



**Public Hospital District No. 4, King County  
Board of Commissioners  
Regular Meeting AGENDA  
Thursday, November 12, 2020 - 6:30pm  
Dial-In: 1.800.434.5932 / Participant Code: 98477739#**

**CALL TO ORDER / ROLL CALL / APPROVAL OF AGENDA**

**COMMUNICATIONS**

Emma Herron, President  
Kim Witkop, M.D., Superintendent Report  
Skip Houser, General Counsel

**CONSENT AGENDA**

1. Approval of Minutes:
  - a. Affiliation Work Study – October 8, 2020
  - b. Regular Meeting – October 8, 2020
  - c. Special Meeting – October 22, 2020
  - d. Education Work Study – October 28, 2020
  - e. Special 2021 Public Budget Hearing – November 6, 2020

**AUTHORIZATION – Action:** Verbal authorization from President Herron and Secretary Hauglie for CEO to sign minutes and Physician Credentialing on their behalf.

**COMMITTEE REPORTS – Action Requested as noted**

1. Finance Committee
  - a. Approval of warrants, payroll and payroll taxes – October 2020 – **Action**
  - b. **Authorization - Action:** Verbal authorization from Secretary Hauglie for Treasurer to sign on their behalf.
2. Medical Committee
3. Facilities Committee
4. Ad Hoc Bylaws Committee (pending to December)

**OLD BUSINESS –**

None.

**NEW BUSINESS –**

1. Resolution No. 669-1120 – Approving the Overlake Medical Center Electronic Health Record System Access Agreement
2. Resolution No. 670-1120 – Approving the Overlake Medical Center Emergency Department Management Services Agreement
3. Resolution No. 671-1120 – Approving the Appointment and Compensation of Interim Superintendent and Chief Executive Officer Renee K. Jensen

**PUBLIC COMMENT – (Please limit comments to 3 minutes)**

**ACTION ITEMS – VOTE**

1. Resolution No. 669-1120 – Approving the Overlake Medical Center Electronic Health Record System Access Agreement
2. Resolution No. 670-1120 – Approving the Overlake Medical Center Emergency Department Management Services Agreement
3. Resolution No. 671-1120 – Approving the Appointment and Compensation of Interim Superintendent and Chief Executive Officer Renee K. Jensen

**GOOD OF THE ORDER/COMMISSIONER COMMENT (Limited to 3 minutes)****NEXT SCHEDULED MEETINGS (location TBD):**

**Education Work / Study** – ~~Wednesday, November 25, 6:30pm-8pm~~ (cancelled due to Thanksgiving)

**Education Work / Study** – Thursday, December 10, 2020, 4:30pm-6:00pm (rescheduled from Nov. 25)

**Monthly Business Meeting** – Thursday, December 10, 2020, 6:30pm

**Education Work / Study** – Wednesday, December 23, 2020 6:30-8pm

**ADJOURNMENT**



*Public Hospital District No. 4, King County*  
*www.snoqualmiehospital.org*

***Snoqualmie Valley  
Hospital***

9801 Frontier Ave. SE  
Snoqualmie, WA 98065  
425.831.2300

***Snoqualmie Valley  
Hospital Clinic  
(Specialty & Primary Care)***

9801 Frontier Ave. SE  
Snoqualmie, WA 98065  
425.831.2313

***Snoqualmie Hospital  
Rehabilitation Clinic***

9801 Frontier Ave. SE  
Snoqualmie, WA 98065  
425.831.2376

***Snoqualmie Ridge  
Medical Clinic***

35020 SE Kinsey Street  
Snoqualmie, WA 98065  
425.396.7682

**CEO/Superintendent's Report**

To: Snoqualmie Valley Hospital Board of Commissioners

Date: November 12, 2020

If all resolutions on tonight's agenda pass I want to acknowledge this will represent my final CEO/Superintendent's report to you and the transition to a new CEO/Superintendent will be well under way at your next meeting.

Yesterday we paused to honor those in the armed services who have served and continue to serve protecting our freedoms. As a former military spouse I have been witness to the sacrifices made not only by the service members but also by their families. As the mother of a West Point cadet I wish their sacrifices were never to be needed; honor is due to them all. We will next turn our focus to the Thanksgiving holiday as a time to give pause and appreciate our abundance. Tonight I take the moment given to me on the agenda to pause and express my appreciation for the opportunity to serve in the lead executive role for the past 24 months. It has truly been my great honor to participate in what we will one day look back on as a critical turning point around uniquely great disruptions. As many great leaders have expressed in much more eloquent ways, the opportunities presented in disruption are rich and for the bold. Three of our five core values--Innovation, Quality, and Collaboration--are most readily on display in our response to the current disruptions.

Tonight's agenda includes two milestone opportunities for you to move us forward in our plan to preserve excellent healthcare in this community which has supported local healthcare for the last one hundred years. In 2015 the strategy of Affiliation was introduced into our plan and we are now finally at the entryway, though with plenty of pathway still ahead of us to navigate to a full and final fulfillment of that original plan.

I want to take further advantage of our pause to remind you of your leadership accomplishments in recent years. Not only were you bold enough to build a replacement hospital but you have invested in development of yourselves as a Board, stewarded us to our first positive operational bottom line, charted a course to this first phase of affiliation, and of great applause in this particular moment is despite being in the throes of a global pandemic we have thrived and grown while providing safe and exceptional patient care and also cared for and kept our staff safe. We are positioned for further growth in 2021 because you were willing to make thoughtful investments and once again were bold enough to harness the opportunities of disruption; the incoming CEO will have the advantage of joining onto an established momentum positioning her to take us to next levels quickly. I look forward to working alongside her and under her leadership.

I wish each of you and your family continued personal safety and peace despite these tumultuous times. Remember to wear your mask, wash your hands, maintain your distance from others, and keep your loved ones close to your heart.

Respectfully submitted,  
~Kim Witkop, MD  
Interim CEO



**DRAFT**

**PUBLIC HOSPITAL DISTRICT NO. 4, KING COUNTY**

**Board of Commissioners**

**October 8, 2020**

**MINUTES**

**AFFILIATION WORK/STUDY**

**4:30 p.m.**

**VIA Teleconference**

**COMMISSIONERS PRESENT:**

Emma Herron, President  
Dariel Norris, Vice President  
Kevin Hauglie, Secretary  
David Speikers, Commissioner  
Jen Carter, Commissioner

**ALSO PRESENT:**

Kim Witkop, M.D., Interim Superintendent/CEO/CMO  
Karyn Denton, COO/CNO  
Patrick Ritter, Chief Financial Officer  
Skip Houser, General Counsel  
Sandra Stanger, Clerk

This meeting was held via teleconference pursuant to Proclamation 20-28 issued by Governor Inslee regarding the Open Public Meeting Act and Public Records Act. The dial-in information was posted prior to the meeting.

The purpose of this meeting was to provide an update on affiliation.

**CALL TO ORDER:** The meeting was called to order by President Herron at 4:30pm followed by roll call.

**TOPICS OF DISCUSSION:** Dr. Witkop presented an update on the affiliation with OHMC.

1. Epic Use Agreement

- Commissioner Speikers asked what is being done to prevent stress and compensate employees for the extra time needed to train on Epic. Commissioner Norris inquired if we have funding for additional staff to implement Epic. Dr. Witkop explained that OHMC is being accommodating to match our needs. Our staff will have a full day of Epic training.



Many of the staff have worked in other locations with Epic and already have a familiarity with how it works. The Epic transition won't require any upstaffing and shouldn't consume a significant amount of time.

- Dr. Witkop stated quality metrics will be in place ahead of time and it's also important to have the two month lead time going into the go-live. Will need to do a lot of communication and engagement necessary so transition goes smoothly.
- Commissioner Norris questioned the plan to reach out to the community to make them feel comfortable coming to our facility once we are affiliated with OHMC. Dr. Witkop replied that it will be part of the marketing plan included in the management services agreement.
- Commissioner Herron asked about patient information confidentiality. Dr. Witkop said according to the associate business agreement, OHMC is bound to protect information. Confidentiality language is clearly embedded in the business agreement.
- Commissioner Hauglie asked about the anticipated cost pertaining to training and if we have a budget for the extra training. Dr. Witkop said training is not included in the budget, but the anticipation is that each staff member will take around 2-6 hours of training.
- Commissioner Hauglie inquired whether we have spoken to our insurance carrier about this process and how it might affect our current coverage and our exposure. Patrick will inquire with OHMC to see if we have the same carrier and, if so, bring them up to speed.

## 2. Management Services Agreement

- The goal is to have the Epic Use Agreement and Management Services Agreement signed at the November 12th regular board meeting. Review of the agreements will be added to the November 6th special meeting.

Women's Health Clinic: In progress.

Next steps: CEO contract discussions.

- Discussion ensued regarding a separate contract for incentive pay. The Board agreed that there should only be one contract and not a separate contract for incentive pay.
- General Counsel Houser explained that the contract cannot have an effective date until the resolution has passed at the next regular board meeting of November 12th. Date of employment cannot begin until after the resolution is passed by the Board of Commissioners. The position appointment and salary can be set in the same meeting.
- Commissioners Speikers and Hauglie would like Ms. Jensen to have substantial input to the 2021 budget.
- Dr. Witkop inquired about the best way to engage Ms. Jensen prior to the budget process before November 12th. General Counsel Houser suggested the Board work with Dr. Witkop to fast-track the process, or hold a special meeting to iron out the contract.

- Patrick Ritter mentioned that the preliminary budget will be presented at the October 27th Finance Committee meeting. General Counsel Houser mentioned the Finance Committee can invite Ms. Jensen to the meeting whether or not a contract is in place simply as a community member. Commissioner Carter suggested to have the Board agree to work toward having a contract in place before then. Commissioner Speikers agreed.

**PUBLIC COMMENT:** None.

Minutes of this meeting, once approved, will be available on the District's website at [www.snoqualmiehospital.org](http://www.snoqualmiehospital.org) under the Governance page. Copies of any presentations and/or documents that are not work product are available upon request by contacting Administration at 425.831.2362.

**UPCOMING MEETINGS:**

**Work Study:** Wednesday, October 28, 2020, 6:30pm-8:00pm (via teleconference)

**Special 2021 Budget Meeting:** November 6, 2020, 4:30pm-6:00pm (via teleconference)

**Affiliation Work Study:** Thursday, November 12, 2020, 4:30pm-6:00pm (location TBD)

**Regular Meeting:** Thursday, November 12, 2020, 6:30pm (location TBD)

The meeting adjourned at 6:00pm.

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Emma Herron, President

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Dariel Norris, Vice President

**DRAFT**



**PUBLIC HOSPITAL DISTRICT NO. 4, KING COUNTY**

**Board of Commissioners**

**October 8, 2020, 6:30 pm**

**MINUTES**

**Snoqualmie Valley Hospital**

**VIA Teleconference**

**PRESENT:**

Emma Herron, President  
Dariel Norris, Vice President  
Kevin Hauglie, Secretary  
David Speikers, Commissioner  
Jen Carter, Commissioner

**ALSO PRESENT:**

Kim Witkop, M.D., Interim Superintendent/CEO, CMO  
Karyn Denton, COO/CNO  
Patrick Ritter, CFO  
Charles (Skip) Houser, General Counsel  
Sandra Stanger, Clerk

**CALL TO ORDER:** The meeting was called to order by Pres. Herron at 6:30pm, followed by roll call. This meeting was held via teleconference pursuant to Proclamation 20-28 issued by Washington State Governor Inslee. The information to attend the meeting telephonically was posted prior to the meeting.

**APPROVAL OF AGENDA**

President Herron called for a motion to revise the agenda to delete the New Business section due to lack of exchange of information. Item is deferred to the Special 2021 Budget Meeting on November 6, 2020.

**A motion was made and seconded to approve the revised agenda. M/Norris S/Speikers**

**The motion passed by unanimous vote.**

## COMMUNICATIONS:

Dr. Witkop reported:

- A Xenon light source has been purchased for removing coronavirus and other bacteria from patient's rooms. Following a traditional cleaning, the room is sealed and the light will disinfect the room.
- COVID-19 numbers continue to be robust. There was a recent outbreak at Salish Lodge. The King County Health Department was impressed with our processes and the availability we have for COVID testing in general, along with our offering of flu shots.
- We are in process of putting together a solution for clinic space during the winter months for those who have respiratory illnesses.
- Kudos to CFO Patrick Ritter, COO Karyn Denton and Finance Director Jim Baldauf who are deeply involved in doing the budget work.

General Counsel Houser reported:

- The Governor has obtained approval from legislative leaders to extend many proclamations to include OPMA and the Public Records Act through November 7th.
- A brief summary of how the process works: The Governor can enact emergency orders but cannot change statutory provision unless it goes beyond 30 days; that is why it is changed every 30 days. In Phase 3, a meeting can be held with up to 10 members, not of the same household, with social distancing requirements and wearing face masks. King County is currently in Phase 2.

## CONSENT AGENDA

**A motion was made and seconded to approve the consent agenda as proposed, which includes approval of minutes and physician credentialing. M/Norris S/Carter**

**There was no further discussion and the motion unanimously passed.**

**AUTHORIZATION – Action:** Verbal authorization from President Herron and Secretary Hauglie for Dr. Kim Witkop to sign minutes and Physician Credentialing on their behalf.

## COMMITTEE REPORTS

**1. Finance Committee Report - Approval of warrants, payroll and payroll taxes – August 1 thru August 30, 2020.** Written minutes from the September 29, 2020 meeting for the August 2020 finances were provided as part of the board packet and reported by Commissioner Speikers, Committee Chair. Both Commissioners Speikers and Herron attended the meeting via teleconference. The committee is scheduled to next meet on October 27, 2020 to review September 2020 finances.

**1(a). Approval of Warrants, Payroll and Payroll taxes – August 2020.**

**A motion was made and seconded to approve total disbursements that includes payroll warrants, hospital and clinic payroll, auto deposits, hospital and clinic payroll taxes, retirement and matching plans, as well as all accounts payable warrants in the total amount of \$2,714,837.25 for August 1 thru August 30, 2020, as recommended by the Finance Committee. M/Speikers S/Herron**

**The motion carried by unanimous vote.**

**1(b). Authorization – Action: Verbal authorization from Secretary for Treasurer to sign on their behalf.**

**2. Medical Committee Report.** Written minutes from the October 6, 2020 meeting were provided as part of the board packet and reported by Commissioner Norris, Committee Chair. Both Commissioners Norris and Herron attended the meeting via teleconference. The committee is scheduled to next meet on November 3, 2020.

**3. Facilities Committee Report.** Written minutes from the September 21, 2020 meeting were provided as part of the board packet and reported by Commissioner Hauglie, Committee Chair. Both Commissioners Hauglie and Carter attended the meeting via teleconference. The committee is scheduled to next meet on October 26, 2020.

**4. Ad Hoc Bylaws Committee Report.** No report at this time as there has been no activity.

**NOTE:** Any documents presented at this meeting are available upon request. Minutes are posted on the District Website at [www.snoqualmiehospital.org](http://www.snoqualmiehospital.org) under the Governance Page. For questions or further information, please contact Administration at 425.831.2362 or email [sandras@snoqualmiehospital.org](mailto:sandras@snoqualmiehospital.org).

**OLD BUSINESS:** LTGO Refinance

**~~NEW BUSINESS:~~** ~~CEO Contract and Salary~~

**PUBLIC COMMENT:** None.

**ACTION ITEMS – VOTE**

- 1. Commissioner Speikers made a motion adopting Resolution No. 666-1020 relating to contracting indebtedness; providing for the issuance, sale and delivery not to exceed \$16,800,000 aggregate principal amount of limited tax general obligation refunding bonds not to exceed 4.5% interest rate. Secretary Hauglie seconded the motion.**

**The motion carried by unanimous vote.**

**GOOD OF THE ORDER/COMMISSIONER COMMENT:** Comments made by commissioners can be heard on the audio of this meeting posted on the District website.

**UPCOMING PUBLIC MEETINGS:**

**Education Work / Study** – Wednesday, October 28, 2020, 6:30pm-8pm (via teleconference)

**Special 2021 Budget Meeting** – Friday, November 6, 2020, 4:30pm-6:00pm (via teleconference)

**Affiliation Work / Study** – Thursday, November 12, 2020, 4:30pm-6:00pm (location TBD)

**Monthly Business Meeting** – Thursday, November 12, 2020, 6:30pm (location TBD)

There being no further business the meeting was adjourned at 7:45pm.

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Emma Herron, President

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Daniel Norris, Vice President

**DRAFT**



**PUBLIC HOSPITAL DISTRICT NO. 4, KING COUNTY**

**Board of Commissioners**

**SPECIAL MEETING**

**October 22, 2020, 4:30 pm**

**MINUTES**

**Snoqualmie Valley Hospital**

**VIA Teleconference**

**PRESENT:**

Emma Herron, President  
Dariel Norris, Vice President  
Kevin Hauglie, Secretary  
David Speikers, Commissioner  
Jen Carter, Commissioner

**ALSO PRESENT:**

Kim Witkop, M.D., Interim Superintendent/CEO, CMO  
Charles (Skip) Houser, General Counsel  
Sandra Stanger, Clerk

**CALL TO ORDER:** The meeting was called to order by Pres. Herron at 4:30pm, followed by roll call. This meeting was held via teleconference pursuant to Proclamation 20-28 issued by Washington State Governor Inslee. The information to attend the meeting telephonically was posted prior to the meeting.

