I. Call to Order

R. Rader, Board Chair

II. Public Comment

A five-minute limitation shall apply to each member of the public who wishes to address the Community Planning Committee of the Hospital Board of Directors on any matter under the subject jurisdiction of the Committee. A thirty-minute time limit is placed on this section. No member of the public shall be permitted to “share” his/her five minutes with any other member of the public. (Usually, any items received under this heading are referred to staff for future study, research, completion and/or future Committee Action.) (PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.)

On behalf of the San Gorgonio Memorial Hospital Board of Directors, we want you to know that the Board/Committee acknowledges the comments or concerns that you direct to this Committee. While the Board/Committee may wish to occasionally respond immediately to questions or comments if appropriate, they often will instruct the CEO, or other Administrative Executive personnel, to do further research and report back to the Board prior to responding to any issues raised. If you have specific questions, you will receive a response either at the meeting or shortly thereafter. The Board/Committee wants to ensure that it is fully informed before responding, and so if your questions are not addressed during the meeting, this does not indicate a lack of interest on the Board/Committee’s part; a response will be forthcoming.

III. * Proposed Action - Approve minutes

L. Baldi

May 21, 2019 Regular meeting

A
NEW BUSINESS

IV.  * Proposed Action – Approval Telehealth Neurology Services Agreement*  S. Barron  B

   * ROLL CALL*

V.   Discussion – Board priorities status report  S. Barron  C

VI.  Discussion – physician recruiting  S. Barron  verbal

VII. Future Agenda Items

VIII. Next Meeting – Tuesday, November 19, 2019

IX.  Adjourn  R. Rader

* Requires Action

In accordance with The Brown Act, Section 54957.5, all public records relating to an agenda item on this agenda are available for public inspection at the time the document is distributed to all, or a majority of all, members of the Committee. Such records shall be available at the Hospital office located at 600 N. Highland Springs Avenue, Banning, CA 92220.

******************************************************************************

Certification of Posting

I certify that on August 16, 2019 I posted a copy of the foregoing agenda near the regular meeting place of the Board of Directors of San Gorgonio Memorial Hospital Community Planning Committee, and on the San Gorgonio Memorial Hospital website said time being at least 72 hours in advance of the meeting of the Community Planning Committee

(Government Code Section 54954.2).

Executed at Banning, California on August 16, 2019

Bobbi Duffy, Executive Assistant
The Regular Open Session Meeting of the Community Planning Committee of the San Gorgonio Memorial Hospital Board of Directors was held on Tuesday, May 21, 2019 in the Administration Boardroom, Banning, California.

**Members Present:** Lynn Baldi (C), Farzad Farrokhi, MD, Olivia Hershey, Ron Rader, Steve Rutledge

**Absent:** None

**Guest:** Susan DiBiasi

**Staff Present:** Steve Barron (CEO), Pat Brown (CNO), Dave Recupero (CFO), Annah Karam (CHRO), Holly Yonemoto (CBDO), Bobbi Duffy (Executive Assistant)

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<th>AGENDA ITEM</th>
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<td><strong>Call To Order</strong></td>
<td>Committee Chair Lynn Baldi called the meeting to order at 9:00 am.</td>
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<tr>
<td><strong>Public Comment</strong></td>
<td>None</td>
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**OLD BUSINESS**

*Proposed Action - Approve minutes*

**May 15, 2018 regular open session meeting**

Chair Baldi asked for any changes or corrections to the minutes of the May 15, 2018 regular open session meeting. There were none.

The minutes of the May 15, 2018 regular open session meeting were reviewed and will stand correct as presented.

Steve Barron distributed a handout which showed the section of the Hospital Board’s bylaws which describe the duties and responsibilities of the Community Planning Committee. He reviewed that the primary focus of this committee is for the “purpose of determining proposed long range goals for the Hospital and recommendations for methods whereby such goals may be accomplished.”
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| Siemen’s presentation    | Steve Barron noted that Siemen’s initially made a presentation to the Hospital Board a number of months ago, but the proposal has been scaled down.  
At this time, representatives of Siemen’s joined the meeting and made a presentation regarding energy saving programs.  
A copy of this presentation is on file. |                   |
| Community Health Needs Assessment | Holly Yonemoto introduced representatives of HASC and HC² Strategies who are collaborating together to develop our Community Health Needs Assessment (CHNA). They made a brief presentation regarding timelines and how they will work together and with various focus groups to prepare this report.  
Holly distributed a handout timeline for HC² Strategies. A copy of the handout is on file.  
It was noted that the Hospital Board approved the agreement with HC² Strategies at the May 7, 2019 board meeting.  
Dr. Farrokh left the meeting at 10:36 am. |                   |
| Future Agenda Items      | Holly Yonemoto noted that we may be ready for Envision to make a presentation regarding a tele-neurology program.                                                                                       |                   |
| Next Meeting             | The next regular Community Planning Committee meeting will be held on August 20, 2019.                                                                                                                  |                   |
| Adjournment              | The meeting was adjourned at 10:43 am.                                                                                                                                                                   |                   |

In accordance with The Brown Act, *Section 54957.5*, all reports and handouts discussed during this Open Session meeting are public records and are available for public inspection. These reports and/or handouts are available for review at the Hospital Administration office located at 600 N. Highland Springs Avenue, Banning, CA 92220 during regular business hours, Monday through Friday, 8:00 am - 4:30 pm.

