violation of the CE's obligations under this Agreement, the BA must take reasonable steps to address the Breach and/or end eliminate the continued violation, if the BA has the capability of mitigating said violation. If the BA is unsuccessful in eliminating the violation and the CE continues with non-compliant activity, the BA must terminate the Agreement (if feasible) and report the violation to the Secretary of HHS.

13. Mitigation

BA shall have procedures in place to mitigate, to the extent practicable, any harmful effect that is known to BA of a use, access or disclosure of PHI by BA, its agents or subcontractors in violation of the requirements of this Agreement.

14. Costs Associated to Breach

BA shall be responsible for reasonable costs associated with a Breach of PHI maintained, used or disclosed by BA or a BA subcontractor. Costs shall be based upon the required notification type as deemed reasonably appropriate and necessary by the CE and shall not be reimbursable under the Agreement at any time. CE shall determine the method to invoice the BA for said costs. Costs shall incur at the current rates and may include, but are not limited to the following:

- Postage;
- Alternative means of notice;
- Media notification; and
- Credit monitoring services.

15. Direct Liability

BA may be held directly liable under HIPAA and California law for impermissible uses and disclosures of PHI; failure to provide breach notification to CE; failure to provide access to a copy of ePHI to CE or individual; failure to disclose PHI to the Secretary of HHS when investigating BA's compliance with HIPAA; failure to provide an accounting of disclosures; and, failure to enter into a business associate agreement with subcontractors.

16. Indemnification

BA agrees to indemnify, defend and hold harmless CE and its authorized officers, employees, agents and volunteers from any and all third-party claims, actions, losses, damages, penalties, injuries, costs and expenses (including costs for reasonable attorney fees) that are caused by or result from the acts or omissions of BA, its officers, employees, agents and subcontractors, with respect to the use, access, maintenance or disclosure of CE's PHI and Medical Information, including without limitation, any Breach of PHI or Medical Information.

17. Limit of Liability

Notwithstanding any term or condition of this Agreement or the Contract, the total aggregate liability of BA, its Affiliates, and their present, former, and future respective shareholders, managers, members, officers, employees, contractors, subcontractors and other representatives (each a "BA Related Party") in connection with PHI related to CE that is used, disclosed, created, received, maintained or transmitted by BA or BA's contractor, subcontractor or other representative, including for all liabilities, damages, losses, judgments, penalties, sanctions, expenses and costs ("Losses") arising from or in connection with acts, omissions, uses, disclosures, security incidents, Breaches, and unauthorized access involving such PHI that occur during or after the term of this Agreement or the Contract, shall not exceed \$5,000,000 (the "BA Liability Limit"). CE will not bring, initiate, maintain or pursue claims, actions or proceedings for Losses arising out of or in connection with such PHI in excess of the BA Liability Limit.

18. Insurance

In addition to any general and/or professional liability insurance coverage required of BA under the Contract for services, BA shall provide appropriate liability insurance coverage during the term of this Agreement to cover any and all claims, causes of action, and demands whatsoever made for loss, damage, or injury to any person arising from the breach of the security, privacy, or confidentiality obligations of BA, its agents or employees, under this Agreement and under HIPAA 45 C.F.R. Parts 160 and 164, Subparts A and E.

19. Assistance in Litigation or Administrative Proceedings

BA shall make itself, and any subcontractors, employees, or agents assisting BA in the performance of its obligations under the Agreement, available to CE, at no cost to CE, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CE, its directors, officers, or employees based upon a claimed violation of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule, or other laws relating to security and privacy arising from or in connection with PHI maintained, used or disclosed by BA, except where BA or its subcontractor, employee or agent is a named adverse party.

C. Obligations of CE

1. CE shall notify BA of any of the following, to the extent that such may affect BA's use, access, maintenance or disclosure of PHI:
 - i. Any limitation(s) in CE's notice of privacy practices in accordance with 45 C.F.R. section 164.520.
 - ii. Any changes in, or revocation of, permission by an individual to use, access or disclose PHI.
 - iii. Any restriction to the use, access or disclosure of PHI that CE has agreed to in accordance with 45 C.F.R. section 164.522.

D. General Provisions

1. Remedies

BA agrees that CE shall be entitled to seek immediate injunctive relief as well as to exercise all other rights and remedies which CE may have at law or in equity in the event of an unauthorized use, access or disclosure of PHI by BA or any agent or subcontractor of BA that received PHI from BA.

2. Ownership

The PHI shall be and remain the property of the CE. BA agrees that it acquires no title or rights to the PHI, except as provided in the Agreement or the Contract.

3. Regulatory References

A reference in this Agreement to a section in the Privacy Rule and Security Rule and patient confidentiality regulations means the section as in effect or as amended.

4. No Third-Party Beneficiaries

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

5. Amendment

The parties acknowledge that state and federal laws related to privacy and security of PHI are rapidly evolving and that amendment of the Contract or this Agreement may be required to ensure compliance with such developments. The parties shall negotiate in good faith to amend this Agreement when and as necessary to comply with applicable laws. If either party does not agree to so amend this Agreement within 30 days after receiving a request for amendment from the other to make this Agreement compliant with applicable law, then either party may terminate the Agreement upon five (5) days written notice to the other party. To the extent an amendment to this Agreement is required by law and this Agreement has not been so amended to comply with the applicable law in a timely manner, the amendment required by law shall be deemed to be incorporated into this Agreement automatically and without further action required by

either of the parties. Subject to the foregoing, this Agreement may not be modified, nor shall any provision hereof be waived or amended, except in a writing duly signed and agreed to by BA and CE.

6. Interpretation

Any ambiguity in this Agreement shall be resolved to permit CE to comply with the Privacy and Security Rules, the HITECH Act, and all applicable patient confidentiality regulations.

7. Compliance with State Law

In addition to HIPAA and all applicable HIPAA Regulations, BA acknowledges that BA and CE may have confidentiality, privacy, and breach notification obligations under State law, including, but not limited to, the California Confidentiality of Medical Information Act (Cal. Civil Code § 56, et seq. ("CMIA")) and 22 C.C.R. § 79001 et seq. If any provisions of this Agreement or HIPAA Regulations or the HITECH Act conflict with CMIA or any other California State law regarding the degree of protection provided for PHI/Medical Information and patient medical records, then BA shall comply with the more restrictive requirements.

8. Survival

The respective rights and obligations and rights of CE and BA relating to protecting the confidentiality of a patient's PHI/Medical Information shall survive the termination of the Contract or this Agreement.