**APPROVAL OF AGENDA**

**A motion was made and seconded to approve the agenda. M/Norris S/Hauglie**

**The motion passed by unanimous vote.**

**EXECUTIVE SESSION:** Pursuant to RCW 42.30.110(g) to evaluate the qualifications of an applicant for public employment.

**RECONVENED** at 6:20pm.

**PUBLIC COMMENT: (Please limit comments to 3 minutes)**

**ACTION ITEM:** Decision Re: CEO Contract Next Step

President Herron made a motion to continue the discussion to the next regular board meeting on Nov. 12th. The motion was not seconded.

Commissioner Speikers made a motion to respond to Renee Jensen's counter-offer to the contract: 1. Increase incentive bonus 5% for meeting financial metrics; 2. Extend severance for termination without cause to include benefits and full salary for 90 days from 60; 3. Allow the language in section 3 to acknowledge Ms. Jensen's ownership and active participation in her consulting firm. Change the word "will" to "shall"; 4. Exhibit C, no additional benefits beyond those currently extended to an executive.

**M/Speikers S/Carter**

**The motion passed by unanimous vote.**

**UPCOMING PUBLIC MEETINGS:**

**Education Work / Study** – Wednesday, Oct. 28, 2020, 6:30pm-8pm (via teleconference)

**Special 2021 Budget Presentation Meeting** – Friday, Nov. 6, 2020, 4:30pm-6:00pm (via teleconference)

**Affiliation Work / Study** – Thursday, Nov. 12, 2020, 4:30pm-6:00pm (location TBD)

**Monthly Business Meeting & Budget Public Hearing**– Thursday, Nov. 12, 2020, 6:30pm (location TBD)

There being no further business the meeting was adjourned at 6:35pm.

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Emma Herron, President

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Daniel Norris, Vice President





**DRAFT**

**PUBLIC HOSPITAL DISTRICT NO. 4, KING COUNTY**  
**Board of Commissioners**  
**October 28, 2020**  
**MINUTES**  
**WORK/STUDY**  
**6:30pm-8:00pm**  
**Via Teleconference**

**PRESENT:**

Emma Herron, President  
Dariel Norris, Vice President  
Kevin Hauglie, Secretary  
David Speikers, Commissioner  
Jen Carter, Commissioner

**ALSO PRESENT:**

Kim Witkop, M.D., Interim Superintendent/CEO, CMO  
Karyn Denton, COO/CNO  
Patrick Ritter, CFO  
Charles (Skip) Houser, General Counsel  
Sandra Stanger, Clerk

**CALL TO ORDER:** The meeting was called to order by Pres. Herron at 6:30pm followed by roll call. This meeting was held via conference call only pursuant to Proclamation 20-28 issued by Washington State Governor Inslee. All parties listed above were on the call. For public attendance the call-in number was provided on a posted Public Meeting Notice.

**APPROVAL OF AGENDA:**

**A motion was made and seconded to approve the agenda as written.** M/Hauglie S/Speikers

The motion unanimously passed.

**TOPIC OF DISCUSSION:** 2021 Budget Overview

Commissioner Speikers requested the CFO rerun the budget with May-September 2020 annualized numbers instead of 2019.

**PUBLIC COMMENT:** None.

Minutes of this meeting, once approved, are available on the District's website at [www.snoqualmiehospital.org](http://www.snoqualmiehospital.org) under the Governance page. Copies of any presentations and/or documents are available upon request by contacting Administration at 425.831.2362.

**UPCOMING PUBLIC MEETINGS:**

**Special 2021 Budget Meeting** – Friday, November 6, 2020, 4:30pm (via teleconference)

**Affiliation Work / Study** – Thursday, November 12, 2020, 4:30pm-6:00pm (location TBD)

**Monthly Business Meeting** – Thursday, November 12, 2020, 6:30pm (location TBD)

**Education Work / Study** – Wednesday, November 25, 6:30pm-8pm (location TBD)

The meeting adjourned at 7:30pm.

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Emma Herron, President

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Kevin Hauglie, Secretary

**DRAFT**



**PUBLIC HOSPITAL DISTRICT NO. 4, KING COUNTY**  
**Board of Commissioners**  
**PUBLIC BUDGET HEARING**  
**November 6, 2020, 4:30 pm**  
**MINUTES**  
**Snoqualmie Valley Hospital**  
**VIA Teleconference**

**PRESENT:**

Emma Herron, President  
Dariel Norris, Vice President  
Kevin Hauglie, Secretary  
David Speikers, Commissioner  
Jen Carter, Commissioner

**ALSO PRESENT:**

Kim Witkop, M.D., Interim Superintendent/CEO, CMO  
Karyn Denton, COO  
Patrick Ritter, CFO  
Charles (Skip) Houser, General Counsel  
Sandra Stanger, Clerk

**CALL TO ORDER:** The meeting was called to order by Pres. Herron at 4:30pm, followed by roll call. This meeting was held via teleconference pursuant to Proclamation 20-28 issued by Washington State Governor Inslee. The information to attend the meeting telephonically was posted prior to the meeting.

**APPROVAL OF AGENDA**

**A motion was made and seconded to approve the agenda.** M/Norris S/Speikers

**The motion passed by unanimous vote.**

**NEW BUSINESS:**

1. Presentation of District Budget for calendar year 2021

**OPENED PUBLIC HEARING FOR PUBLIC COMMENT: No public comment given. Public hearing closed at 5:25pm.**

**EXECUTIVE SESSION:** Pursuant to RCW 42.30.110(g) to evaluate the qualifications of an applicant for public employment.

**RECONVENED** at 6:15pm.

**NEW BUSINESS ACTION ITEMS:**

1. Resolution 667-1120 - Approving and Adopting District Budget and Tax Levy for Calendar Year 2021 and Approving the Limit Factor for the District's Regular Property Tax Levy in Calendar Year 2021  
**M/Speikers S/Hauglie**  
**The motion passed by unanimous vote.**
2. Resolution 668-1120 - Approving and Adopting Rate Amount of Increase in Regular Levy for 2021  
**M/Speikers S/Carter**  
**The motion passed by unanimous vote.**
3. Decision Re: CEO Contract Next Step  
**Commissioner Speikers made a motion to make a final counteroffer to Renee Jensen for CEO position. The terms of the counteroffer are as follows:**
  1. \$265,000 base salary;
  2. 6 weeks paid time off;
  3. 10 months severance if we reorganize or affiliate with a new organization;
  4. 3 months severance after 6 months employment if terminated at-will or without cause; 6 months severance after one year employment if terminated without cause;
  5. 5% bonus for meeting the quality measures as defined in the original offer; and
  6. No family medical benefits**Commissioner Hauglie seconded the motion.**

**Commissioner Herron made a motion that the contract counteroffer has to be received by the next regular board meeting of November 12, 2020 with an affirmative response from Renee Jensen or the offer will be withdrawn. The motion was seconded by Commissioner Speikers. Commissioner Carter made a point of order for discussion, and asked whether the six day time frame before the next regular board meeting is enough time for Renee Jensen to respond to the counteroffer. It was agreed that six days is more than fair and enough time to for a response from the candidate.**

**The motion passed by unanimous vote.**

**UPCOMING PUBLIC MEETINGS:** (Location TBD)

**Affiliation Work / Study** – Thursday, November 12, 2020, 4:30pm-6:00pm

**Monthly Business Meeting & Budget Public Hearing** – Thursday, November 12, 2020, 6:30pm

**Education Work / Study** – Wednesday, November 25, 6:30pm-8pm

There being no further business the meeting was adjourned at 6:40pm.

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Emma Herron, President

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Daniel Norris, Vice President



**Public Hospital District No. 4, King County  
Finance Committee Minutes  
October 27, 2020  
Snoqualmie Valley Hospital  
Via Teleconference**

**Present:**

David Speikers, Commissioner, Chair  
Emma Herron, Commissioner  
Patrick Ritter, CFO  
Kim Witkop, MD, Interim CEO/CMO  
Karyn Denton, COO/CNO  
Jim Baldauf, Director of Finance

**2011 LTGO Bond Final Draft**

Financing statistics reviewed:

All-Inclusive Cost 4.05%

Average Life 15.95

NPV Savings \$4,287,955

NPV Savings 27.92%

**September 2020 Finances:**

**Stats:**

- Average Daily Census is up 2% YTD
- ER down 18%
- Lab up 116%
- Imaging down 7%
- Clinics down 9%
- Outpatient Rehab down 20%
- Total patient days below budget at 635; admissions for September total 30
- Outpatient increases over August include:
  - 46 more Rehab procedures
  - 23 more Ridge Clinic Visits

**Income Statement:****Revenue:**

- Net Position Loss of \$28,000, YTD Income of \$277,000
  - Inpatient/Swing Down to 20.8
  - ER , Imaging, Rehab, had less visits than August
- \$536,000 COVID Stimulus funds applied 6,000,000 in reserve.

**Expenses:**

- Salaries 4% under budget for September, 4% under YTD
- Additions
  - Pro Fees are above budget COVID and Agency Related
    - Large PRO fee bill came in for Agency fees April-September
  - Purchased Services
    - Lab Revenues
    - COVID related expenses

**Balance Sheet:**

- Assets
  - Cash increase by ~\$500,000
    - AR decrease
- Liabilities
  - Short Term Liabilities Decrease
    - Used Stimulus

**Cash Flow:**

- Cash increase by ~\$500,000
  - AR decrease
  - Accrued Payables

**AR Days:**

- September AR days down about 2 days.

**Bond Covenants: (Snapshot forecast)**

- Debt Coverage 1.86 requirement 1.20
- Reserve Requirement is at \$3,675,188 as required
- Days cash is 151 bond requirement is 60

**PAYOR Mix:**

	<b>September</b>	<b>YTD 2020</b>	<b>Budget</b>
Medicare	77%	70%	73%
Medicare HMO	17%	17%	14%
TriWest / L&I	0%	1%	1%
Commercial	0%	6%	6%
Medicaid	5%	6%	5%
Self-Pay	1%	1%	1%

### **2021 Budget Overview**

Average increase of expenses across the board: 10% increase including salary.

Commissioner Speikers suggested allocating approximately \$100,000 for a new CEO search, and increasing CEO salary. First opportunity for incentive payout is 2022.

Commissioner Herron asked for itemization of legal fees. Commissioner Speikers would like to include revenues and expenses for SML and Sleep, as well as the associated deductions for PSP and MSA. Include a comparison display of 2021 pro fees and purchased services expenses to 2020 actuals.

Commissioner Speikers asked for a 2021 P&L to 2020 P&L comparison display.

Commissioner Herron would like to set aside funds for Population Health.

**Retention Bonus for Existing Employees:** Employees would be eligible for ~2% of annual salary as retention bonus if employed from April-September 30<sup>th</sup> and continue employment through December.

**NEXT MEETING:** Tuesday, November 24, 2020 – 11:30am-1:00pm – Location TBD

Approved: October 27, 2020

## **PUBLIC HOSPITAL DISTRICT NO. 4, KING COUNTY**

Snoqualmie Valley Hospital

9801 Frontier Ave. S.E. Snoqualmie, WA 98065

Phone: 425-831-2300, FAX: 425-831-1994

### **Cash Disbursements for the period September 1 to September 30, 2020**

#### **Northwest Bank Accounts Payable Warrants**

\$1,538,679.86	Accounts Payable Warrants
	Warrants #73681 to #73925
<u>\$1,538,679.86</u>	

#### **Northwest Bank Payroll Warrants & EFT**

\$3,989.07	Payroll Warrants #14037 to #14039
1,054,938.65	Hospital & Clinic Payroll Auto Deposits
352,756.81	Hospital & Clinic Payroll Tax
83,861.94	Hospital & Clinic Retirement 457, 403B, & 403B Match Plans
<u>\$1,495,546.47</u>	

#### **GRAND TOTAL**

<u>\$3,034,226.33</u>
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I hereby certify that the described supplies have been received or services rendered in behalf of Public Hospital District No. 4 of King County.

\_\_\_\_\_  
Kim Witkop, M.D., Interim District Superintendent

\_\_\_\_\_  
Kevin Hauglie, Commissioner, Secretary

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein, and that the claim is a just, due and paid obligation against Public Hospital District #4, King County and that I am authorized to authenticate and certify to said claim.

\_\_\_\_\_  
Carolyn Marks, Assistant Director Finance

I:\Carrie\Board Report & Monthly Reports\BOARD-Cash Disbursements\BOARD-Cash disbursements 2020.xls\Sep20



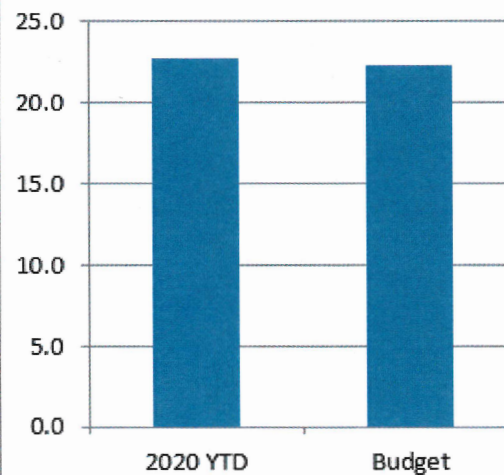
# Snoqualmie Valley Hospital Statistics Summary Display



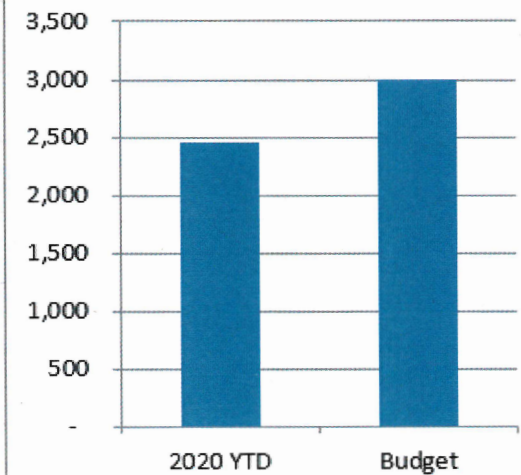
## September YTD Statistics Summary

	2020 YTD	Budget	Var	%Var
Ave Daily Census	22.8	22.3	0.5	2.2%
Emergency	2,450	2,994	(544)	-18.2%
Laboratory	71,933	33,322	38,611	115.9%
Imaging	3,032	3,247	(215)	-6.6%
Clinics	12,487	13,754	(1,267)	-9.2%
OP Rehab	5,795	7,282	(1,487)	-20.4%

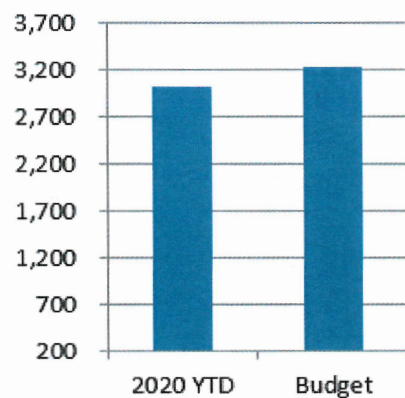
Ave Daily Census



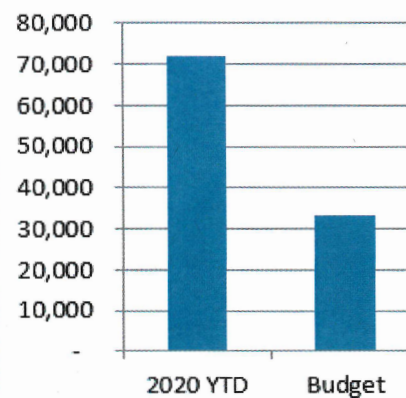
Emergency



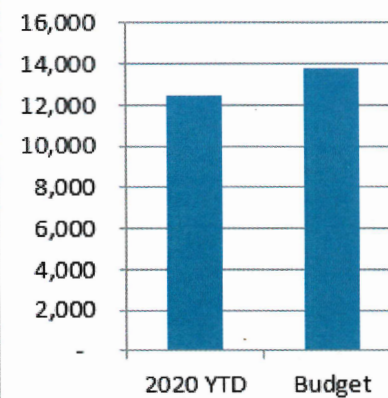
Imaging



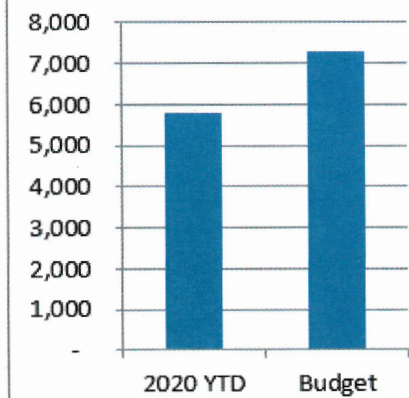
Laboratory



Clinics



OP Rehab



KING COUNTY HOSPITAL DISTRICT # 4  
HOSPITAL & CLINICS COMBINED  
STATEMENT OF OPERATIONS  
ACTUAL vs BUDGET  
SEPTEMBER 2020