Minutes respectfully submitted by Bobbi Duffy, Executive Assistant
TELEHEALTH NEUROLOGY SERVICES AGREEMENT

THIS AGREEMENT is made by and between San Gorgonio Memorial Hospital, as the Receiving Hospital (“Hospital” or “Receiving Hospital”) and ________________, as the Telehealth Provider Entity (“Contractor”). (Each of Hospital and Contractor is a “Party” to this Agreement and collectively they are the “Parties” to this Agreement.)

PRELIMINARY STATEMENTS

A. Hospital makes health care services available to patients presenting themselves for treatment twenty-four (24) hours per day, seven (7) days per week.

B. Hospital desires to reduce the mortality and morbidity rates of its patients, reduce the number of patients it must transfer to higher levels of care, lower the cost of care to its higher-acuity patients, and enable its high-acuity patients to receive faster treatment from physicians with greater expertise in certain specialties.

C. Contractor provides professional telehealth services (“Services”) to hospitals, including, without limitation, arranging for qualified physicians (“Clinicians”) to provide telehealth neurology services to Hospital.

D. Hospital desires to engage Contractor to provide the Services to Hospital as set forth herein.

E. Contractor desires to provide the Services to Hospital as set forth herein.

AGREEMENT

In consideration of the covenants contained in this Agreement, the parties agree as follows:

1. Term. This Agreement shall become effective at 12:00 a.m. on the 1st day of September, 2019 (“Effective Date”) and shall expire two (2) years thereafter (“Initial Term”); provided however, this Agreement (a) may be terminated sooner as provided below, and (b) unless sooner terminated, shall be automatically renewed for additional one (1) year periods (“Renewal Terms”) upon its normal expiration date until terminated.

2. Termination. This Agreement may be terminated as follows:

A. Termination by Either Party without Cause. Either Party may terminate this Agreement by providing no less than ninety (90) days’ written notice of termination to the other Party, in which case this Agreement will terminate at the end of the applicable notice period.

B. Termination by Either Party for Breach. Either Party may terminate this Agreement immediately upon written notice to the other Party: (a) if the other Party breaches any term of this Agreement and fails to cure that breach within thirty (30) days after receipt of written notice specifying the alleged breach. In addition, Hospital may terminate this Agreement immediately for Contractor’s failure to promptly bar any Clinician from performing services under this Agreement, after written notice from Hospital, if that Clinician: (i) engages in conduct which materially jeopardizes the health, safety, or welfare of any person or the safety, or regular functions of the Hospital or the Services; (ii) resigns, is
expelled, is suspended from the Medical Staff, is disciplined, loses clinical privileges or has his or her license to practice medicine in the state of California (the “State”) suspended or revoked; (iii) is convicted of any crime punishable as a felony; or, (iv) does not meet the qualifications required by this Agreement. Further, in the event that Hospital permits another provider to provide the exclusive Services hereunder, or Hospital provides the Services itself, Contractor may immediately terminate this Agreement.

C. **Termination by either Party in the Event of Bankruptcy.** Either Party may terminate this Agreement with seven (7) days’ notice upon the other Party’s general assignment for the benefit of creditors, the other Party’s petition for relief in bankruptcy or similar laws for the protection of debtors, upon the initiation of such proceedings against the other Party if the same are not dismissed within forty-five (45) days of service, or upon notice of a finding that the other Party is insolvent under applicable law.

D. **Termination by Contractor for Hospital’s Failure to Pay Compensation.** In the event that Hospital fails to pay Contractor’s compensation as set forth herein and fails to cure such failure within fifteen (15) days following a written notice from Contractor, Contractor may terminate this Agreement at the end of such fifteen (15) day cure period by providing notice of such termination to Hospital.

E. **Immediate Termination by Either Party.** Either Party may terminate the Agreement immediately if the other Party: (i) is suspended, excluded, or debarred from participation in any Federal government payor program; or (ii) fails to maintain professional liability insurance required by this Agreement.

F. **Termination Due to Legislative or Administrative Changes.** In the event there is (a) a change in law or regulation (or in the application thereof) including, without limitation, changes to the Medicare and Medicaid programs, (b) a change in any medical insurer’s reimbursement, or (c) a new agreement with a medical insurer by either Hospital or Contractor, any of which materially affects the reimbursement for services rendered to patients by the Clinicians, either Hospital or Contractor may submit a written proposal to change the compensation owed by Hospital to Contractor, if any, or the Clinician fee schedule. If within forty-five (45) days of submitting such proposal, the Parties are unable to agree on the Administrative Fee and/or the Clinician fee schedule, either Party may terminate this Agreement upon no less than thirty (30) days’ prior written notice to the other Party.