CURRENT MONTH					YEAR TO DATE			
ACTUAL	BUDGET	VARIANCE	% VARIANCE		ACTUAL	BUDGET	VARIANCE	% VARIANCE
\$ 2,975,144	\$ 3,080,831	\$ (105,687)	-3%	NET PATIENT SERVICE REVENUE	\$ 26,209,074	\$ 28,156,590	\$ (1,947,516)	-7%
49,272	50,770	(1,498)	-3%	TAXATION FOR OPERATIONS	457,466	462,000	(4,534)	-1%
51,716	33,155	18,561	56%	OTHER	498,068	300,813	197,255	66%
3,076,132	3,164,756	(88,624)	-3%	TOTAL OPERATING REVENUE	27,164,608	28,919,403	(1,754,795)	-6%
				OPERATING EXPENSES				
1,564,701	1,623,577	58,876	4%	SALARIES	14,026,280	14,612,631	586,351	4%
354,232	362,571	8,339	2%	EMPLOYEE BENEFITS	3,216,084	3,263,224	47,140	1%
463,694	56,856	(406,838)	-716%	PROFESSIONAL FEES	1,706,614	513,080	(1,193,534)	-233%
241,719	241,714	(5)	0%	SUPPLIES	2,228,135	2,175,426	(52,709)	-2%
17,723	15,618	(2,105)	-13%	REPAIRS AND MAINTENANCE	180,002	140,562	(39,440)	-28%
46,827	36,220	(10,607)	-29%	UTILITIES	355,589	325,980	(29,609)	-9%
330,442	209,692	(120,750)	-58%	PURCHASED SERVICES	2,781,509	1,882,428	(899,081)	-48%
14,316	10,431	(3,885)	-37%	INSURANCE	130,937	93,879	(37,058)	-39%
79,247	62,898	(16,349)	-26%	LEASE AND RENTALS	602,618	566,082	(36,536)	-6%
324,030	356,990	32,960	9%	DEPRECIATION	2,999,845	3,212,910	213,065	7%
15,312	43,491	28,179	65%	OTHER	364,729	399,344	34,615	9%
3,452,243	3,020,058	(432,185)	-14%	TOTAL OPERATING EXPENSES	28,592,339	27,185,546	(1,406,793)	-5%
(376,111)	144,698	(520,809)	-360%	OPERATING INCOME	(1,427,732)	1,733,857	(3,161,589)	-182%
8,708	13,587	(4,879)	-36%	INVESTMENT INCOME, NET OF AMOUNT CAPITALIZE	96,702	123,642	(26,940)	-22%
279,799	276,502	3,297	1%	TAXATION FOR BOND PRINCIPAL & INTEREST	2,540,653	2,516,170	24,483	1%
(469,222)	(464,772)	(4,450)	-1%	INTEREST EXPENSE, NET OF AMOUNT CAPITALIZED	(4,221,724)	(4,184,043)	(37,681)	-1%
(9,096)	(9,096)	(0)	0%	BOND ISSUANCE AND FINANCING COSTS	(81,868)	(81,864)	(4)	0%
536,645	-	-	-	NON OPERATING REV - STIMULUS	3,300,459	-	-	-
446	10,249	(9,803)	-96%	OTHER NET	70,519	93,263	(22,744)	-24%
347,279	(173,530)	(15,836)	-9%	NON OPERATING, NET	1,704,741	(1,532,832)	(62,886)	-4%
(28,832)	(28,832)	0	0%	CHANGE IN NET POSITION	277,009	201,025	75,984	38%
-	-	-	-	NET POSITION BEGINNING OF YEAR	-	-	-	-
\$ (28,832)	\$ (28,832)	\$ 0	0%	NET POSITION	\$ 277,009	\$ 201,025	\$ 75,984	38%



10/29/20

BALANCE SHEET

Page:1

08:32

Snoqualmie Valley Hospital

Application Code : GL

User Login Name:carolynm

## Consolidated Balance Sheet

SEPTEMBER 2020

DESCRIPTION	Current Year Actual	Prior Year Actual
ASSETS		
CURRENT ASSETS		
UNRESTRICTED CASH	14,398,436.97	5,158,874.89
RESERVE FUND LTGO 2011	3,249,294.32	2,566,836.32
RESERVE FUND LTGO	2,504,762.92	2,460,602.58
RESERVE FUND 2015 REVENUE BOND	3,675,187.50	3,675,187.50
CMS ADVANCED PAYMENT	11,001,273.01	0.00
RESTRICTED FUNDS	20,430,517.75	8,702,626.40
BOARD RESTRICTED FUNDS	102,276.62	102,276.62
TOTAL CASH	34,931,231.34	13,963,777.91
ACCOUNTS RECEIVABLE	9,287,895.72	8,696,563.55
LESS A/R ALLOWANCES	3,005,556.61	1,735,149.05
NET PATIENT A/R	6,282,339.11	6,961,414.50
COST REPORT RECEIVABLE	121,956.00	357,000.00
EMR MEANINGFUL USE RCVBL	197,176.84	197,176.84
TOTAL NET RECEIVABLE	6,601,471.95	7,515,591.34
TAX RECEIVABLE	1,867,483.13	1,757,967.93
INVENTORY	224,938.70	129,018.13
PREPAID EXPENSES	92,797.43	56,930.89
INTANGIBLE ASSETS	2,152,606.92	2,261,763.84
OTHER RECEIVABLES	59,156.27	46,349.35
TOTAL CURRENT ASSETS	45,929,685.74	25,731,399.39
FIXED ASSETS		
LAND AND IMPROVEMENTS	26,604,969.22	26,587,059.86
BUILDINGS	32,103,531.25	32,029,211.04
EQUIPMENT	12,483,022.27	12,405,549.05
RIGHT TO USE ASSET	1,506,832.14	0.00
ACCUMULATED DEPRECIATION	21,608,156.04	18,421,115.67
NET FIXED ASSETS	51,090,198.84	52,600,704.28
TOTAL ASSETS	97,019,884.58	78,332,103.67

10/29/20

## BALANCE SHEET

Page:2

08:32

Snoqualmie Valley Hospital

Application Code : GL

User Login Name:carolynm

## Consolidated Balance Sheet

SEPTEMBER 2020

DESCRIPTION	Current Year Actual	Prior Year Actual
LIABILITIES AND FUND BALANCES		
CURRENT LIABILITIES		
NOTES PAYABLE	0.00	0.00
COST REPORT PAYABLE	0.00	0.00
ACCOUNTS PAYABLE	1,039,463.23	537,279.56
ACCRUED PAYROLL & TAXES	2,307,860.55	1,856,220.21
ACCRUED INTEREST	994,595.05	856,887.27
OTHER CURRENT LIABILITIES	-46,301.37	-3,019.48
CURRENT PORTION LONG TERM DEBT	964,583.30	1,416,250.00
CMS ADVANCED PAYMENT PAYABLE	11,001,273.01	0.00
DEFERRED STIMULUS REVENUE	6,072,556.34	0.00
DEFERRED TAX REVENUE	938,381.16	883,090.17
TOTAL CURRENT LIABILITIES	23,272,411.27	5,546,707.73
LONG TERM LIABILITIES		
LTGO BONDS	45,600,000.00	45,805,000.00
REVENUE BONDS	46,333,321.10	47,163,321.10
LIABILITY RIGHT TO USE ASSET	1,536,328.88	0.00
TOTAL LONG TERM LIABILITIES	93,469,649.98	92,968,321.10
TOTAL LIABILITIES	116,742,061.25	98,515,028.83
NET INCOME/LOSS	277,009.00	189,725.85
EQUITY FUND BALANCE	-19,999,143.65	-20,372,651.01
TOTAL EQUITY AND FUND BALANCE	97,019,926.60	78,332,103.67

# MEDICAL COMMITTEE OF THE BOARD

[by teleconference]

Date: November 3, 2020 4:00 – 5:15 pm



**PARTICIPANTS:** Commissioner Dariel Norris-chair; Commissioner Emma Herron, Kim Witkop, MD, CEO-int/CMO; Karyn Denton, COO/CNO; Patrick Ritter, CFO

**ABSENT:**

Community	<ul style="list-style-type: none"><li>• Drive thru services: COVID testing [utilization volumes at end] and influenza immunizations continue to be highly utilized</li><li>• COVID testing and Flu immunizations outreach events through growing Occupational Medicine service line [sites listed at end]</li><li>• Population Health grant to address homelessness in the teen population received—planning in process</li></ul>						
Hospital	System-wide <ul style="list-style-type: none"><li>• No COVID HAI to date among patients or staff</li><li>• Pandemic Emergency Incidence Response team remains activated</li><li>• Flu immunizations mandatory for staff during month of October</li><li>• Open staff positions in several departments; HR working on recruitment strategies—candidate pool for critical positions nearly decimated by pandemic impact of early retirements and departures due to school age children on-line learning</li><li>• EHR Transition to Thrive in Q1 as part of CPSI (parent company) consolidation toward a single product</li></ul>						
	Inpatient/ Swing <ul style="list-style-type: none"><li>• Average Daily Census:<table><tr><td>2020 Budget (pts/day and % Occup)</td><td>Oct 2020 (pts/day and % Occup)</td><td>Oct 2020 YTD (pts/day and % Occup)</td></tr><tr><td>22.8 (91%)</td><td>21.7 (88%)</td><td>22.7 (91%)</td></tr></table></li><li>• Construction on MedSurg for additional negative pressure rooms; entering final phase of project</li><li>• Bed-occupancy waiver remains in effect through April 2021</li></ul>	2020 Budget (pts/day and % Occup)	Oct 2020 (pts/day and % Occup)	Oct 2020 YTD (pts/day and % Occup)	22.8 (91%)	21.7 (88%)	22.7 (91%)
	2020 Budget (pts/day and % Occup)	Oct 2020 (pts/day and % Occup)	Oct 2020 YTD (pts/day and % Occup)				
	22.8 (91%)	21.7 (88%)	22.7 (91%)				
	Emergency <ul style="list-style-type: none"><li>• Visit Volumes for month: volumes steadily returning<table><tr><td>2020 Budget (visits/day)</td><td>Oct 2020 (visits/day)</td><td>Oct 2020 YTD (visits/day)</td></tr><tr><td>10.8</td><td>8</td><td>8.8</td></tr></table></li><li>• Trauma re-certification application in process</li><li>• EHR transition to EPIC on track for Dec 15</li><li>• Puget Sound Physicians will also start Dec 15</li></ul>	2020 Budget (visits/day)	Oct 2020 (visits/day)	Oct 2020 YTD (visits/day)	10.8	8	8.8
	2020 Budget (visits/day)	Oct 2020 (visits/day)	Oct 2020 YTD (visits/day)				
	10.8	8	8.8				
Rehab <ul style="list-style-type: none"><li>• Open Director of Rehab position due to impacts of pandemic on home care</li></ul>							
Lab <ul style="list-style-type: none"><li>• Staffing challenges amidst on-going growth</li><li>• Added 2 new reference lab clients (Sound Naturopathic Clinic &amp; Aria); 2 more in early process of on-boarding</li></ul>							
Imaging <ul style="list-style-type: none"><li>• Echo: resumed service</li><li>• MRI: in early phase of clarifying some warranty continuation details before service needed</li></ul>							
Endo <ul style="list-style-type: none"><li>• Endo: resumed service, significant back-log to work through before end of year</li></ul>							
Clinics	<ul style="list-style-type: none"><li>• Occupational Medicine service line growing rapidly [see list of companies at end of document]</li></ul>						

Approved: \_11/\_10/\_2020\_

	<ul style="list-style-type: none"> <li>• Q2 Value Based Care distributions received</li> <li>• Sick clinic visits space hope to have on-line by January</li> <li>• Walk-in clinic planning for launch in January</li> <li>• Opportunity to grow sleep clinic—in early conversation</li> </ul>
Medical Staff	<p>MEC &amp; Med Cmmte Recommend -ations:</p> <ul style="list-style-type: none"> <li>• NONE—October meeting cancelled</li> <li>• <u>Initial Privileging to Provisional Status:</u></li> <li>• <u>Extend Provisional Status 6 months :</u></li> <li>• <u>Transition from Provisional to Active:</u></li> <li>• <u>Transition from Provisional to Courtesy:</u></li> <li>• <u>Transition from Provisional to Telemedicine:</u></li> <li>• <u>Transition from Provisional to Affiliate:</u></li> <li>• <u>Renewal to Active Staff:</u></li> <li>• <u>Renewal to Courtesy Staff:</u></li> <li>• <u>Renewal to Telemedicine:</u></li> <li>• <u>Renewal to Telemedicine by Proxy (UW):</u></li> <li>• <u>Renewal to Affiliate Staff:</u></li> </ul>
Other/ Education	<ul style="list-style-type: none"> <li>•</li> </ul>
Next Meeting	<ul style="list-style-type: none"> <li>• Dec 1<sup>st</sup></li> </ul>

#### COVID testing for Community:

	Total Number Tested	Total Number Positive	Rate of Positivity
March	555	36	6.5%
April	326	22	6.8%
May	769	18	2.3%
June	659	8	1.2%
July <sup>+ECF Outreach</sup>	1,300	56	4.3%
August	971	30	3.1%
September	798	52	6.5%
October 1-20	832	53	6.4%

#### List of companies who have participated this year in Occupational Medicine outreach events:

- Bellewood
- Tanner Electric
- Zetec
- Bellevue College
- Snoq Valley School District
- Casino
- CarePoint Free Clinic
- Snoqualmie Valley Senior Center
- Timber Ridge

Approved: \_11/\_10/\_2020\_



## **FACILITIES COMMITTEE MEETING MINUTES**

October 26, 2020

12:00 pm – 1:00 pm

Snoqualmie Valley Hospital

Via Teleconference

**DIAL IN - 800.434.5932 | Participant Code: 98477739#**

### **Committee Members:**

Commissioner Kevin Hauglie, Chair

Commissioner Jen Carter

Karyn Denton, COO/CNO, Executive Chair

Kim Witkop, MD, Interim CEO/CMO

Patrick Ritter, CFO

Scott Nohavec, Facilities Director

**Old Business:** SVSS toured the EC with staff from King County department of permitting and HAU grant office to evaluate the property and timeline for occupancy. We are awaiting follow up from SVSS. They are waiting for permitting from King County. More information will be available at the next Facilities Committee meeting on November 23rd.

Update on the planning for an “extension clinic” rather than a “women’s clinic” in the space that is currently used for the Finance offices at the Ridge. Quotes for work (minor repairs, paint, construction of an additional wall, enlarging one office) have been received. Construction drawings to be developed by local architects Boxwood. Costs will be under FEMA.

### **New Business:**

1. **Maintenance Issues** – Elevator #2 by loading dock is out of service for repairs on its hydraulic oil system. Oil to be replaced due to poor durability qualities from original install.
2. **Facility Usage – As of September 2020**
  - a. Due to COVID-19 all external uses of the community room are cancelled until further notice
3. **Environment of Care:** Agenda format reflects categories covered in the EOC Management Plan.

**Emergency Management** – Continue in external triage due to pandemic.

**Fire Safety Management** – Drills completed as scheduled.

**Hazardous Materials Waste Management:** No report.

**Medical Equipment Management** – We have submitted our information to WSHA for participation in the Mask Exchange program which went live in September. We are awaiting evidence that the program is performing as expected. To date, no requests have been made for supplies from SVH nor any received.

**Physical Plant** – COVID testing center volumes remain steady. We have secured a bid for the metal building that will serve as the new drive through testing site. The new building will be completed by late November- early December. To provide a more secure and weatherproof interim solution, the existing canvas tents will be replaced with a temporary metal structure and placed adjacent to the Facilities building in October while awaiting delivery of the fabricated metal building.

Commissioner Hauglie asked about the building usage after COVID. It will be fully functional for the types of services we are offering, and drive-thru services will continue to be in demand. We will be able to make it a permanent structure with a few modifications. It will support our telemedicine program.

Med Surg remodel and construction began on September 9<sup>th</sup>, with new completion date estimated to be mid-November. Delays continue due to backordered equipment and the revised work orders that are a result of inaccurate as built documents provided to SVH by Absher Construction.

**Safe Patient Handling** – Transfer training to be conducted during skills week. Staff will be asked to demonstrate transfers by “Super Users” Trained staff members will evaluate them, rather than demonstrating lifts and transfers by the Super Users to the staff.

**Safety Management** - Adherence to CDC and DOH guidelines regarding visitors, staff and patients. We have implemented outpatient and visitor screening to the main entrance of the hospital, thus preventing anyone who fails the screening questions from reaching the registration desk where screening currently takes place. We have also moved staff screening to the main entrance for employees who arrive after 9am, midday, and evening shifts. Kudos to security team for stepping up to the plate.

**Security Management** – No report.

**Utilities management** – No report.

**Workplace Harm-** All policies and total program approved and delivered to Operations team. Currently a multidisciplinary response team is available for support for all reported events. (HR, Clinics and Social Work)

**East Campus:** 1.New decking to be completed in the next three weeks. 2. Surplus of items stored on EC was approved in 2016. List is being updated to reflect the additional items that have been stored since that time for final review and approval.

#### **OTHER:**

1. **Certificate of Occupancy update-** Third correction of ADA ramp concrete has been completed and is waiting on final inspection by the City. Final inspection took place this morning, and John Cooper has said it meets the City’s requirements. We are awaiting further communication from the city regarding when the C of O will be issued.

**Next meeting: November 23, 2020 – 12:00pm– 1:00 pm – Location Teleconference**

**Approved: October 27, 2020**



**Public Hospital District No. 4**

**KING COUNTY, WA**

**RESOLUTION NO. 669-1120**

**A RESOLUTION** of the Board of Commissioners of Public Hospital District No. 4, King County, Washington, approving an agreement with Overlake Medical Center ("OMC").

**WHEREAS**, Public Hospital District No. 4, King County, Washington (the "District") is a public hospital district and municipal corporation duly organized and existing under the laws of the State of Washington; and

**WHEREAS**, OMC is a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code providing general acute and tertiary inpatient and outpatient services at its general acute care hospital located on OMC's main campus in Bellevue, Washington, which operates an emergency department and currently maintains a level III trauma designation through the Washington State Department of Health; and

**WHEREAS**, the District desires to enter into an Electronic Health Record System Access Agreement ("EHR") with OMC. OMC's current EHR platform is provided by Epic Systems Corporation; and

**WHEREAS**, the Commission, having reviewed the EHR Agreement attached hereto, and based on such review the Commissioners have determined that such agreement is in the best interest of the District and those served by the District.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of Public Hospital District No. 4, King County, as follows:

**SECTION 1:** The Commissioners have reviewed the agreement, attached hereto as Exhibit A.

**SECTION 2:** Upon such review, the Commission has determined that approval of the agreement is in the best interest of the District.

**SECTION 3:** Accordingly, the EHR is hereby approved. The Superintendent of Public Hospital District No. 4, King County, is authorized to sign and execute the agreement between the District and OHMC.

**ADOPTED** by the Board of Commissioners of Public Hospital District No. 4, King County, at a duly and properly noticed regular meeting thereof, on the 12<sup>th</sup> day of November, 2020.

\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

## CERTIFICATION

I, the undersigned, Secretary of the Commission (the "Commission") of Public Hospital District No. 4, King County, Washington (the "District"), hereby certifies as follows:

1. The attached copy of Resolution No. 669-1120 (the "Resolution") is a full, true and correct copy of a resolution duly adopted at a regular meeting of the Commission of the District, as that resolution appears on the minute book of the District; and

2. A quorum of the members of the Commission was present throughout the meeting and a majority of the Commission members voted in the proper manner for the adoption of the Resolution.

IN WITNESS WHEREOF, I have hereunto set my hand this 12<sup>th</sup> day of November, 2020.

PUBLIC HOSPITAL DISTRICT NO. 4,  
KING COUNTY, WASHINGTON

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Kevin Hauglie  
Secretary of the Commission

## ELECTRONIC HEALTH RECORD SYSTEM ACCESS AGREEMENT

This **ELECTRONIC HEALTH RECORD SYSTEM ACCESS AGREEMENT** (the “**Agreement**”) is by and between **OVERLAKE HOSPITAL MEDICAL CENTER**, a Washington non-profit corporation (“**OMC**” or “**Overlake**”), and **KING COUNTY PUBLIC HOSPITAL DISTRICT NO. 4 d/b/a SNOQUALMIE VALLEY HOSPITAL**, a Washington municipal corporation (“**District**” or “**SVH**”), and is dated and effective as of \_\_\_\_\_ (“**Effective Date**”). Overlake and SVH are each sometimes referred to as a “**Party**” and collectively as the “**Parties**.”

### RECITALS

A. The District is a Washington State public hospital District created for the purpose of providing hospital and other healthcare services within its geographic boundaries to all in need of such services without regard to race, religion, national origin or ability to pay. The District owns and operates the Snoqualmie Valley Hospital (“**Hospital**”), with its principal place of business at 9801 Frontier Ave. S.E., Snoqualmie, WA 98065. Hospital operates an emergency department (the “**Department**” or “**ED**”) and currently maintains Level V trauma designation through the Washington State Department of Health.

B. OMC and District have developed a strategic affiliation (the “**Affiliation**”) whereby OMC will provide certain management, professional and related administrative services to support Hospital’s Department pursuant to a written management services agreement between OMC and District (the “**Management Services Agreement**”).

C. Both OMC and District use an electronic health record (“**EHR**”) system as its medical record document system. OMC’s current EHR platform is provided by Epic Systems Corporation (“**Epic**”) under that certain License and Support Agreement entered into between OMC and Epic (“**Master Agreement**”). District’s current EHR platform is not Epic. Due to the nature of medical services provided in the Department, District is in need of a more robust EHR platform than its current platform.

D. The Parties have determined that the quality, safety and efficiency of delivering services to Department patients in connection with the Affiliation can be improved through the use of the more robust EHR platform offered by Epic. The Parties have further determined the Parties’ use of the same EHR platform will further the purpose of the Affiliation by allowing OMC and District providers to access and share electronic health records and the medical records and other information maintained therein in a more timely manner and complete manner.

E. To assist the Parties achieve the Affiliation’s overall strategy and goal to deliver quality medical services to Department patients in an efficient manner, OMC desires to provide SVH Department providers with access to and the use of OMC’s Epic EHR platform and certain related services to support such use, and District desires to access and use OMC’s Epic EHR platform and to obtain related support services from OMC in connection with such use.

F. As such, the Parties desire to enter into this Agreement pursuant to which SVH Department personnel are authorized to access and to use OMC's Epic EHR platform and will receive certain services related to such EHR platform from OMC, in accordance with the terms and conditions set forth herein.

## **AGREEMENT**

**NOW, THEREFORE**, in consideration of the above recitals, the terms and conditions hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and for their mutual reliance, the Parties hereto agree as follows:

1. **Provision of Access.** OMC shall provide District's Department (and only the Department) with access to and use of OMC's instance of the Epic EHR Platform as further described in Exhibit A (collectively, "**EHR System**"), subject to the terms and conditions set forth herein. Subject to the terms and conditions of this Agreement and solely to the extent that OMC has the right to do so under the Master Agreement, OMC hereby grants, and District accepts, a non-exclusive, personal, nontransferable limited right for District, through its Authorized Users (defined in Section 2 below), to access and use the EHR System during the term of this Agreement solely in connection with District's operations in its provision of services in the Department. Subject to the terms and conditions set forth herein, this limited grant of rights authorizes District to access the EHR System for purposes with respect to services performed by District in the Department and to no other District departments, clinics, service lines, or locations .

Except as otherwise expressly set forth herein, such access and use shall be subject to all terms and conditions applicable to the license of the EHR System between OMC and Epic set forth in the Master Agreement, including but not limited to restrictions on use of the EHR System, modification of the EHR System, copying of the EHR System, sale of the EHR System, proprietary rights, confidentiality and warranties. Furthermore, District agrees to be bound by the applicable terms in the applicable Master Agreement, a copy of which will be provided to District upon request and upon obtaining approval from Epic, as necessary, subject to any confidentiality terms contained in the Master Agreement.

1.1 **Rights in Third Party Software/Products.** District understands and agrees that under the terms of this Agreement, District will be accessing software and other products developed by and licensed from other parties, including but not limited to, Epic (collectively, "**Third Party Software**"). District agrees not to copy or alter any Third Party Software, to abide by all terms of the license agreements regarding the Third Party Software as may be communicated to District by OMC or by the owners/licensors of any Third Party Software accessed or used by District under this Agreement, and to comply with all applicable copyright laws and other intellectual property laws in using the EHR System, OMC Network (as defined in Section 4 below) and the Third Party Software. District further agrees not to modify, reverse engineer, decompile, or disassemble software, or to use the EHR System, OMC Network, or Third Party Software for any purposes other than those set forth in this Agreement. District further understands and agrees that District's use of the EHR System is pursuant to the Master Agreement. District shall in no event have any rights to the EHR System under this Agreement greater than OMC's rights under the Master Agreement. All of the terms, conditions, covenants, and agreements pertaining to the use (or prohibited use) that OMC is required to observe under the Master Agreement are incorporated into this Agreement by reference and

are deemed to constitute terms, conditions, covenants, and agreements that District is required to observe under this Agreement. The obligations set forth in this Section 1.1 shall survive termination or expiration of this Agreement.

1.2 **Change in EHR System.** Notwithstanding anything in this Agreement, District expressly recognizes that this Agreement in no way binds OMC in perpetuity to purchase, license, utilize or otherwise provide the EHR System to District. OMC reserves the right to entertain, explore and contract with alternative electronic medical system vendors at any time and to replace the EHR System or any part thereof as deemed appropriate by OMC in its sole discretion. OMC will consult with District about any alternative EHR System which are directly related to District's provision of services in the Department, provided that OMC shall have authority to make any and all final decisions regarding any alternative to the EHR System. If OMC elects to offer an alternative vendor to the EHR System to District, OMC shall provide at least ninety (90) days written notice to District. Upon receiving such notice, District may elect to discontinue its use of the EHR System, and if such election is made, this Agreement may be terminated pursuant to Section 17.3.

2. **Authorized Users.** For purposes of this Agreement, "**Authorized User(s)**" means individually to each, and collectively to all, of the physicians, health care providers, and other clinical and non-clinical staff and personnel who provide, assist, or otherwise support the provision of health care services to Department patients and who are authorized by District to use the EHR System or to access the OMC Network (as defined in Section 4). Each Authorized User will receive an individual logon, unique to that user, for purposes of accessing the Applications. Authorized Users shall not share individual logons. District shall maintain a list of all Authorized Users and shall make such list available to OMC upon request. District shall be responsible for ensuring all Authorized Users comply with the terms and conditions of this Agreement and shall assume all responsibility and liability as between OMC and District with respect to use of the EHR System and OMC Network by District, Authorized Users or any other person who may access the EHR System and OMC Network from District's organization. To provide District and its Authorized Users with access to the EHR System, District shall designate at least one (1) and up to three (3) persons who will act as a liaison(s) to coordinate user access to the EHR System to coordinate access deactivation when a user leaves District. In cooperation with OMC, the liaison(s) shall be responsible for managing access to the EHR System by District's Authorized Users, provided that OMC shall have sole and final authority to grant or deny access to District's Authorized Users. OMC shall grant access to an Authorized User within twenty-four (24) hours of such Authorized User's successful completion of all training and the submission of all completed documentation required for an Authorized User to access the EHR System, including but not limited to the User Access and Confidentiality Agreement discussed below. District shall ensure that all District personnel who access the EHR System and OMC Network comply with the requirements of this Agreement and the Access Policies and Procedures (as defined in Section 21.1 below).

District shall ensure each Authorized User executes a User Access and Confidentiality Agreement as required by OMC prior to receiving access to the EHR System or OMC Network, as applicable. District acknowledges and agrees that OMC shall not grant access to the EHR System or OMC Network to an Authorized User until and unless OMC receives an executed copy of the User Access and Confidentiality Agreement by such Authorized User.

3. **Third Party Access.** District shall obtain the written approval of OMC, which may be exercised in its sole discretion, prior to allowing any agent or subcontractor (other than an Authorized User) access to protected health information maintained in an Application(s). If OMC consents to such third-party access on a case-by-case basis, District shall ensure that the agent or subcontractor agrees to be bound by the same restrictions, terms and conditions that apply to District through this Agreement. District shall require that any agent or subcontractor notify District of any instances in which protected health information is used or disclosed in an unauthorized manner. District shall take steps to cure the breach of confidentiality and end the violation or shall terminate the agency agreement or subcontract.

4. **Software/Hardware.** In connection with the Services provided hereunder, OMC shall procure and provide all hardware, software, and connectivity with which District and its Authorized Users will use to access the EHR System and OMC's network services (wired and wireless) provided at District's site for District's access and use of the EHR System (collectively, the "**OMC Network**") to the extent required to access and use the EHR System (collectively, the "**Access Technology**"). OMC represents and warrants that the Access Technology meets the requirements of OMC and of Epic and/or licensors, as such may be amended from time to time (collectively, the "**Technology Requirements**"), and that OMC shall have discretion in providing Access Technology which meets such Technology Requirements. OMC shall ensure that adequate security safeguards are applied to the Access Technology placed at District's location and to any user accounts for Authorized Users using the Access Technology. District shall not install any software on the Access Technology or maintain any interfaces or other connections to or from the Access Technology without OMC's prior written approval which may be withheld in OMC's sole discretion. Furthermore, District shall not maintain or troubleshoot issues related to the Access Technology; instead, District shall communicate all technical issues related to the Access Technology to OMC and such issues will be resolved via the process set forth in Section 5.

5. **Technical Support Services.** Subject to the terms and conditions of this Agreement, OMC shall provide support services to District for the EHR System and the Access Technology as set forth in this Section 5 (collectively, the "**IT Services**"). OMC's provision of access to and use of the EHR System, the Access Technology, and of the IT Services to District under this Agreement is collectively referred to herein as the "**EHR Services**".

5.1 **Operational Support.** Beginning on the Go-Live Date and for the remainder of the term of this Agreement, OMC will use a three-tiered approach to provide operational support for the EHR System as set forth in Exhibit B (collectively, the "**Support Services**"). Support Services will be provided by OMC's information services departments and information technology teams (collectively, the "**IS Department**") and will include Level 1 Support, Level 2 Support, and Level 3 and Vendor Liaison Support (as those terms are defined in Exhibit B) to Department personnel utilizing the EHR System. District expressly acknowledges and agrees that the Support Services extend only to the EHR System and to District's ability to access the OMC Network as provided by OMC to District under this Agreement. For purposes of this Agreement, "**Go-Live Date**" means the date on which OMC's implementation of the EHR System has been completed in the Department's facilities and the parties have mutually agreed that the EHR System and the EHR Services is ready to be used in a live production environment. The Parties shall document the actual Go-Live Date in a writing and provided to both Parties.

5.2 **Service Incident Response.** OMC shall respond to District's incidents and be responsible for working with District and/or Epic to triage, prioritize, manage and resolve service incidents. In all cases, OMC will seek to resolve service incidents in an expeditious manner, subject to Epic's availability and responsiveness. District acknowledges that actual resolution time will depend on the nature of the incident and the resolution itself. A resolution may consist of a fix, workaround, delivery of information or other reasonable solution to the issue.

5.3 **Service Issue Escalation.** OMC and District agree to work together to resolve service issues as they arise using the three-tiered Support Services set forth in Exhibit B. Any service issues which need to be escalated, including but not limited to issues arising from OMC's failure to meet the service level standards set forth in Exhibit C, will follow the then current escalation processes and protocols established for OMC's IS Department (collectively, the "**IS Escalation Procedures**"). Escalation shall continue until both parties agree the issue is resolved.

5.4 **Disaster Recovery/Business Continuity.** OMC will develop, maintain and regularly test a business continuity plan in the event of an environment failover (the "**Business Continuity Plan**") to minimize the impact on District's and OMC's operations or impede the ability of District or OMC to perform their obligations under this Agreement. In any event, as part of the Business Continuity Plan, District agrees to perform (or to ensure the performance of) continuity of any applications, systems, hardware or other equipment used by District or its Authorized Users in connection with the IT Services provided hereunder. District agrees to maintain downtime processes, procedures and equipment (downtime PCs and printers), and to participate in testing and live executing of the Business Continuity Plan, as specified by OMC to ensure business continuity in the case of disaster.

6. **Training Services.** OMC shall provide or arrange for the provision of training for Authorized Users who: (i) provide professional medical services in the Department, or (ii) require read/write access to the EHR System to fulfill District's reporting obligations utilizing data in the EHR System. The foregoing training shall be provided before the Go-Live Date and the fees for such training are included in the Fees set forth in Exhibit F. In addition to the foregoing, District may request OMC to partner with District to provide training to additional District employees, and any fees for such training, if any, will be mutually agreed to in advance. District may also request OMC to provide (or to arrange to provide) end-user training for District and its Authorized Users and other staff to the extent agreed to by the parties, and District shall pay OMC a fee for the provision of such training as agreed to in advance by the Parties. If OMC engages a third party to prepare and conduct the training described in this Section 6, District agrees that the fees paid by District for training shall be no less than the fees charged by the third party to OMC for such training.

7. **Requirements of Use.** OMC's provision of the EHR Services, and District's access to and use of the EHR Services, is conditioned upon District's compliance with the requirements set forth in Exhibit D.

8. **Audit Rights; Monitoring.** District acknowledges that District's (and its Authorized Users') activities using the EHR Services may be tracked and are subject to audit. District shall cooperate with OMC in any investigation or audit of or involving the EHR Services. OMC shall endeavor to conduct any such investigations or audits in a manner that will not unreasonably disrupt District's operations.



Without limiting the generality of the foregoing, OMC shall have access to all applicable tangible and digital records of District, including all supporting documentation, for the purpose of verifying compliance by District with the terms of this Agreement and the Master Agreement. District shall cooperate with OMC by providing OMC with access to District's records within seven (7) business days of OMC's request. The examination of such records shall be conducted at a mutually agreeable time and place. In addition, OMC or its third-party designee may, but is not obligated to, monitor District's and its Authorized Users' access to the OMC Network and the EHR System. Subject to Section 11, should OMC determine, in its sole discretion, that District's access to and use of the EHR System or OMC Network materially degrades the performance of or for users of the same, OMC shall investigate the cause of such degradation and District shall cooperate with OMC in the same, and in the meantime, OMC may take reasonable remedial measures as it determines necessary to prevent further degradation including, but not limited to, interrupting or isolating District's access to the EHR System or OMC Network. If OMC determines, in its sole discretion, that any degradation or performance issues of the OMC Network or EHR System is caused by the Access Technology provided by OMC, OMC shall be responsible to resolve such issues in connection with the Support Services provided hereunder. If OMC determines, in its sole discretion, that any degradation or performance issues of the OMC Network or EHR System is caused by hardware or software which does not qualify as Access Technology and which is therefore provided by District (collectively, "District Technology"), OMC shall promptly inform District of such cause and shall cooperate with District to the extent necessary to resolve such issues. If District is unwilling or unable to resolve the degradation or performance issues to the OMC Network or EHR System caused by District Technology to OMC's satisfaction, OMC may take any remedial measures necessary to restore performance level and may also impose appropriate non-monetary sanctions. Sanctions may include, but are not limited to, the termination of this Agreement, suspension or termination of District's access to the EHR or OMC Network, or termination of individual Authorized User access. OMC reserves the right to report unprofessional conduct to appropriate licensing or other regulatory authorities. District will be notified prior to any reporting of unprofessional conduct. District agrees to cooperate with OMC in order to adequately investigate complaints received involving the District's employees or agents. District acknowledges and agrees that lack of adherence to this Section 8 allows OMC to immediately terminate this Agreement and all associated access privileges.