3. **Services.**

A. **Services.** Contractor and the Clinicians shall provide the Services set forth in Exhibit A.

B. **Medical Records.** Contractor shall require that Clinicians (i) appropriately document in the medical record the treatment provided and the instructions given each patient by a Clinician, and (ii) comply with any applicable Medical Staff rules and regulations concerning medical records.
C. Compliance with Accreditation Standards. Contractor shall require that Clinicians cooperate with Hospital in its efforts to comply with all applicable standards promulgated by the Hospital’s accreditation agency, and any relevant surveys conducted thereby.

D. Contractor is a contractor of services to the Hospital and as such, in accordance with 42 CFR § 482.12(e), furnishes the Services in a manner that permits the Hospital to comply with all applicable conditions of participation for the contracted services, including, but not limited to, the requirements in paragraphs 42 CFR § 482.12(a)(1) through (a)(7) with regard to Contractor’s Clinicians providing telemedicine services.

4. Compensation. Contractor shall be compensated as set forth in Exhibit B.

5. Conditions to Status as Contractor Clinician.

   A. All of the Clinicians are, and will remain for such time as this Agreement is in effect, licensed and in good standing to practice in the State.

   B. Clinicians shall have and maintain all necessary credentials and privileges to provide the Services to Hospital patients or qualify to obtain those credentials and privileges with Hospital’s cooperation. The Clinicians shall provide only those Services for which they possess credentials at Hospital.

   C. To the extent permitted by applicable law, (i) in the event any Clinician is terminated by Contractor for any reason, his/her Medical Staff privileges shall be terminated automatically, and (ii) all Clinicians shall, by written agreement, waive any and all due process rights regarding termination of privileges under this Section.

   D. Contractor agrees to use its best efforts to assure that no Clinician has at any time been excluded from participation in any federally funded health care program including, without limitation, Medicare and Medicaid.

6. Insurance. Contractor shall arrange for each Clinician to be provided with professional liability insurance covering Clinicians while providing services at Hospital, which insurance shall have coverage limits of One Million Dollars ($1,000,000) per loss event and separate, per Clinician aggregate limits, in the amount of Three Million Dollars ($3,000,000) annually.

7. Non-Solicitation.

   A. Each party, on behalf of itself, its affiliates and each of their respective officers, directors, agents, employees, successor or assigns agree that neither party shall directly or indirectly solicit, employ, engage or otherwise permit any other person or entity to solicit, employ, engage or use in any manner whatsoever any current, future or former employee, contractor or agent employed or engaged by the other party or the other party’s affiliates during the Term and for eighteen (18) months after the termination or expiration of this Agreement without concurrent renewal. It is specifically understood and agreed that any breach of this provision of the Agreement by either party will result in irreparable injury to the other party, that the remedy at law alone will be an inadequate remedy for such breach
and that, in addition to any other remedies in law, equity or otherwise it may have, the non-breaching party shall be entitled to enforce the specific performance of this Agreement by the breaching party in whole or in part responsible for that breach and to seek both temporary and permanent injunctive relief, without the necessity of proving actual damages or the posting of a bond, but without limitation of their rights to recover such damages.

B. Notwithstanding the provisions of Section 7.A above, Contractor may, in its sole discretion, elect to waive the provisions of Section 7.A above for any Clinician subject to such provision; provided however, that Contractor shall be compensated for each such physician in the amount of Seventy Five Thousand Dollars ($75,000) or an amount equal to thirty percent (30%) of the average annual full-time physician compensation for the twelve (12) month period immediately prior to termination, whichever is less, and Thirty-Five Thousand Dollars ($35,000) for each such mid-level provider. The amount and terms of payment shall be set forth in the document of waiver.]

8. Covenants of the Hospital.

A. Hospital’s medical staff bylaws specifically allow telemedicine to take place with respect to Hospital patients.

B. Operational Requirements.
   i. Hospital is solely responsible for acquiring, providing, maintaining and inspecting the equipment, telephone connections, computer software and in-house expertise necessary for Contractor to provide the Services and to permit Contractor’s integration with the equipment used by Hospital in order to provide the Services.
   
   ii. Hospital shall provide equipment, nursing, clerical/administrative support and any other support services reasonably necessary to allow the Clinicians to perform services in a manner that meets all applicable standards of care as outlined in this Agreement. This shall include the direct costs and expenses associated with the remote utilization of a documentation system. Hospital shall provide and perform all necessary maintenance in order to maintain any equipment utilized by Contractor in good operating condition in accordance with the manufacturer’s specifications. Hospital shall further provide either: (i) adequate facilities within the Hospital for Contractor’s installation and storage of a dedicated high-speed data line, or a secure web browser interface to enable Clinicians to access Contractor’s network. Hospital agrees to provide to Contractor, within a reasonable time, the necessary data from its information systems and other applicable sources for Contractor to provide the services and meet any performance targets reflected in this Agreement; and further, Hospital shall cooperate with Contractor to establish any technological interfaces or feeds requested by Contractor for operational purposes. In addition, Hospital shall comply with the appropriate prophylactic measures that meet all applicable state and federal laws and regulations related to exposures to potentially infectious bodily fluids or other hazardous substances.

C. Policies and Procedures. Hospital agrees to provide Contractor with copies of all of the policies and procedures of Hospital applicable to Contractor’s provision of
D. **Monthly Call List.** Hospital agrees to prepare and publish monthly a call list of Medical Staff physicians with admitting privileges who will be available to provide consultation and follow up care to patients of the Hospital.