9. **Security.** Each Party is solely responsible for the security and integrity of its own computer systems (which for OMC includes any systems included in the IT Services), including without limitation, any defects (i.e., "bugs/viruses") which are imported to its network through the Internet. District shall comply with all security measures and controls specified in the Access Policies and Procedures. If District discovers or suspects unauthorized use of or access to the EHR System or OMC Network, District shall immediately notify OMC of such breach, shall take any actions necessary to preserve forensic evidence and to identify, mitigate and remediate the cause of the breach, and shall cooperate with OMC to investigate the breach. District shall indemnify OMC for any and all costs and other liabilities related to unauthorized use or of access to the EHR System or OMC Network to the extent that such costs and liabilities are indirectly or directly caused by District or its employees or agents, including without limitation its Authorized Users.

10. **Performance Standards.** OMC will perform and provide the IT Services consistent with the standards set forth in this Agreement and shall at all times comply with its obligations under the Master Agreement. OMC shall use commercially reasonable efforts to meet the service level standards set forth in

Exhibit C. District will be notified at least two (2) weeks in advance of scheduled downtime, provided that if OMC is provided with less than two (2) week notice from a third-party vendor providing any portion of the IT Services, OMC will notify District of the scheduled downtime as soon as reasonably practicable after OMC receives such downtime notice.

11. **Suspension of EHR Services.** Access by District and/or any Authorized User to the EHR System, OMC Network or IT Services may be suspended by OMC under the following conditions: (i) District or any Authorized User has engaged in use of the EHR or OMC Network in material violation of this Agreement and, after notice thereof by OMC, continues to engage in such unauthorized use; (ii) pending District's cure of any material breach of this Agreement; (iii) District or any Authorized User generates a condition which interferes with the normal operation of the EHR System or OMC Network, and failure to suspend the provision of the same would cause immediate and material damage to the EHR System or aspects of the OMC Network; or (iv) if OMC determines, in its sole discretion, that District's access to or use of the EHR System or OMC Network may jeopardize the confidentiality, privacy, security, integrity, and availability of patient information; that District has violated or may violate this Agreement, the Master Agreement, or Access Policies and Procedures; that District has jeopardized or may jeopardize the rights of any third party; or that any person is, or may be, making unauthorized use of the EHR System or OMC Network with any user logon assigned to District or any of its Authorized Users. In the event of such temporary suspension, OMC shall notify District as soon as reasonably possible thereof and District and its Authorized Users shall use good faith efforts to cooperate to remedy promptly the activities giving rise to the suspension.

Furthermore, notwithstanding anything to the contrary herein, if OMC believes in its sole discretion that the use of the EHR System or OMC Network by District or any of its Authorized Users may create liability for OMC, OMC may immediately suspend District's or any Authorized User's access to the EHR System or OMC Network, that OMC believes is prudent to minimize its potential liability.

OMC's election to suspend the EHR Services or any portion thereof shall not waive or affect its rights to terminate this Agreement as permitted under this Agreement. District's failure to remedy the cause giving rise to any suspension of District's or any Authorized User's access to the EHR System or OMC Network within thirty (30) days of the commencement of the suspension shall be deemed a material breach of this Agreement.

12. **Content.** District is solely responsible for creating, managing, editing, reviewing, deleting and otherwise controlling the content of District's messages or information (collectively, "**District Data**") maintained in the EHR System or transmitted through the OMC Network in connection with the EHR Services provided hereunder; provided that OMC is responsible for preserving the integrity of the District Data in the EHR System and for ensuring the security of the District Data transmitted through the OMC Network. Except as provided for herein, District shall have sole and exclusive responsibility for the accuracy, completeness, and appropriateness of District Data.

13. **Confidentiality.** The Parties agree that each has developed certain information which is confidential information, including de-identified information concerning patients, information related to patient care services, business, financial and accounting records, educational materials, policies and procedures, training information, the terms and conditions of this Agreement, and information concerning the business methods,

operations or long-range or strategic plans of either Party or any affiliate of either Party, including, without limitation, information contained in financial statements, audit reports, and planning documents (the “**Confidential Information**”). Each Party agrees to keep and maintain as strictly confidential all Confidential Information of the other Party to which it may have access by virtue of this Agreement. Neither Party shall disclose all or any part of Confidential Information of the other Party, orally or in writing, except as expressly required by law or pursuant to a written authorization from the owning Party, and neither Party shall use all or any part of such Confidential Information of the other Party for purposes other than the performance of its obligations under this Agreement. If either Party receives a request for Confidential Information of the other Party from a court or governmental authority, or accrediting agency (“**Request**”), the Party receiving the Request may make the required disclosure, but shall give the other Party prompt written notice (and, in any event, prior to the disclosure) in order to allow the other Party the opportunity to seek the appropriate protective order to protect the Confidential Information. Each Party will require that any employed or contracted persons provided access to Confidential Information of the other Party in order to perform such party’s obligations under this Agreement agree to be bound by the provisions of this Section 13. The provisions of this Section 13 shall survive the expiration or termination of this Agreement.

Each Party agrees that upon expiration or termination of this Agreement for any reason, it shall promptly return to the other, the originals and all copies of any and all Confidential Information owned by the other Party and then in its possession, including without limitation any such information stored on computer media. Notwithstanding the foregoing or anything to the contrary herein, a receiving Party will not be required to delete electronic or digital Confidential Information stored in back-up/archival storage in accordance with its policies, provided that any such retained Confidential Information will continue to be subject to the terms of this Agreement until it is destroyed, and the receiving Party may retain copies of Confidential Information to the extent required to comply with applicable legal and regulatory requirements, provided that such Confidential Information shall remain subject to the terms and conditions herein. In addition, legal counsel for a Party shall be allowed to keep copies of any memoranda, agreements or other communications, regardless of whether such contain Confidential Information, for the sole purpose of determining the receiving Party’s obligations hereunder.

#### 14. **HIPAA.**

14.1 **HIPAA and State Healthcare Information Law.** Each Party shall maintain the confidentiality of all patient records, charts and other patient identifying information, and shall comply with all applicable state and federal laws governing the confidentiality of medical records and related information (collectively, “**Patient Privacy Laws**”), including without limitation, the Washington Uniform Healthcare Information Act, RCW Ch. 70.02, and the Health Insurance Portability and Accountability Act of 1996 and regulations thereunder as amended from time to time (collectively, “**HIPAA**”). Subject to Section 14.4, OMC shall not have any obligation or responsibility whatsoever in relation to the compliance obligations of District described in this Section 14.1.

14.2 **Notice of Privacy Practices.** District shall be responsible for ensuring that its Notice of Privacy Practices includes any notice or disclosure of District’s use of the EHR System or OMC Network with respect to protected health information (as that term is defined in HIPAA) (“**PHI**”) which District considers necessary or appropriate.

14.3 **OMC's Use of District PHI.** OMC will only use or disclose PHI which is received under this Agreement, (i) in accordance with, and for the purposes of, this Agreement, (ii) as directed by District and in compliance with Patient Privacy Laws, or (iii) as required by law. Without limiting the generality of the foregoing, District hereby authorizes OMC to provide PHI entered or otherwise transmitted into the EHR System by District, an Authorized User, or at the direction of District or an Authorized User under this Agreement, to one (1) or more third-parties, including but not limited to a physician practice group which employs or engages any of the Authorized Users, as directed by District and in compliance with Patient Privacy Laws and the Business Associate Agreement.

14.4 **Business Associate Agreement.** In the performance of EHR Services under this Agreement, the parties acknowledge and agree that OMC is a business associate, as that term is defined in HIPAA, of District. The parties have entered into that certain Business Associate Agreement in connection with the Affiliation Agreement, a copy of which is attached hereto as Exhibit E. The parties acknowledge and agree that the Business Associate Agreement shall apply to the EHR Services provided hereunder, to the extent that OMC provides EHR Services as a business associate of District.

14.5 **Potential Data Security Breach.** If at any time a Party has reason to believe that PHI transmitted through the OMC Network or maintained in the EHR System pursuant to this Agreement may have been accessed or disclosed without proper authorization and contrary to the terms of this Agreement, such Party will immediately give the other Party notice thereof, and the Parties will cooperate to take all necessary actions to investigate, mitigate and eliminate the cause of the breach. With respect to District Data which qualifies as PHI, District shall determine, in its sole discretion, whether to provide notice to individuals whose PHI may have been improperly accessed or disclosed as necessary and required under applicable federal and state laws pertaining to the privacy and security of patient or medical health information and shall be solely responsible for providing any such notices as it determines necessary.

15. **Fees During Initial Term.** The terms set forth in this Section 15 shall apply to fees due and payable by District for EHR Services provided by OMC during the Initial Term and the Initial Term only.

15.1 **Fees Charged.** Subject to the terms and conditions in this Agreement, District shall pay to OMC the amounts (collectively, the “Fees”) for the EHR Services as set forth in Exhibit F (the “Fees Cost Summary”). Fees include, but are not limited to, fees in connection with implementation services, license fees, ongoing support and maintenance services, training fees, and other professional fees. Additional services provided by OMC at District's request may be subject to additional fees, and any such additional fees are included in the term “Fees.” The Fees shall be itemized on invoices to District and shall be payable to OMC by District in accordance with the terms set forth in Section 15.3 below.

15.2 **Calculation of Fees.** District acknowledges and agrees that District's Fees shall be equal to 100% of OMC's costs allocated to District for the EHR Services provided by OMC to District, including costs for the EHR System, IT Services, and costs allocated for certain Third Party Software, networks, host systems and systems infrastructure and hardware. District further acknowledges and agrees that: (a) the costs set forth in the Fees Cost Summary in Exhibit F represent OMC's good faith estimate of the costs allocated to District for the EHR Services provided hereunder, and (b) such estimates shall be changed as the actual costs are incurred to determine OMC actual costs for which District will be responsible. Without limiting the

generality of the foregoing, the Parties agree Fees are based on estimated volumes and user counts and such estimates will be subject to a “true-up” audit conducted at the end of each calendar year to determine OMC actual costs for District’s use of the EHR System. Any difference in Fees greater than five percent (5%) calculated as a result of such audit will be invoiced to District as additional Fees owed by District to OMC.

**15.3 Payment of Fees.** During the Initial Term, the Fees will be invoiced in accordance with Exhibit F. Each invoice shall be due net thirty (30) days of the invoice date. District shall have the right to withhold payment of the portion of any invoiced amount disputed in good faith, within thirty (30) days from the date of the invoice, provided District provides the notice required below by the due date of such invoiced amount. To dispute an invoiced amount, District must notify OMC in writing of the nature and basis for the dispute, including reasonable information so as to enable OMC to inquire as to the possible discrepancy. The parties shall work together in good faith to promptly resolve such good faith dispute. Any disputed amounts that are agreed or determined to be due and payable to District shall be paid by OMC to District within thirty (30) days of such agreement or determination.

**15.4 Loan.**

**15.4.1 Loan by OMC to District.** The Parties acknowledge and agree that OMC shall loan funds to District to be used by District to pay the Fees due for EHR Services provided during the Initial Term. Except as otherwise provided in this Agreement, the amount of the loan funds shall be an amount sufficient to pay all Fees due for EHR Services provided during the Initial Term. The terms of such loan are set forth in Exhibit F and the Promissory Note attached hereto as Exhibit G.

**15.4.2 Loan Repayment.** Consistent with the terms of the Promissory Note, the Total Owed (as that term is defined in Section 15.4.3 of this Agreement) shall be paid in full on or before the Maturity Date (as that term is defined in the Promissory Note); provided however, if District fulfills the requirements of Section 15.4.3, OMC will forgive up to one hundred percent (100%) of the Total Owed, including all accrued interest, in accordance with the provisions set forth in Section 15.4.3. The Total Owed, to the extent not otherwise forgiven pursuant to Section 15.4.3, shall be repaid by District in accordance with the terms of this Agreement and the Promissory Note.

**15.4.3 Loan Forgiveness.** If the District renews this Agreement, or enters into a new agreement pursuant to which OMC continues to provide services substantially similar to the EHR Services provided hereunder (the “**New Agreement**”), and so long as: (i) OMC has not terminated this Agreement (or any New Agreement) for material breach; (ii) District or Hospital remains an active member in good standing with Eastside Health Network, LLC (or its successor, if any); (iii) OMC has not terminated the Management Services Agreement (or any successor agreement) for cause;; and (iv) the professional medical services provided in the Department are provided by Puget Sound Physicians, PLLC (“**PSP**”) or another group approved by OMC in its reasonable discretion, (the criteria described in (i), (ii), (iii), and (iv) being collectively referred to as the “**Forgiveness Criteria**”), OMC shall forgive the Total Owed in accordance with the terms of this Agreement. District’s obligations to make repayment under this Section 15.4.3 and OMC’s obligation to forgive the Total Owed under this Section 15.4.3 shall survive the termination or expiration of this Agreement for any reason.

Within thirty (30) days prior to the end of the Initial Term, OMC shall calculate the total aggregate outstanding amount due and owing at the end of the Initial Term, including but not limited to the Initial Fees Balloon Payment and the Ongoing Fees Balloon Payment as those terms are defined in Exhibit F and accrued interest thereon, (collectively, the “**Total Owed**”), and develop a repayment schedule of thirty-six (36) equal payments (the “**Forgiveness Period**” which will commence immediately following the end of the Initial Term) of principal and interest (the “**Monthly Payment**”) such that the Total Owed shall be completely repaid at the end of the Forgiveness Period. The Total Owed shall be deemed earned by District and shall be forgiven as follows:

(a) For each month during the Forgiveness Period that the Forgiveness Criteria are satisfied, OMC shall forgive an amount equal to the Monthly Payment of the Total Owed (the “**Forgiveness Amount**”).

(b) If OMC terminates this Agreement (or any New Agreement) for material breach, then OMC shall calculate the Outstanding Total Owed as of the effective date of termination, and OMC shall have the right to declare OMC’s forgiveness of the Outstanding Total Owed to be permanently terminated and to declare such Outstanding Total Owed due and payable by District and in such event, District shall pay the Monthly Payment each month for the remainder of the Forgiveness Period. If the District terminates this Agreement (or any New Agreement) for material breach, then OMC shall continue to forgive the Outstanding Total Owed each month in an amount equal to the Forgiveness Amount for the remainder of the Forgiveness Period notwithstanding the termination of this Agreement (or any New Agreement).

(c) If the District’s or Hospital’s membership in the Eastside Health Network, LLC (or its successor, if any) is terminated for any reason, and the District and/or the Hospital has exhausted all its rights to request reconsideration or appeal as such rights may exist under any applicable agreement between District and Eastside Health Network, LLC, then OMC shall calculate the Outstanding Total Owed as of the effective date of termination, and OMC shall have the right to declare OMC’s forgiveness of the Outstanding Total Owed to be permanently terminated and to declare such Outstanding Total Owed due and payable by District and in such event, District shall pay the Monthly Payment each month for the remainder of the Forgiveness Period. If the Eastside Health Network, LLC is wound up, closed, or no longer functions as it functions as of the Effective Date, and there is no successor network, then OMC shall continue to forgive the Outstanding Total Owed each month in an amount equal to the Forgiveness Amount for the remainder of the Forgiveness Period notwithstanding the termination of the District’s and/or Hospital’s membership in the Eastside Health Network, LLC (or its successor, if any).

(d) If OMC terminates the Management Services Agreement (or any successor agreement) for cause, then OMC shall calculate the Outstanding Total Owed as of the effective date of termination, and OMC shall have the right to declare OMC’s forgiveness of the Outstanding Total Owed to be permanently terminated and to declare such Outstanding Total Owed due and payable by District and in such event, District shall pay the Monthly Payment each month for the remainder of the Forgiveness Period. If the District terminates the Management Services Agreement (or an successor agreement) for cause (except if District elects to terminate the Management Services Agreement due to the termination of the PSP agreement because the provisions of Section 15.4.3(e) below would apply), then OMC shall continue to forgive the Outstanding Total Owed each month in an amount equal to the Forgiveness Amount for the remainder of the Forgiveness Period notwithstanding the termination of the Management Services Agreement.



(e) If the District's agreement with PSP is terminated for any reason, and such physician group is not replaced with a physician group approved by OMC in its reasonable discretion, then OMC shall calculate the Outstanding Total Owed as of the effective date of termination, and OMC shall have the right to declare OMC's forgiveness of the Outstanding Total Owed to be permanently terminated and to declare such Outstanding Total Owed due and payable by District and in such event, District shall pay the Monthly Payment each month for the remainder of the Forgiveness Period.