E. **Compliance with Accreditation Standards.** Hospital agrees to use its best efforts to comply with all applicable standards promulgated by the Hospital’s accreditation agency.

F. **Department Records.** Hospital agrees to retain any and all medical records compiled in each department and to make such records available to Contractor upon request. Hospital acknowledges that Contractor may utilize such records for all purposes determined legitimate by Contractor including, without limitation, Quality Assurance and Risk Management programs.

G. **Exclusive Nature of the Agreement.** Hospital agrees that it shall not engage any person or entity other than Contractor to provide or perform the Services contemplated by this Agreement.

H. **Patient Consent Form.** Hospital shall assist in obtaining the appropriate patient consent, as detailed in Exhibit A.

9. **Assistance to Contractor.** Hospital acknowledges that Contractor requires certain information to be obtained by Hospital and supplied to Contractor to enable Contractor to bill patients as provided above. Therefore, Hospital shall, at its expense, perform the functions, and provide Contractor promptly with the information, identified below:

   A. Obtain medical insurance information (including photocopies of insurance cards, pre-authorizations for services and driver’s licenses) for each patient/patient visit, and require all patients, and/or guarantors or other legally responsible parties to sign any forms required by medical insurers;

   B. Hospital shall, on a daily basis, electronically transfer to Contractor, or its designees, patient records, including, without limitation, registration, admission, and discharge documentation requested by Contractor in a secure HL7 format, and/or mutually agreed upon equivalents, on a mutually agreed upon timeline. Hospital shall also provide Contractor with a complete electronic medical record in a mutually acceptable format, including but not limited to physician and nursing notes, continuation sheets, code/trauma forms, and all appropriate patient records, in order to obtain Patient information and other documentation deemed necessary by Contractor and/or its billing company to bill for services provided by Clinicians and/or provide additional services. The Hospital shall establish the abovementioned electronic interfaces prior to the Effective Date of this Agreement to enable Contractor to capture all charges as of the first day of providing services at the Hospital. If the Hospital does not establish the required interface by the Effective Date of the Agreement, Hospital agrees that it shall pay Contractor a revenue guarantee equal to the revenue the Contractor should have received from the professional services performed by the Clinicians but did not receive due to the lack of documentation it needs to bill the patients for professional services, less any collections received by Contractor for those professional services.
C. Provide Contractor monthly with an accounting of all payments received by Hospital attributable to services rendered by Clinicians. Hospital shall remit payment monthly by check to Contractor for amounts received by Hospital attributable to services rendered by Clinicians.

10. **Use of Information.** Contractor agrees not to disclose any of the information provided to it by Hospital as identified in Section 9 above except as required by Contractor, its agents, representatives or affiliates for professional liability, quality, operational, or risk management purposes, or to allow or facilitate Contractor’s billing and/or collecting for services rendered by Clinicians.

11. **Relationship of Parties.** The Parties agree that (a) they are independent contractors, (b) they will at all times act hereunder as independent contractors, (c) under no circumstances shall either of them construe this Agreement, or conduct itself in a manner which shall allow it to be construed, as one of agency, partnership, joint venture or employment between them, and (d) neither of them shall or may exercise direction or control over the provision of services by the other of them. Nothing in the foregoing, however, shall preclude the services rendered by Clinicians from being performed in accordance with generally accepted professional standards in the medical profession, in compliance with the Hospital’s bylaws, and consistent with applicable Hospital policies and procedures. Neither Party shall have the authority to bind the other Party under any contract or agreement or incur any debts or other obligations on behalf of the other Party.

12. **Referrals.** The Parties acknowledge that none of the benefits granted to either Party under this Agreement are conditioned on any requirement that either Party or Clinicians make referrals to, be in a position to make or influence referrals to, or otherwise generate business for the other.

13. **Liaison.** Contractor and Hospital shall each designate one or more liaisons to coordinate communications between them. For chart acquisition and demographic and insurance information issues, the Hospital shall designate an additional liaison representative who shall work with Contractor and its affiliates in order to maintain a sufficient flow of data to allow Contractor to bill for the services rendered by the Clinicians and other healthcare providers.

14. **Incurring Liabilities.** Neither Party shall have the authority to bind the other Party under any contract or agreement or incur any debts or other obligations on behalf of the other Party.

15. **Confidentiality.** All statistical, financial, personnel, medical records and other data relating to the business of Hospital is confidential and shall be retained in confidence by Contractor, its employees and agents; provided however, the foregoing obligation does not apply to such data, information or materials which (a) Hospital permits Contractor to release, (b) Contractor is required by law to release, or (c) Contractor requires to bill, or collect from, Hospital patients or their insurers.

16. **Authority.** Each of Hospital and Contractor represent and warrant that it has the right, authority and power to enter into this Agreement.

17. **Changes in Bylaws.** Hospital agrees to notify Contractor in a timely manner of any proposed, anticipated or actual changes to the Hospital’s bylaws.