(f) Subject to Section 15.3(g) below, for so long as this Agreement remains in effect, each of the scenarios described in Sections 15.3(b), 15.3(c), 15.3(d), and 15.3(e) above is a separate and distinct scenario and the effect of each scenario will be applied separately and sequentially. In other words, the trigger of one scenario does not terminate the existence of the other possible scenarios; rather, each scenario remains valid and possible at all times, and if another scenario is triggered, the effect of that subsequent scenario will supersede the effect of the scenario previously triggered. For example, if District terminates the Management Services Agreement for cause during the Forgiveness Period, OMC will continue to forgive the Outstanding Total Owed for the remainder of the Forgiveness Period under the scenario described in Section 15.3(d) above. If District's membership in the Eastside Health Network, LLC (or its successor, if any) is subsequently terminated, then the rights set forth in the scenario described in Section 15.3(c) above are triggered and supersede the effect previously triggered under scenario Section 15.3(d), i.e. OMC may declare its forgiveness of the Outstanding Total Owed terminated and declare the Outstanding Total Owed due and payable.

(g) If one of the scenarios described in Section 15.3(b) is triggered, then the applicable resulting effect under Section 15.3(b) will be final and cannot be superseded by any scenario described in Sections 15.3(c), (d), or (e) which may be subsequently triggered.

As used in this Agreement, "**Outstanding Total Owed**" shall mean the then outstanding amount of the Total Owed.

At the end of each calendar year during the Forgiveness Period, OMC shall deliver to District an Internal Revenue Service ("**IRS**") Form 1099 indicating income to District equal to the amount of debt canceled under this Section 15.4.3. District shall be solely responsible for all federal, state, and other income tax liabilities related to sums reported by OMC to have been deemed earned and forgiven pursuant to this Section 15.4.3.

16. **Fees During Renewal Term.** The terms set forth in this Section 16 shall apply to fees due and payable by District for EHR Services provided by OMC during the Renewal Term and the Renewal Term only.

16.1 **Fees Charged.** Subject to the terms and conditions in this Agreement, District shall pay to OMC fees equal to 100% of OMC's costs incurred by OMC for the EHR Services provided by OMC to District under this Agreement during the Renewal Term, which will consist of ongoing maintenance and support fees, including license costs for the EHR System, IT Services and pro rata costs allocated for certain Third Party Software, networks, host systems and systems infrastructure and hardware, plus ten percent (10%) of such costs incurred by OMC (collectively, the "**Renewal Term Fees**"). The Renewal Term Fees shall be set forth as an annual amount for each twelve (12) month period during the Renewal Term (each, a "**Renewal Year**"). The annual amount of the Renewal Term Fees shall not exceed Three Hundred Thousand Dollars

(\$300,000.00) in any Renewal Year unless by mutual consent of both parties. OMC shall provide District with written notice of the estimated Renewal Term Fees at least thirty (30) days prior to the start of each Renewal Year. Such estimates shall be changed as the actual costs are incurred to determine OMC actual costs for which District will be responsible. Without limiting the generality of the foregoing, the Parties agree Renewal Term Fees are based on estimated volumes and user counts and such estimates will be subject to a “true-up” audit conducted at the end of each calendar year to determine OMC actual costs for the EHR Services provided by OMC. Any overpayment or under payment will be applied or paid as a part of the next year’s monthly payment of the Renewal Term Fees. Fees for additional services or costs not otherwise included in the Renewal Term Fees shall be as agreed to in advance and set forth in writing.

16.2 **Payment of Fees.** Renewal Term Fees will be invoiced on a monthly basis and District shall pay such invoices in full within thirty (30) days of the invoice date. District shall have the right to withhold payment of the portion of any invoiced amount disputed in good faith, within thirty (30) days from the date of the invoice, provided District provides the notice required below by the due date of such invoiced amount. To dispute an invoiced amount, District must notify OMC in writing of the nature and basis for the dispute, including reasonable information so as to enable OMC to inquire as to the possible discrepancy. The parties shall work together in good faith to promptly resolve such good faith dispute. Any disputed amounts that are agreed or determined to be due and payable to District shall be paid by OMC to District within thirty (30) days of such agreement or determination.

17. **Term and Termination.**

17.1 **Term.** The initial term of this Agreement shall commence as of the Effective Date and shall continue through December 31, 2023 (“**Initial Term**”), subject to the termination provisions set forth herein. The Agreement shall automatically renew for one (1) additional three (3) year term (“**Renewal Term**”), unless District gives OMC written notice at least one hundred eighty (180) days before the end of the Initial Term of non-renewal. The Renewal Term shall commence immediately upon the expiration of the Initial Term and continue through December 31, 2026, subject to the termination provisions set forth herein. The Renewal Term shall be upon the same terms and conditions as the Initial Term, and the terms set forth in Section 16 pertaining to fees for EHR Services provided during the Renewal Term and payment thereof shall apply during the Renewal Term. For clarity, Sections 15.1, 15.2, and 15.3 shall not apply during the Renewal Term and OMC shall not loan any funds to District for the Renewal Term Fees. As used in this Agreement, “**Term**” shall include both the Initial Term and the Renewal Term (if the District exercises its option to renew and extend this Agreement).

17.2 **Termination for Material Breach.** Either Party shall have the right to terminate this Agreement upon thirty (30) days’ written notice to the other party in the event of a material breach of any representation or warranty by the other party or failure of the other party to perform any of its material obligations hereunder, but only if such material breach is not cured within such thirty (30) day period following the giving of written notice describing any such breach. Any such notice shall specify the cause upon which it is based. The violating party shall have thirty (30) days to rectify the cause specified in the notice of termination, unless the cause is incapable of being cured, or unless such cure period is extended by mutual agreement of the Parties. If any such cause is not rectified within such thirty (30) day period or such extended period as agreed to by the Parties, this Agreement shall thereupon automatically terminate.



District's failure to cure the underlying cause triggering suspension of District's or an Authorized User's access to the EHR System or OMC Network under Section 11 within 30 days of notice, assuming cure is possible, shall be deemed a material breach of this agreement.

Notwithstanding the foregoing, OMC may immediately terminate this Agreement or suspend access to or use of the EHR Services if District fails to pay Fees within sixty (60) days of the applicable timeframes set forth in this Agreement, unless otherwise agreed to in writing by OMC and District. District's violation of the confidentiality provisions of Sections 13 or 14 shall be deemed a material breach.

**17.3 Vendor Termination.** The EHR System licenses and District's right to access and use the EHR System and other EHR Services shall terminate in the event OMC's right to make the same available through the applicable vendors and/or other licensors or suppliers terminates or upon such other change in OMC's relationship with the vendors or other licensors or suppliers. If this Agreement is terminated pursuant to this Section 17.3, then OMC shall calculate the Outstanding Total Owed as of the effective date of termination and OMC shall forgive the Outstanding Total Owed each month in an amount equal to the Forgiveness Amount for the remainder of the Forgiveness Period notwithstanding the termination of this Agreement.

**17.4 Termination for Legal Necessity.** If, as a result of changes in applicable federal or state laws, regulations, interpretations or enforcement policies, a party reasonably believes that this Agreement could jeopardize: (i) the licensure of either Party; (ii) the participation of either Party in, or payment or reimbursement from, Medicare, Medicaid or other reimbursement or payment programs; (iii) either Party's full accreditation by any State or nationally recognized accrediting organization; or (iv) the tax exempt status of either party or the status of any financing obligation of either Party that is exempt from taxation or interest income, as applicable, or either party's ability to seek or obtain tax exempt financing; such party may initiate the following process to renegotiate or terminate the Agreement. First, the Party believing that such change has occurred must provide written notice of the same to the other party. The written notice shall contain a written opinion by legal counsel experienced in the subject matter of the purported change concluding that the Agreement, more probably than not, jeopardizes one of the areas listed above unless it is amended or terminated (the "**Legal Change Notice**"). Following receipt of the Legal Change Notice, the parties will immediately initiate negotiations to resolve the matter through amendments to this Agreement. If the parties are unable to resolve the matter within forty five (45) days of the date of receipt of the Legal Change Notice, either party may, at its option, terminate this Agreement by providing written notice thereof to the other party, such termination to be effective immediately.

If this Agreement is terminated pursuant to this Section 17.4, OMC shall calculate the Outstanding Total Owed as of the effective date of termination and OMC shall forgive the Outstanding Total Owed each month in an amount equal to the Forgiveness Amount for the remainder of the Forgiveness Period notwithstanding the termination of this Agreement.

**17.5 Data Extraction and Portability.** Upon termination of this Agreement, at District's request, OMC will, using commercially reasonable means, provide District's data from the EHR System to District in a machine readable format and transfer such data to District in accordance with, minimally, the then-current Department of Health and Human Services ("**Department**") EHR Certification Criteria and other Department

regulations governing data extraction and portability. District's request for data extraction and portability assistance shall be made, if at all, at least sixty (60) calendar days prior to the expiration or the termination of this Agreement, and OMC shall use commercially reasonable efforts to provide District with the requested data within the timeframe reasonably specified by District. OMC reserves the right to charge District reasonable fees in connection with any requests made pursuant to this Section 17.5.

**18. Disclaimer of Warranties; Limitations of Liability.**

18.1 EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, ACCESS TO AND THE PROVISION OF IT SERVICES IS PROVIDED "AS IS" WITHOUT ANY WARRANTY OF ANY KIND EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. WITHOUT LIMITING THE FOREGOING, OMC DISCLAIMS ANY AND ALL WARRANTIES, CONDITIONS, OR REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL OR WRITTEN), WITH RESPECT TO THE IT SERVICES OR ANY PART THEREOF, INCLUDING ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF TITLE, NONINFRINGEMENT, MERCHANTABILITY, OR FITNESS OR SUITABILITY FOR ANY PURPOSE (WHETHER OR NOT OMC KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE), WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, OR BY COURSE OF DEALING. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, OMC SPECIFICALLY DOES NOT WARRANT THAT THE OPERATION OF, OR ACCESS TO, THE IT SERVICES WILL BE SECURE, UNINTERRUPTED, FREE OF HARMFUL CODE OR ERROR FREE, OR THAT ALL ERRORS WILL BE CORRECTED. OMC AGREES TO MAKE REASONABLE EFFORTS TO ENFORCE WARRANTIES SET FORTH IN THE MASTER AGREEMENT ON BEHALF OF DISTRICT IN THE SAME MANNER AND TO THE SAME EXTENT THAT OMC WOULD ENFORCE SUCH WARRANTIES ON ITS OWN BEHALF.

18.2 DISTRICT AGREES THAT CERTAIN APPLICATIONS PROVIDED BY OMC HEREUNDER ARE TOOLS AVAILABLE TO DISTRICT AND ITS PERSONNEL FOR AUGMENTING THE DOCUMENTATION OF THE PATIENT'S CARE AND ARE NOT INTENDED IN ANY WAY TO ELIMINATE, REPLACE OR SUBSTITUTE FOR, IN WHOLE OR IN PART, A PROVIDER'S MEDICAL JUDGMENT AND ANALYSIS OF THE PATIENT'S CONDITION. DISTRICT AGREES THAT THE SOLE AND EXCLUSIVE RESPONSIBILITY FOR ANY MEDICAL DECISIONS OR ACTIONS MADE BY DISTRICT'S PERSONNEL OR PROVIDERS WITH RESPECT TO A PATIENT'S MEDICAL CARE AND FOR DETERMINING THE ACCURACY, COMPLETENESS OR APPROPRIATENESS OF ANY DIAGNOSTIC, CLINICAL OR MEDICAL INFORMATION WITH REGARD TO PATIENTS PROVIDED BY THE APPLICATIONS RESIDES SOLELY WITH DISTRICT'S PERSONNEL AND PROVIDERS. DISTRICT ACCEPTS SOLE RESPONSIBILITY FOR THE ACCURACY AND COMPLETENESS OF DATA INPUT BY ITS USERS AND THE PROCESS OF INPUTTING SUCH DATA.

DISTRICT AGREES THAT THE PHYSICIANS AND PROVIDERS STAFFING THE DEPARTMENT EXERCISE INDEPENDENT MEDICAL JUDGMENT IN RENDERING HEALTH CARE SERVICES TO ITS PATIENTS. IN THE EVENT THAT ANY APPLICATION OR ANY REPORT OR INFORMATION GENERATED BY THE EHR SYSTEM ARE USED IN CONNECTION WITH ANY DIAGNOSIS OR TREATMENT BY DISTRICT AND/OR ANY ITS PHYSICIANS, EMPLOYEES, OR AGENTS, DISTRICT ACKNOWLEDGES AND AGREES THAT OMC IS NOT LIABLE NOR RESPONSIBLE IN CONNECTION THEREWITH, INCLUDING RESPONSIBILITY FOR INJURY, DAMAGE AND/OR LOSS RELATED TO DISTRICT'S USE OF THE SYSTEM TO PROVIDE SUCH DIAGNOSIS OR TREATMENT.

18.3 IT IS EXPRESSLY AGREED THAT IN NO EVENT SHALL OMC BE LIABLE FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUES, ARISING FROM OR IN RELATION TO THIS AGREEMENT OR THE USE OF THE EHR SYSTEM, ACCESS TECHNOLOGY, IT SERVICES, OR OTHER MATERIALS PROVIDED BY OMC, WHETHER A CLAIM FOR ANY SUCH LIABILITY OR DAMAGES IS PREMISED UPON BREACH OF CONTRACT, BREACH OF WARRANTY, FULFILLMENT OF WARRANTY, STRICT LIABILITY OR ANY OTHER THEORIES OF LIABILITY, EVEN IF OMC HAS BEEN APPRISED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES OCCURRING. LIABILITY FOR DIRECT DAMAGES SHALL BE LIMITED TO A MAXIMUM OF THE FEES DISTRICT HAS PAID TO OMC FOR THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE LIABILITY.

19. **Indemnification.** Each party (the “**Indemnifying Party**”) shall forever defend, indemnify and hold the other party and its directors, officers, members, employees, agents, and representatives (the “**Indemnified Party**”) harmless from and against any and all liabilities, together with any and all costs, expenses, and damages, including reasonable attorneys’ fees and costs (collectively, “**Damages**”) arising from claims asserted by a third party or the Indemnifying Party’s employees or agents as a result of the Indemnifying Party’s, or its directors’, officers’, members’, employees’, agents’ and representatives’ negligent acts or omissions, intentional acts, or wrongful acts relating to performance under this Agreement. Damages shall not include any amount resulting from the Indemnified Party’s (i) negligent acts or omissions, intentional acts or wrongful acts or (ii) breach or failure of performance under this Agreement. The obligations of this Section 19 shall survive the termination or expiration of this Agreement. For the limited purposes of enforcement of the indemnification obligations set out in this Section 19, the parties waive any immunities available to them under Washington State’s Workers Compensation Act, Title 51 RCW, or similar law. The parties acknowledge and agree that this limited waiver has been specifically negotiated and is mutually agreed to by both parties.

20. **Insurance.** District shall obtain and maintain such policies of general liability, errors and omissions, and professional liability insurance with reputable insurance companies as are usually carried by persons engaged in District’s business during the term of this Agreement. OMC shall obtain and maintain such policies of general liability, errors and omissions, and professional liability insurance with reputable insurance companies as are usually carried by licensed hospitals during the term of this Agreement.

21. **Compliance.**

21.1 **Policies and Procedures.** District shall comply with all policies and procedures of OMC applicable to District’s and its Authorized Users’ access to and use of the EHR system and OMC Network as such policies and procedures may be amended from time to time (collectively, the “**Access Policies and Procedures**”) which are made a part of this Agreement by this reference. District shall be responsible for and shall require all employees and agents of District, including without limitation, its Authorized Users, to comply with all applicable requirements of the Access Policies and Procedures and with any other applicable terms and conditions of this Agreement.

21.2 **Compliance.** District represents and warrants to OMC that District will use the EHR System and OMC Network in compliance with all applicable laws and regulations including, without limitation, all data protection laws and requirements relating to prohibitions on the use of telecommunications systems or

computer networks to transmit illegal, threatening, libelous, harassing, other offensive messages, or other unlawful material.

21.3 **Compliance with Anti-kickback, Anti-Self-Referral and Anti-Rebate Laws.** Neither party shall engage in any activity prohibited by federal or state anti-kickback, anti-self-referral or anti-rebate laws, or any other federal, state or local law or regulation, as those regulations now exist or as subsequently amended, renumbered or revised.

21.4 **General.** Both Parties shall comply with all applicable local, state and federal laws and regulations now existing, or as hereafter enacted or amended, including but not limited to the Social Security Act, the False Claims Act, the Anti-Kickback Act, the Health Insurance Portability and Accountability Act, the Balance Budget Act of 1997, the regulations of the Department of Health and Human Services, all public health and safety provisions of Washington law, and any applicable regulations of the Washington State Department of Health Certificate of Need Program. Each party further agrees to comply with Washington's workers' compensation law and not to discriminate on the basis of race, color, sex, age, religion, national origin, sexual preference, disability, veteran status, or on the job injury in the provision of its respective services or in the terms and conditions of employment of its employees or associates, or in its contracts for professional services.