18. **Governing Laws.** The laws of the state of California, without regard to the conflicts of law principles thereof, shall govern the validity, construction, enforcement and interpretation of this Agreement.

19. **Entire Agreement; Binding Effect; Assignment.** This Agreement shall be binding upon
and inure to the benefit of Contractor and Hospital, and their respective successors and assigns. This Agreement embodies the entire agreement between the Parties and supersedes all prior agreements and understandings, if any, relating to the subject matter hereof, and this Agreement may be amended only by an instrument in writing executed jointly by the Parties. This Agreement may not be assigned without the prior written consent of the other Party, except that either Party may assign this Agreement to an affiliate or subsidiary thereof.

20. Assignment. This Agreement may not be assigned by Hospital without the prior written consent of Contractor. This Agreement may be assigned by Contractor to an affiliate or subsidiary of Contractor and Contractor shall be released of its obligations hereunder if the assignee agrees to be bound by all terms and conditions of this Agreement.

21. Waiver of Breach; Severability. The waiver by either Party of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by such Party. If any provision of this Agreement, or the application thereof to any person or circumstance, is held to be illegal, invalid or unenforceable for any reason, such illegality, invalidity or unenforceability shall not affect any other provision of this Agreement that can be given effect in the absence of the illegal, invalid or unenforceable provision of application. To this end, all provisions of this Agreement are declared to be severable.

22. Descriptive Headings; Preliminary Statements. The captions and headings used in this Agreement are for convenience only and do not limit or amplify the terms and provisions in this Agreement. The Preliminary Statements are incorporated into this Agreement by this reference.

23. Interpretation. Nothing in this Agreement shall be construed as authorizing Contractor to practice medicine or to direct or control the practice of medicine by any Clinician providing medical services at the Hospital.

24. Notices. Any notice, demand, or communication required, permitted, or desired to be given under this Agreement, shall be deemed effectively given when either: (i) personally delivered; (ii) three (3) days after mailed by United States mail, certified return receipt requested; or (iii) one (1) day after dispatch by overnight courier, addressed as follows:

If to Contractor: CONSTRUCTOR
1A Burton Hills Blvd.
Nashville, TN 37215
Attn: Legal Department

With Copy to: CONSTRUCTOR c/o Envision Physician Services
7700 W. Sunrise Blvd.
Plantation, FL 33322
Attn: Legal Department, MS: PL-6

If to Hospital: San Gorgonio Memorial Hospital
600 N Highland Springs Ave.
Banning, CA 92220
Attn: CEO

or to any other address, and to the attention of all other person(s) or officer(s) as either party may designate by written notice to the other party.
25. **Government Access.** Until the expiration of four years after the furnishing of services pursuant to this Agreement, Hospital and Contractor shall make available, upon written request of the Secretary of the Department of Health and Human Services, the Comptroller General of the United States, or any other duly authorized representative, this Agreement and the books, documents and records that are necessary to certify the nature and the extent of the cost of services provided pursuant to this Agreement.

26. **Indemnification.**

   A. Notwithstanding any other provision in this Agreement, each Party agrees to comply with all applicable provisions of federal, state and local statutes, rules and regulations including, without limitation, the fraud and abuse and anti-kickback statutes, and federal and state laws applicable to telemedicine services. Further, each Party shall remain responsible for refunding or returning to any third party payer any and all amounts received by that Party in violation of applicable law or contract.

   B. Contractor shall indemnify and hold Hospital harmless from any and all liability, loss (including attorneys’ fees and costs) or damages suffered or incurred by Hospital as a result of Contractor’s failure to comply with its obligations under Sections 11, 15 and 26(A) above.

   C. Hospital shall indemnify and hold Contractor harmless from any and all liability, loss (including attorneys’ fees and costs) or damages suffered or incurred by Contractor as a result of Hospital’s failure to comply with its obligations under Sections 11 and 26(A) above.

   Notwithstanding the provisions of this Section 26, each Party shall be responsible for refunding any excess amounts or overpayments which that Party received from third party payers.

27. **Risk Management Obligation.** Any incident known to either Party occurring in the Hospital that could result in liability to Contractor or Hospital shall be reported promptly to the other party after that party actually becomes aware of it. An incident is defined as any happening or occurrence which is not consistent with the routine operation of the Hospital or of the routine care of a particular patient.

28. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original, and all of which shall, for all purposes, constitute one and the same instrument.

29. **No Third-Party Beneficiaries.** Nothing in this Agreement shall be construed as conferring any benefit, either directly or indirectly, on any person or entity not a Party to this Agreement.

30. **Compliance Obligations.** Hospital acknowledges that Contractor and its affiliated Clinicians are subject and required to abide by its Code of Conduct and Anti-Kickback Statute policies and procedures. Hospital can access Contractor’s Code of Conduct and its policies and procedures regarding the Anti-Kickback Statute at https://www.evhc.net/news-resources/partner-resources or a copy of the Code of Conduct can be provided to Hospital upon request.

31. **Protected Health Information.** The privacy and security regulations of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) contemplate that health providers and others called “covered entities” may be required to enter into certain “business associate agreements” with persons or entities if the business associate performs certain non-covered entity functions or activities that involve the
use or disclosure of protected health information (“PHI”) on behalf of, or provides services to, a covered entity. The provisions of this Section are intended to meet the requirements of the HIPAA for the treatment of PHI that may be disclosed by Hospital to Contractor and Contractor’s affiliates in such capacity.

A. **Definitions.** Terms used, but not otherwise defined, in this Agreement shall have the same meaning as given those terms in 45 CFR 160.103 and 164.501.

B. **Obligations and Activities of Contractor.**

1. Contractor agrees not to use or disclose PHI other than as permitted or required by this Agreement or as required by law.

2. Contractor agrees to use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Agreement.

3. Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PHI by Contractor in violation of the requirements of this Agreement.

4. Contractor agrees to report to Hospital any use or disclosure of the PHI not provided for by this Agreement of which it becomes aware.

5. Contractor agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Contractor on behalf of Hospital, agrees to the same restrictions and conditions that apply through this Agreement to Contractor with respect to such information.

6. Contractor agrees to provide access, at the request of Hospital, and in the time and manner designated by Hospital, to PHI in a Designated Record Set, to Hospital or, as directed by Hospital, to an Individual in order to meet the requirements under 45 CFR 164.524.

7. Contractor agrees to make any amendment(s) to PHI in a Designated Record Set that the Hospital directs or agrees to pursuant to 45 CFR 164.526 at the request of Hospital or an Individual, and in the time and manner designated by Hospital.

8. Contractor agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by Contractor on behalf of, Hospital available to the Hospital, or to the Secretary, in a time and manner designated by the Hospital or the Secretary, for purposes of the Secretary determining Hospital's compliance with the Privacy Rule.

9. Contractor agrees to document such disclosures of PHI and information related to such disclosures as would be required for Hospital to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528.
10. Contractor agrees to provide to Hospital or an Individual, in time and manner designated by Hospital, information collected in accordance with the sub-section above, to permit Hospital to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528.

C. General Use and Disclosure Provisions. Except as otherwise limited in this Agreement, Contractor may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Hospital as specified in this Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by Hospital or the minimum necessary policies and procedures of the Hospital.

D. Specific Use and Disclosure Provisions.

1. Except as otherwise limited in this Agreement, Contractor may use PHI for the proper management and administration of the Contractor or to carry out the legal responsibilities of the Contractor.

2. Except as otherwise limited in this Agreement, Contractor may disclose PHI for the proper management and administration of the Contractor, provided that disclosures are required by law, or Contractor obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Contractor of any instances of which it is aware in which the confidentiality of the information has been breached.

3. Except as otherwise limited in this Agreement, Contractor may use PHI to provide Data Aggregation services to Hospital as permitted by 42 CFR 164.504(e)(2)(i)(B).

4. Contractor may use PHI to report violations of law to appropriate Federal and State authorities consistent with § 164.502(j)(1).

E. Obligations of Hospital.

1. Hospital shall notify Contractor of any limitations in its notice of privacy practices of Hospital in accordance with 45 CFR 164.520, to the extent that such limitation may affect Contractor’s use or disclosure of PHI.

2. Hospital shall notify Contractor of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Contractor's use or disclosure of PHI.

3. Hospital shall notify Contractor of any restriction to the use or disclosure of PHI that Hospital has agreed to in accordance with 45 CFR 164.522 to the extent that such restriction may affect Contractor’s use or disclosure of PHI.

4. Permissible Requests by Hospital. Hospital shall not request Contractor to use or disclose PHI in any manner that would not be permissible under
the Privacy Rule if done by Hospital, except in connection with Data Aggregation or management and administrative activities of Contractor otherwise permitted under this Agreement.

F. Security of Electronic Protected Health Information.

1. Security. Contractor will establish and maintain appropriate administrative, physical and technical safeguards that reasonably and appropriately protected the confidentiality, integrity and availability of electronic PHI. Contractor will follow generally accepted system security principles and the requirements of the final HIPAA rule pertaining to the security of health information (“the Security Rule,” published at 45 CFR Parts 160 – 164).

2. Agents and Subcontractors. Contractor will ensure that any agent, including a subcontractor, to whom it provides electronic PHI, agrees to implement reasonable and appropriate safeguards to protect that information.

3. Security Incidents. Contractor will report any security incident of which it becomes aware to the Hospital. For purposes of this agreement, a “security incident” means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations. This does not include trivial incidents that occur on a daily basis, such as scans, “pings”, or unsuccessful attempts to penetrate computer networks or servers maintained by Contractor.

G. Effect of Termination. The parties acknowledge that it is not feasible for Contractor to return or destroy all PHI upon termination because of Contractor’s responsibilities related to billing for Clinician services rendered at Hospital’s departments. Contractor shall extend the protections of this agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Contractor maintains such PHI. Except as permitted herein, Contractor shall return or destroy all PHI received from Hospital, or created or received by Contractor on behalf of Hospital. This provision shall apply to PHI that is in the possession of subcontractors or agents of Contractor. Contractor shall retain no copies of the PHI.

H. Miscellaneous.

1. Regulatory References. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.

2. Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Hospital to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191.

3. Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Hospital to comply with the Privacy Rule.