21.5 **Representation.** Each Party represents and warrants that it and all personnel, in providing its respective services:

21.5.1 Are not currently and at no time have been sanctioned, excluded, proposed for exclusion from, or otherwise ineligible to participate in any federal or state funded health care program, including but not limited to the Medicare or Medicaid programs; and

21.5.2 Have not otherwise been excluded from doing business with the Federal government as provided in the list maintained by the United States General Services Administration (GSA) or the Department of Health and Human Services Office of Inspector General (OIG).

Each Party agrees to immediately notify the other of any threatened, proposed, or actual exclusion from any federally funded health care program, including Medicare and Medicaid. In the event that either party or any of its personnel is excluded from participation or is otherwise ineligible to participate in any federally funded health care program during the term of this Agreement, this Agreement shall automatically terminate as of the date of such exclusion or ineligibility.

22. **Access to Records.** The provisions of this section shall only be effective if this Agreement is subject to regulations promulgated by the Health Care Financing Administration implementing of § 952 of the Omnibus Reconciliation Act of 1980, codified at 42 U.S.C. 1395x(v)(1)(1): Each Party agrees, until the expiration of four (4) years after the furnishing of Services pursuant to this Agreement, to make available upon written request, to the Secretary of Health and Human Services (Secretary) or, upon request, to the Comptroller General, or any of their duly authorized representatives, this Agreement, and all books, documents, and records that are necessary to verify the nature and extent of the costs of the services provided under this Agreement . If either party carries out any of the duties hereunder through a

subcontract with a related organization, having a value or cost of Ten Thousand Dollars (\$10,000.00) or more over a twelve (12) month period, such subcontract shall contain a clause to the effect that, until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request, to the Secretary, or upon request, to the Comptroller General, or any of their duly authorized representatives, the subcontract and the books, documents, and records of such organization that are necessary to verify the nature and extent of the costs of such services. Each party will notify the other party promptly upon receipt of a request for disclosure of such information and will provide copies of documents and information provided in response to the request.

23. **Automatic Amendments.** To the extent that any provisions of this Agreement are in conflict with the provisions of the Medicare statutes or regulations, this Agreement shall automatically, without any action by the parties, be deemed to have been amended, in order to bring it into conformity with the Medicare statutes or regulations. If the Medicare statutes or regulations are amended, and such amended statutes or regulations are in conflict with the provisions contained in this Agreement, this Agreement shall be automatically amended to conform to the new Medicare statutes or regulations. District shall notify OMC in writing of all amendments to this Agreement which result from operation of this paragraph, to the extent they are known to District. To the extent the operation of this Section 23 materially affects the respective rights of either party under this Agreement, the parties agree they shall make a reasonably good faith effort to negotiate a written amendment to this Agreement ameliorating any such adverse effects. If the parties are unable to reach agreement on an ameliorating amendment within forty-five (45) days of either party's request to negotiate, either party may terminate this Agreement immediately upon delivery of written notice of termination to the other party.

24. **Data Ownership.** The Parties acknowledge and agree that District owns all rights, interests and title in and to the District Data stored and maintained in the EHR System and that such rights, interests and title shall remain vested in District at all times; provided, however that OMC shall have the right to retain the District Data in the EHR System after termination of this Agreement for any reason and that in such circumstances, OMC shall have the complete control over the District Data in connection with OMC's ongoing maintenance of the EHR System. Nothing in this Agreement shall be interpreted to grant District any rights, interest, or title in or to data stored and maintained in the EHR System which does not qualify as District Data. District may use the District Data for its own internal and operations purposes consistent with the reporting functions of the EHR System and with the Master Agreement. District may request OMC's assistance in extracting District Data from the EHR System to distribute to third parties. If OMC agrees to provide such assistance, District acknowledges and agrees that any such assistance must be in accordance with all applicable Epic requirements related thereto. OMC shall not prevent the District and its Authorized Individuals from accessing District Data.

25. **Independent Contractor.** In the performance of the duties and obligations of the Parties hereunder, it is mutually understood and agreed that all Parties, including all employees and agents ("**Personnel**") of the Parties, are at all times acting and performing as independent contractors, and nothing in this Agreement is intended nor shall be construed to create between the Parties or between a Party's Personnel and the other Party's Personnel, an employer/employee, joint venture, agency, lease or landlord/tenant relationship that does not otherwise exist. In furtherance of the independent status of the Parties, each Party shall not, and

shall cause all Personnel of the Party not to, hold itself or themselves out as officers, agents or employees of the other Party.

**26. Dispute Resolution.**

26.1 Meet and Confer. The Parties agree to meet and confer on any issue that is the subject of a dispute (“Meet and Confer”) if initiated by another Party. The Party seeking to initiate the Meet and Confer procedures (“Initiating Member”) will give written notice to the other Party, describing in general terms the nature of the dispute, the initiating Party’s position and a summary of the evidence and arguments supporting its position, and identifying one or more individuals with authority to settle the dispute on such party’s behalf. (The individuals so designated by a party will be known as the “Authorized Individuals.”)

(1) The Party receiving such notice (the “Responding Party”) will have twenty (20) days within which to respond. The response will include the Responding Party’s position and a summary of the evidence and arguments supporting its position and will also identify one or more Authorized Individuals with authority to settle the dispute on such party’s behalf. The Authorized Individuals for the Members will meet at a mutually acceptable time and place within ten (10) business days of the date of receipt of the Responding Party’s response and thereafter as often as they deem reasonably necessary to exchange relevant information and to attempt to resolve the dispute.

(2) If the matter has not been resolved within twenty (20) business days after the last date on which the meeting could take place in compliance with this section, then each party will refer the underlying matter to the chief executive officers for resolution. If such referral fails to resolve the matter within two (2) weeks after such referral, either party may initiate non-binding mediation as set forth in Section 7.3.2 hereof.

(3) All deadlines specified in these Meet and Confer provisions may be extended by mutual agreement of the affected parties. The parties recognize that any agreement that may be reached during the Meet and Confer process, may be subject to the approval of the respective member’s governing board.

26.2 Mediation. If the “meet and confer” process outlined above fails to result in a resolution of a dispute, the Members agree to try in good faith to settle dispute by medication administered by the American Health Lawyers Association (“AHLA”) mediation service. The Members will jointly notify AHLA of their intent to use the mediation service, select a mediator from the AHLA roster, and mediate pursuant to the terms of the AHLA’s Agreement to Mediate. In the event the Members cannot agree on a third-party mediator within fourteen (14) days, the mediator shall be selected by the AHLA. The mediation will be convened in Seattle, Washington or such other location as agreed by the parties. The parties to the dispute shall share the expenses of the mediator and other costs of mediation on an equal basis.

26.3 Arbitration. If the dispute cannot be resolved by nonbinding mediation within sixty (60) days following the end of the good faith period, the dispute shall be referred for definitive resolution by binding arbitration conducted in accordance with the AHLA Alternative Dispute Resolution Service Rules of Procedure for Arbitration (“Arbitration Rules”), which rules and procedures are deemed to be incorporated



by reference into this Agreement. The arbitration shall be conducted by a single arbitrator mutually agreed upon by the Parties. If the Parties cannot agree on an arbitrator within fourteen (14) days, the arbitrator shall be selected by the AHLA Dispute Resolution Service from its panel of arbitrators. The arbitration shall take place in Seattle, Washington or such other location as agreed upon by the parties. The arbitrator shall render his/her final award in writing, including findings of fact, conclusions of law and his or her decision, and shall be required to issue a "reasoned" award which is based on the facts and applicable law of the case. The decision shall contain a brief statement of the claim(s) determined and the award made on each claim. In making the decision and award, the arbitrator shall apply applicable law. The decision of the arbitrator shall be binding. The fees and expenses of the arbitrator shall be shared equally among the parties. The prevailing party shall be entitled to recover its reasonable attorneys' fees in any arbitration proceeding. The award of the arbitrator shall be final and may be enforced in a court having jurisdiction therefor. Arbitrations hereunder must be commenced within the time period allowed for the commencement of actions in the courts of the State of Washington.

26.4 **Jurisdiction and Venue.** Subject to the dispute resolution provisions hereinabove, the venue for any action or suit related to this Agreement shall be in the King County Superior Court in King County, Washington.

27. **Applicable Law; Venue.** The interpretation of this Agreement and the resolution of any disputes arising under this Agreement shall be governed by the laws of the State of Washington without regard to the conflict of law provisions of such state. If any action or other proceeding is brought on or in connection with this Agreement, the venue of such action shall be in the Superior Court of King County, Washington.

28. **Non-Assignability.** This Agreement may not be assigned or transferred by District without the prior written consent of OMC which may be withheld in its sole discretion.

29. **Severability.** Any provision of this Agreement which shall prove to be invalid, void, or illegal, shall in no way affect, impair, or invalidate any other provision hereof, and such other provisions shall remain in full force and effect.

30. **Notices.** All notices and other communications required or permitted to be given hereunder shall be in writing and shall be considered given and delivered when (a) personally delivered to the party, (b) sent by facsimile transmission or electronic mail (delivery of which is electronically confirmed) or (c) when delivered by a nationally recognized overnight courier service (such as FedEx) to the parties at the addresses set forth on the signature page below, or at such other address as such party shall have specified by notice given in accordance herewith.

31. **Waiver.** No term or provision hereof shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of a breach by the other, whether expressed or implied, shall not constitute a consent to, waiver of, or excuse for any other different or subsequent breach.

32. **No Third Party Rights.** The Parties do not intend the benefits of this Agreement to inure to any third person not a signatory hereto except Epic with respect to a Party's obligations with respect to the Master

Agreement. Notwithstanding anything contained herein, or any conduct or course of conduct by any Party hereto, before or after signing this Agreement, this Agreement shall not be construed as creating any right, claim or cause of action against either Party by any person or entity not a Party to this Agreement.

33. **Counterparts.** This Agreement may be executed in two or more counterparts, and such counterparts shall, together, constitute and be one and the same instrument. Delivery by fax, email or other electronic means of a copy of a signature page of this Agreement showing a signature by or on behalf of any party to this Agreement will have the same effect as delivery of a manually-signed original of this entire Agreement executed by that party.

34. **Cooperation and Further Assurances.** Each party expressly promises to cooperate and facilitate performance under this Agreement by the other party, including without limitation, performing and undertaking any acts, and executing and delivering any documents reasonably necessary or required by the other party for its performance under this Agreement.

35. **Authority.** Each of the individuals executing this Agreement on behalf of District and OMC warrant that they are an authorized signatory of the entity for which they are signing, and have sufficient corporate authority to execute this Agreement.

36. **Complete Understanding.** This Agreement and the exhibits attached hereto which are incorporated herein by this reference contain the entire understanding of the parties hereto, and there are no other written or oral understandings or promises between the parties with respect to the subject matter of this Agreement other than those contained herein. Except as otherwise provided herein, all modifications or amendments to this Agreement must be in writing and signed by all parties.

37. **Survival.** Sections 13, 14, 15.4.3, 18, 19, 22, 24, 25, 26, 27, 29, 30, 32, 37, the Promissory Note, and such other terms which expressly or by their nature survive termination shall survive the expiration or termination of this Agreement for any reason.

[Remainder of page left intentionally blank; signature page follows]



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate original as of the date of the last party to sign below:

**OVERLAKE:**

Overlake Hospital Medical Center

**DISTRICT:**

King County Public Hospital District No. 4

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_  
Address: 1035 - 116th Avenue N.E.  
Bellevue, WA 98004

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_  
Address: 9801 Frontier Ave SE  
Snoqualmie, WA 98065

Exhibits

- Exhibit A – EHR System
- Exhibit B – Support Services (3 tier support)
- Exhibit C – Service Level Standards
- Exhibit D – Requirements of Use
- Exhibit E – Business Associate Agreement
- Exhibit F – Fees/Fees Cost Summary
- Exhibit G – Promissory Note

**Exhibit A**  
**EHR System**

For purposes of this Agreement, “EHR System” means the following software and related systems, which are limited to use solely by District’s Department:

- ASAP
- Grand Central (ADT)
- Orders
- HIM
- Willow
- Connectivity to the frame relay network and related health information applications maintained by Overlake that will enable District to access Epic, excluding any end-user hardware

## **Exhibit B**

### **Support Services**

#### **Level 1 Support (Help Desk)**

OMC Help Desk will offer remote IT support (email/telephonic) to District end-users who work onsite or support the work performed on onsite. If Level 1 support cannot resolve the issue, the Ticket is escalated to the next level of support for resolution. OMC will provide District Level 1 remote IT desktop support services via its 3<sup>rd</sup> party service provider (Denali) 24x7x365. District users will submit an IS Ticket via the support portal or by calling the Help Desk. OMC will make every effort to resolve each incident to the best of its ability.

The Help Desk provides the following services:

- Provide first contact investigation, diagnosis and resolution of reported incidents
  - District requests/incidents submitted via ticket
  - Resolution of Level 1 incidents (examples below)
    - Username/password reset
    - Assistance with “how-to” support
    - Problem escalation to the next level of support
    - Epic and Supported Software How-To support
- Devices supported will be limited to:
  - OMC owned desktops and laptops
  - OMC owned or leased printers
  - OMC owned mobile devices
  - OMC owned peripheral desktop equipment (ex. monitor, keyboard, mouse, etc.)
- The EHR System and Access Technology

#### **Level 2 Support (IS Desktop)**

OMC Desktop Support team will offer remote IT support (email/telephonic) and hands on/at the elbow support to District end-users who work onsite for tickets/incidents escalated to their ticketing queue by Level 1/Help Desk. If Level 2 support cannot resolve the issue, the Ticket is escalated to the next level of support for resolution. OMC will provide District Level 2 remote IT desktop support services Monday-Sunday during the hours of 6:00am-6:00pm for non-critical incidents and 24x7x365 for critical incidents. District users needing support will submit an IS Ticket via the support portal or by calling the Help Desk. OMC will make every effort to resolve each incident to the best of our ability.

Desktop functions:

- Provide second contact investigation, diagnosis and resolution of reported incidents
  - District requests/incidents submitted via ticket
  - Resolution of Level 2 incidents triaged to the Desktop ticketing queue

- Devices supported will be limited to:
  - OMC owned desktops and laptops
  - OMC owned or Leased printers
  - OMC owned mobile devices
- The EHR System and Access Technology

### **Level 3 & Vendor Liaison Support (Epic, IT Applications, IT Infrastructure)**

OMC will provide remote IT support (email/telephonic) and hands on/at the elbow support to District end-users who work onsite for Tickets/incidents escalated to their ticketing queue by Level 1/Help Desk or Level 2/Desktop. If Level 3 support cannot resolve the issue, it will act as a liaison with the vendor to resolve the issue. OMC will provide District Level 3 remote IS support services during standard business hours of 6:00am-6:00pm (Monday-Friday) for non-critical incidents and 24x7x365 for critical incidents. District users needing support will submit an IS ticket via the support portal or by calling the Help Desk. OMC will make every effort to resolve each incident to the best of its ability.

Analyst/Engineer functions:

- Provide investigation, diagnosis and resolution of reported incidents
  - District requests/incidents submitted via ticket
  - Resolution of Level 3 incidents triaged to the applicable team ticketing queue
  - Work in partnership with or as a liaison to vendors as needed to resolve incidents.
- Devices supported will be limited to:
  - OMC owned desktops and laptops
  - OMC owned or Leased printers
  - OMC owned mobile devices
- The EHR System and Access Technology

**Exhibit C**  
**Service Level Standards**

Priority is determined based on scope of incident (number of users, number of devices, number of locations, number of applications impacted), level of disruption to patient care, and impact to business operations.

Priority is initially set by the user and may be adjusted by technical staff as troubleshooting, investigation and adjustments to standard workflows are discovered.

Priority	Metric	Calendar/Schedule	Target
Low	Response Time	Business Hours (M-F, 7a-7p)	4 hours
Low	Resolution Time	Business Hours (M-F, 7a-7p)	100 hours
Medium	Response Time	Business Hours (M-F, 7a-7p)	2 hours
Medium	Resolution Time	Business Hours (M-F, 7a-7p)	50 hours
High	Response Time	24/7 Monday-Sunday	20 minutes
High	Resolution Time	24/7 Monday-Sunday	8 hours
Critical	Response Time	24/7 Monday-Sunday	20 minutes
Critical	Resolution Time	24/7 Monday-Sunday	4 hours

## **Exhibit D**

### **Requirements of Use**

1. District and its Authorized Users shall use the Applications, OMC Network and IT Services solely to process its own data and in support of its own operations.
2. District acknowledges and agrees that other users accessing the EHR System will have access to District's data. District hereby irrevocably agrees that Social Security Administration requests for District data shall be provided without District's knowledge or consent.
3. District shall not grant access to any Authorized Users outside of the United States, and shall not allow such access to be granted by vendors or third parties.
4. District shall not allow any third-party to provide assistance related to the use, implementation or maintenance of the EHR System, OMC Network or IT Services without explicit signed written permission from OMC.
5. District shall not, and shall not permit any person (including Authorized Users) or party, to do any of the following:
  - a) Abuse or misuse the EHR System, OMC Network or IT Services, including:
    - i. gain or attempt to gain unauthorized access to the EHR System, OMC Network or IT Services;
    - ii. alter or destroy information in the EHR System, OMC Network or IT Services;
    - iii. use the EHR System, OMC Network or IT Services in a manner that interferes with other users' use of these system(s) and/or services;
    - iv. knowingly permit the introduction into the EHR System, OMC Network or IT Services of any program, routine or data (such as viruses or worms) that does or may disrupt or in any way impede the operation of the EHR System, OMC Network or IT Services, or alter or destroy any data within it; or
    - v. use the EHR System, OMC Network or IT Services in a manner that violates the Access Policies and Procedures.
    - vi. Undertake or permit any unlawful use of EHR System, OMC Network or IT Services or take any action that would render the operation or use of EHR System, OMC Network or IT Services by District or any other user unlawful.
    - vii. Begin live use of the EHR System, OMC Network or IT Services without explicit written permission from OMC.