32. Prevailing Party. In the event either party resorts to legal action to enforce the terms and
provisions of this Agreement, the prevailing party shall be entitled to recover the fees, costs and expenses incurred, including, without limitation, reasonable attorneys' fees, costs and expenses, at pre-trial, trial and appellate levels.

33. Waiver of Jury Trial. EACH PARTY WAIVES ALL RIGHTS TO ANY TRIAL BY JURY IN ALL LITIGATION RELATING TO OR ARISING OUT OF THIS AGREEMENT.

IN WITNESS WHEREOF, Hospital and Contractor have executed this Agreement, in multiple counterparts, each of which shall be deemed an original, effective the day and year first above written.

CONTRACTOR

By: ________________________________

Name and Title: ________________________________

Date of Execution: ________________________________

SAN GORGONIO MEMORIAL HOSPITAL

By: ________________________________

Name and Title: ________________________________

Date of Execution: ________________________________
1. **Definitions.**
   
   **A. Emergency Neurologic Conditions.** The neurologic conditions that are deemed to be an emergency by the Hospital’s physicians (each an “Emergency Neurologic Condition”), defined as symptoms consistent with an acute ischemic stroke which would deem the patient a potential candidate for IV thrombolysis or neuro-interventional revascularization, including those who present within 6 hours of last known normal or 24 hours of last known normal and large vessel occlusion on CTA. These cases will generally take clinical priority over other neurologic consultations based on currently accepted clinical practice guidelines (“Stroke Conditions”). Neurologic symptoms (e.g., status epilepticus and other rapidly progressive neurologic conditions) (“General Emergency Neurologic Conditions”). Emergency TeleNeurology Services, detailed below, include coverage for Stroke Conditions and coverage for General Emergency Neurologic Conditions. Hospital may choose to receive Emergency Services for Stroke Conditions only, or for General Emergency Neurologic Conditions only or for both types of Emergency Neurologic Conditions.

   **B. Non-Emergent Neurologic Conditions.** The acute or chronic neurologic conditions that are deemed to be non-emergent by the Hospital’s physicians (each a “Non-Emergent Neurologic Condition”), includes, but are not limited to, the following: Headache; Stable seizures; Neurologic findings not characteristic of an acute ischemic stroke or other neurological emergency; Management of seizures including medication adjustments; Cognitive Neurology/Change in Mental Status; TIA/Stroke follow-up; Seizures/Syncope; Vertigo/Gait and Balance Issues; Movement; Disorders/Parkinson’s/Tremor Neuropathy/Neuromuscular Consultation; Myelopathy; Back pain or neck pain (differential diagnosis and management).

2. **Services to be Provided by Contractor.** Contractor shall provide the following services to Hospital:

   **A. Emergency TeleNeurology Services (“Emergency Services”).** Contractor’s Clinicians (“Clinicians”) will furnish health care services for Emergency Neurologic Conditions by means of medical information exchanged via electronic communications between Hospital treating physicians and Clinicians. Emergency Services include, without limitation, indirect physical examination, history taking, diagnostic protocols (paper and/or computer driven), imaging analysis and recommendations for prescribing/medications and other therapeutic interventions and/or diagnostic tests for any neurologic emergencies. Emergency Services also include, without limitation, videoconferencing and teleconferencing, including the discussions between the Clinician and the patient, the patient’s family members and/or adult(s) accompanying the patient regarding any neurologic emergency. Review of information may include, results, images, reports or records in synchronous (video chat/screen share) or asynchronous (file/document/video recording review). The transmission of still images and vital signs to provide Hospital’s physicians with assistance with diagnosis and therapy for specific patients with Emergency Neurologic Conditions is also a part of Emergency Services.
B. Non-Emergent TeleNeurology Services (“Non-Emergent Services”). Clinicians will furnish consultative health care services for Non-Emergent Neurologic Conditions by means of medical information exchanged via electronic communications between Receiving Facility treating physicians and Clinicians. Non-Emergent Services include, without limitation, indirect physical examination, history taking, diagnostic protocols (paper and/or computer driven), imaging analysis and recommendations for prescribing/medications and other therapeutic interventions and/or diagnostic tests for Non-Emergent Neurologic Conditions for consultative purposes only. Non-Emergent Services also include, without limitation, videoconferencing and teleconferencing, including the discussions between the Clinician and the patient, the patient’s family members and/or adult(s) accompanying the patient regarding any Non-Emergent Neurologic Condition. Review of information may include, results, images, reports or records in synchronous (video chat/screen share) or asynchronous (file/document/video recording review). The transmission of still images and vital signs to provide Hospital’s physicians with assistance with diagnosis and therapy for specific patients with Non-Emergent Neurologic Conditions is also a part of Non-Emergent Services.

3. Telehealth Neurology Coverage. Contractor shall arrange for Clinicians approved by Hospital to provide:

   i. **Emergency Teleneurology** Coverage: twenty-four (24) hours per day, seven (7) days per week, including holidays, a Clinician will be available by phone within five (5) minutes of being contacted by or on behalf of Hospital. Clinician will initiate video conference within fifteen (15) minutes of such contact for Emergency TeleNeurology Conditions as identified by mutual agreement of Hospital physician and Clinician.

   ii. **Non-Emergent Teleneurology** Coverage: on an as-needed basis, with at least 30 days’ notice from Facility regarding the need for coverage.

4. **Consult Attendant.** Hospital will provide an appropriate healthcare provider (physician, NP, PA, RN or other appropriately trained personnel) at the patient’s bedside to assist with the physical exam component of the Emergency Services.

5. **Patient Consent.** In accordance with the Telephone Consumer Protection Act, Hospital shall include a provision in its patient consent forms that authorizes Hospital and all Clinicians who have provided care to the patient, along with any billing services, collection agencies, attorneys, or other agents working on their behalf, to contact the patient on his or her cell phone and/or home phone using automatic telephone dialing systems, messaging systems or other computer assisted technology. Hospital will obtain and maintain all patient consents and authorizations required under applicable laws and Hospital policies for patients to receive Emergency Services. Hospital shall provide Contractor with a copy of such patient consent form including the abovementioned language.

6. **Service-Level Standards.**

   A. **Uptime Requirements.** Unless the parties agree in writing to a specific system outage in advance in each case or an outage occurs (for example, regional or internet outage) that is not caused by any act of Contractor and/or is out of Contractor’s control, Contractor will ensure that the Emergency
Services meet or exceed the following “uptime” requirements: Clinician will initiate Emergency Services as provided in this Telehealth Services Exhibit for at least 95% of Emergency Neurologic Condition consult requests. Contractor’s compliance with this uptime requirement will not be affected in the event that a Clinician is unable to establish a telephonic or Internet connection due to an equipment fault or failure that is immediately reported to the Hospital.

B. Reassignment Protocol. In the event that a Clinician assigned to provide Emergency Services becomes unavailable at any time after assignment or while providing Emergency Services due to a connectivity problem lasting longer than three (3) minutes in the aggregate that does not appear to Hospital to be hospital-related (“Provider Connectivity Problem”), Hospital may, at its option, notify Contractor of the Provider Connectivity Problem by telephone. Upon receiving notice of the Provider Connectivity Problem, Contractor will immediately attempt to resolve the Provider Connectivity Problem. If at any time Contractor does not believe in good faith that the Provider Connectivity Problem will be resolved in less than five (5) minutes after Division or Receiving Hospital notification, Contractor will at the direction of the Hospital attending physician reassign the consult to another Clinician or make the consult available via telephone without charge (if based upon a per consult fee arrangement). Contractor will provide rapid feedback to Hospital regarding the Provider Connectivity Problem and potential reassignment until the consult is resumed or abandoned.
1. **Contractor’s Billing for Services.** Hospital acknowledges the right of the Clinicians and Contractor, at their expense, to bill patients and/or their insurers for the services rendered by Clinicians pursuant to this Agreement. The Hospital shall not have any right to any such fees billed and collected for the services rendered by Clinicians.

2. **Hospital’s Billing for Services.** Contractor acknowledges the right of Hospital, at Hospital’s expense, to bill patients and/or their insurers for the use of facilities, personnel, equipment, supplies and support services provided by Hospital. Neither Contractor nor the Clinicians shall have any right to any such fees billed and collected for the use of facilities, personnel, equipment, supplies and support services provided by Hospital.

3. **Administrative Fee.**
   a. **Emergency Services (24 hours/day).** In recognition that the payments reasonably contemplated to be received pursuant to Section 1 of this Exhibit B are insufficient to enable Contractor and the Clinicians to ensure the provision of Services of the quality and nature sought by Hospital, Hospital agrees to pay a monthly fee (“Administrative Fee”) in an amount equal to FIVE THOUSAND DOLLARS ($5,000.00) payable on or before the 15th day of each month following the month in which Telemedicine Services were performed, without any further invoicing required by Contractor; and

   b. in addition, Hospital shall pay to Contractor a flat fee of TWO HUNDRED DOLLARS ($200.00) per non-acute teleneurology consultation or other Non-Emergent Services, as requested from time to time. Contractor shall provide an invoice for Non-Emergent Telehealth Services provided in the prior month, and Hospital shall pay Contractor within thirty (30) days of receipt of invoice.

4. **Annual Review.** Upon expiration of the initial twelve (12) months of the Term and every twelve (12) months thereafter, the Parties shall (i) negotiate in good faith the Administrative Fee formula necessary to maintain compensation under this Agreement at fair market value. The annual billable patient volume from the previous year shall be used as the baseline for calculating the Administrative Fee. Contractor agrees to provide Hospital with appropriate documentation necessary to confirm all of the actual costs and actual collection rate affecting the calculation and re-negotiation of the Administrative Fee. In the event the Parties are unable to agree within thirty (30) days upon the amount of the Administrative Fee for the ensuing twelve (12) months, either Party shall be entitled to terminate this Agreement upon no less than ninety (90) days’ prior written notice.

5. **Clinician Orientation Compensation.** Hospital agrees to reimburse Contractor for expenses incurred as a result of Hospital-required Clinician orientation at Hospital and for training on Hospital-specific policies and systems. Contractor will invoice Hospital for such expenses.
TAB C