**Exhibit E**  
**Business Associate Agreement**

**Exhibit F**  
**Fees/Fees Cost Summary**

Fees to be paid by District for the EHR Services shall consist of Initial Fees, Ongoing Maintenance/Support Fees and Additional Fees as described in this Exhibit F.

**Initial Fees**. One-time initial fees to implement Epic for District's use in the Department shall consist of the following (collectively, the "**Initial Fees**");

Fee	Fee Amount
Epic Licensing Fees	\$216,000.00
Miscellaneous Software Licensing Fees	\$20,000.00
Epic Implementation Consulting Fees	\$273,000.00
IT Implementation Consulting Fees	\$357,000.00
IT Hardware	\$100,000.00
Total	\$966,000.00

OMC shall invoice District for the total amount of the Initial Fees within fourteen (14) days after the Go-Live Date. OMC and District acknowledge and agree that OMC shall advance the funds to District pursuant to Section 15.4.1 necessary to fund and pay the Initial Fees. The payment terms for the Initial Fees are set forth below and are further subject to the terms of the Promissory Note which are not inconsistent with this Agreement.

Funds advanced by OMC for District's payment of the Initial Fees are deemed to be loaned by OMC to District as of the invoice date for the Initial Fees (the "Initial Fees Invoice Date"), and interest shall begin accruing as of such date.

Payment terms for the Initial Fees are as follows:

- 50% of the Initial Fees will be paid by the District in 36 equal monthly payments of principal plus interest (the "**Initial Fee Monthly Payment(s)**"), beginning in the same month as the Initial Fees Invoice Date.
- 50% of the Initial Fees, plus accrued interest, will be due in a lump sum payment (the "**Initial Fees Balloon Payment**") on the third (3<sup>rd</sup>) anniversary of the Initial Fees Invoice Date (the "**Balloon Payment Due Date**").



- The total amount of the Initial Fees due and owing at any given time shall be subject to the terms of the Promissory Note which are not inconsistent with this Agreement. Interest due on all outstanding amounts shall be calculated at the rate of two and seventeen hundredths percent (2.17%) per annum.

District shall pay the Initial Fee Monthly Payments on or before the fifth (5<sup>th</sup>) day of each month for thirty (36) months beginning on the Initial Fees Invoice Date, except that the first Initial Fee Monthly Payment is due within ten (10) business days of the Initial Fees Invoice Date.

Any outstanding amounts due and owing at the end of the term of the Agreement, including the Initial Fees Balloon Payment, shall be forgiven by OMC subject to the loan forgiveness terms set forth in Section 15.4.3 of the Agreement.

**Ongoing Maintenance and Support Fees.** Fees for OMC's provision of ongoing maintenance and support in connection with Department's ongoing use of Epic during the Initial Term (collectively, the "**Ongoing Support Fees**") shall be set forth as an annual amount for each twelve (12) month period during the Initial Term (each, a "**Year**").

The Ongoing Support Fees for the Year beginning on the Go-Live Date ("**Year 1**") is equal to the sum of \$252,769.31. OMC shall provide District with written notice of the Ongoing Support Fees for the Year beginning on the first (1<sup>st</sup>) anniversary of the Go-Live Date ("**Year 2**") and for the Year beginning on the second (2<sup>nd</sup>) anniversary of the Go-Live Date ("**Year 3**") to District at least thirty (30) days prior to the start of Year 2 and Year 3.

OMC and District acknowledge and agree that OMC shall advance the funds to District pursuant to Section 15.4.1 necessary to fund and pay the Ongoing Support Fees. The payment terms for the Ongoing Support Fees are set forth below and are further subject to the terms of the Promissory Note which are not inconsistent with this Agreement.

Funds advanced by OMC for District's payment of the Ongoing Support Fees for a Year is deemed to be a loan by OMC to District as of the first (1<sup>st</sup>) day of the applicable Year and interest shall begin accruing as of such date for the Ongoing Support Fees due for the applicable Year.

Payment terms for the Ongoing Support Fees are as follows:

- 50% of the Ongoing Fees for each Year will be paid by the District in twelve (12) equal monthly payments of principal plus interest (the "**Ongoing Fee Monthly Payment(s)**") beginning in the first month of the applicable Year.
- 50% of the Ongoing Fees for each Year, plus accrued interest, will be due in a lump sum payment (the "**Ongoing Fees Balloon payment**") on the Balloon Payment Due Date defined above.

- The total amount of the Ongoing Support Fees due and owing at any given time shall be subject to the terms of the Promissory Note which are not inconsistent with the terms of this Agreement. Interest due on all amounts shall be calculated at the rate of two and seventeen hundredths percent (2.17%) per annum.

District shall pay the Ongoing Fee Monthly Payments on or before the fifth (5<sup>th</sup>) day of each month in the applicable Year, except that the first Ongoing Fee Monthly Payment is due within ten (10) business days of the Initial Fees Invoice Date.

Any outstanding amounts due and owing at the end of the term of the Agreement, including the Ongoing Fees Balloon Payment, shall be forgiven by OMC subject to the loan forgiveness terms set forth in Section 15.4.3 of the Agreement.

**Additional Fees.** Fees for additional services or costs not otherwise included in the Initial Fees or Ongoing Support Fees, including but not limited to additional training services (collectively, the “**Additional Fees**”), shall be as agreed to in advance and set forth in writing. Unless otherwise agreed to in writing, OMC shall invoice the Additional Fees to District and District shall pay such invoices in full within thirty (30) days of the invoice date.

**Exhibit G**  
**Promissory Note**

**MULTIPLE ADVANCE  
PROMISSORY NOTE  
(Unsecured)**

**Snoqualmie, Washington**  
\_\_\_\_\_, 2020

**\$2,005,000.00**

**FOR VALUE RECEIVED**, King County Public Hospital District No. 4 d/b/a Snoqualmie Valley Hospital, a Washington municipal corporation ("**Maker**"), promises to pay to the order of Overlake Hospital Medical Center, a Washington non-profit corporation ("**Payee**"), the maximum aggregate amount of Two Million Five Thousand and No/100 Dollars (\$2,005,000.00) (or as much thereof as advanced) in repayment of the advances made by Payee to Maker pursuant to EHR Agreement (as hereafter defined).

This Multiple Advance Promissory Note ("Note") evidences advances ("Advance(s)") loaned to Maker by Payee, as more fully described in Section 15.4.1 and Exhibit F of that certain Electronic Health Record System Access Agreement dated the same date herewith, by and between Maker and Payee (the "EHR Agreement"), the total aggregate amount of which is referred to as the "Total Owed" as that term is further defined in the EHR Agreement. Payee's records of such advances shall be conclusive proof of the amounts so advanced. All terms capitalized herein and not otherwise defined herein shall have the meaning ascribed them in the EHR Agreement.

This Note is subject to the terms of the EHR Agreement, dated the same date herewith, executed by and between Maker and Payee the terms of which shall govern Maker's rights and duties to Payee in connection with the obligation evidenced by this Note.

**1. PAYMENTS AND INTEREST.**

Payments on this Note shall be made in accordance with the terms of the EHR Agreement, including but not limited to the terms set forth in Exhibit F of the EHR Agreement.

Payments shall be made in lawful money of the United States without deduction or offset, which are expressly waived by Maker except as expressly permitted under the EHR Agreement, and shall be applied first to costs and interest due and then to principal.

Payments shall be made to Payee at the following address unless Payee provides actual notice in writing of a different address for payments: 1035 – 116th Avenue N.E., Bellevue, Washington, 98004.

This Note may be prepaid in whole or in part at any time, at Maker's option, without prepayment premium of any kind.

**2. PAYMENT TERM.** In the absence of prior demand by Payee, the entire Total Owed shall be paid or forgiven in full by the Maturity Date. For purposes of this Note, "Maturity Date" means the earlier of (i) three (3) years after the end of the Initial Term, or (ii) upon the occurrence of an Event of Default (as hereinafter defined).

**3. ORDER OF PAYMENTS.** Payments made by Maker hereunder are to be applied first to any unpaid accrued interest, with such amount to be applied against the interest on the earliest unpaid

Advance first, then against interest on the next earliest Advance and so forth until all unpaid accrued interest is paid in full; then to costs of collection and enforcement; and then to the outstanding unpaid balance of the Total Owed, with such amounts applied against the earliest unpaid Advance first, then against the next earliest Advance and so forth until the outstanding unpaid balance of the Total Owed is paid in full.

4. **DEFAULT/ACCELERATION.**

Should default be made in payment of any installment when due, or in Maker's performance of any other obligation undertaken by Maker in this Note (each, an "Event of Default"), the entire balance of the Outstanding Total Owed shall, at Payee's option, become immediately due and payable subject to the terms of the EHR Agreement, without presentment, demand, protest, notice of dishonor, or any other notice to Maker, all of which are expressly waived by Maker. During the period of any default, interest shall accrue on the Outstanding Total Owed at the rate of eight percent (8%) per annum.

Maker shall pay all reasonable costs of collection when incurred by Payee, including, but not limited to reasonable attorneys' fees. Payee is authorized to consult with, employ and pay attorneys' fees upon a default of Maker or upon institution of legal proceedings by or against Payee in connection with this Note, and Maker shall reimburse Payee for all of Payee's reasonable attorneys' fees and expenses for such consultation or employment or in any judgment or decree entered therein and in any bankruptcy or reorganization proceeding. The term "attorneys' fees" shall include without limitation attorneys' fees incurred in any bankruptcy case or proceeding or on appeal. Maker shall pay all other reasonable costs incurred by Payee in collection or attempting to collect any sums due under this Note or protecting or enforcing any rights of Payee under this Note.

Failure at any time to exercise any of the aforementioned remedies upon an Event of Default shall not constitute a waiver of the right to exercise the same in the event of any subsequent Event of Default or breach, or of the right to exercise the same for continuance of any Event of Default or breach.

5. **COMMERCIAL PURPOSE.** Maker acknowledges that this Note represents a loan from Payee for commercial purposes and not for personal or household purposes.

6. **WAIVER.** Maker hereby waives presentment, demand for payment, protest, notice of nonpayment or dishonor. Any forbearance or failure to enforce any of the provisions of this Note shall not be deemed a waiver of the rights of Payee to enforce any provision of this Note at any subsequent time.

7. **BINDING AGREEMENT.** The undersigned signatory for Maker hereby expressly represents: (a) that he/she has the requisite corporate authority to execute this Note on behalf of Maker; (b) that the execution, delivery and performance of this Note has been duly and validly authorized by Maker; (c) that this Note has been duly executed and delivered to Payee; and (d) that this Note constitutes a legal, valid, and binding obligation of Maker, enforceable against Maker in accordance with its terms.

8. **GOVERNING LAW AND VENUE.** This Note shall be governed by, and construed and enforced in accordance with, the laws of the State of Washington without reference to its choice of law rules. If litigation is commenced, Maker agrees to submit to the jurisdiction and venue of the state or federal courts in King County, Washington.

9. **MODIFICATION.** No modification, waiver or amendment of any provision of this Note shall be effective unless specifically set forth in a writing signed by both Maker and Payee.

10. **HEADINGS.** The headings contained in this Note are for reference purposes only and do not affect in any way the meaning or interpretation of the provisions in this Note.

11. **NOTICES.** Any notice to Maker provided for in this Note shall be given by certified mail addressed to Maker at 9801 Frontier Ave SE, Snoqualmie, WA 98065, or to such other address as Maker may designate by notice to the Payee. Any notice to the Payee shall be given by mailing such notice by certified mail, return receipt requested, to the Payee at the address stated in Section 1 of this Note, or at such other address as may have been designated by notice to Maker.

**ORAL PROMISES TO LOAN MONEY, EXTEND CREDIT, FORGIVE PAYMENT OR TO FOREBEAR ENFORCEMENT OF PAYMENT ARE NOT ENFORCEABLE UNDER WASHINGTON STATE LAW.**

**IN WITNESS WHEREOF,** Maker has executed this Note as of this \_\_\_\_ day of \_\_\_\_\_, 2020 to reflect those Advances made since the date first shown above.

**KING COUNTY PUBLIC HOSPITAL DISTRICT NO. 4,  
D/B/A SNOQUALMIE VALLEY HOSPITAL**

\_\_\_\_\_  
By: \_\_\_\_\_

Its: \_\_\_\_\_

	Amortized over 3 Years		50% of Initial Fee
Initial Fees	\$	966,000.00	\$ 483,000.00
Annual Interest Rate		2.17%	

Month	Payment on Initial (50% of Total Capital Amt; 3 year term)	Payment on Support (50% of Annual Amt; 1 year term)
1	\$ 13,870.24	\$ 10,656.26
2	\$ 13,870.24	\$ 10,656.26
3	\$ 13,870.24	\$ 10,656.26
4	\$ 13,870.24	\$ 10,656.26
5	\$ 13,870.24	\$ 10,656.26
6	\$ 13,870.24	\$ 10,656.26
7	\$ 13,870.24	\$ 10,656.26
8	\$ 13,870.24	\$ 10,656.26
9	\$ 13,870.24	\$ 10,656.26
10	\$ 13,870.24	\$ 10,656.26
11	\$ 13,870.24	\$ 10,656.26
12	\$ 13,870.24	\$ 10,656.26
13	\$ 13,870.24	\$ 10,656.26
14	\$ 13,870.24	\$ 10,656.26
15	\$ 13,870.24	\$ 10,656.26
16	\$ 13,870.24	\$ 10,656.26
17	\$ 13,870.24	\$ 10,656.26
18	\$ 13,870.24	\$ 10,656.26
19	\$ 13,870.24	\$ 10,656.26
20	\$ 13,870.24	\$ 10,656.26
21	\$ 13,870.24	\$ 10,656.26
22	\$ 13,870.24	\$ 10,656.26
23	\$ 13,870.24	\$ 10,656.26
24	\$ 13,870.24	\$ 10,656.26
25	\$ 13,870.24	\$ 10,656.26
26	\$ 13,870.24	\$ 10,656.26
27	\$ 13,870.24	\$ 10,656.26
28	\$ 13,870.24	\$ 10,656.26
29	\$ 13,870.24	\$ 10,656.26
30	\$ 13,870.24	\$ 10,656.26
31	\$ 13,870.24	\$ 10,656.26
32	\$ 13,870.24	\$ 10,656.26
33	\$ 13,870.24	\$ 10,656.26
34	\$ 13,870.24	\$ 10,656.26
35	\$ 13,870.24	\$ 10,656.26
36	\$ 13,870.24	\$ 10,656.26
Month 37 (Balloon Payment)	\$ 515,131	\$ 395,849

*See separate balloon schedule above for detail.*

**TOTAL Amount (Cells B44+C44+D44)**

**Add 10% Contingency for years 2&3 of  
IT support (cost currently not known)  
(Cell E44x10%)**

**Rounding Cell D49, Promissory Note  
Not to Exceed**



Year 1 Support	\$	252,769.31
Year 2 Support	\$	252,769.31
Year 3 Support	\$	252,769.31

Year 1 Support	\$	252,769.31
Year 2 Support	\$	252,769.31
Year 3 Support	\$	252,769.31

[illegible]

Initial Fee  
50% of Initial Fee  
Annual Accrued Interest  
End Balance

Annual Service Fee  
Starting Balance  
Year 1 Incremental Svc Fee Ba  
Year 2 Incremental Svc Fee Ba  
Year 3 Incremental Svc Fee Ba  
Annual Accrued Interest  
End Balance

\$	1,821,958
----	-----------

\$	2,004,154
----	-----------

\$	2,005,000
----	-----------

50% of Support

	\$	126,384.66
	\$	126,384.66
	\$	126,384.66

Initial Balloon		Year 1 End Balance		Year 2 End Balance	
\$	483,000	\$	493,481	\$	504,190
\$	10,481	\$	10,709	\$	10,941
\$	493,481	\$	504,190	\$	515,131

Initial Balloon		Year 1 End Balance		Year 2 End Balance	
\$	-	\$	129,127	\$	261,056
\$	126,385	\$	-	\$	-
\$	-	\$	126,385	\$	-
\$	-	\$	-	\$	<b>126,385</b>
\$	2,743	\$	5,545	\$	<b>8,407</b>
\$	129,127	\$	261,056	\$	395,849



Year 3 End Balance

\$	515,131
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 <--Initial Fee Balloon Balance

Year 3 End Balance

\$	395,849
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 <--Annual Service Fee Balloon Balance

**Public Hospital District No. 4**

**KING COUNTY, WA**

**RESOLUTION NO. 670-1120**

**A RESOLUTION** of the Board of Commissioners of Public Hospital District No. 4, King County, Washington, approving an agreement with Overlake Medical Center (“OMC”).

**WHEREAS**, Public Hospital District No. 4, King County, Washington (the “District”) is a public hospital district and municipal corporation duly organized and existing under the laws of the State of Washington; and

**WHEREAS**, OMC is a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code providing general acute and tertiary inpatient and outpatient services at its general acute care hospital located on OMC’s main campus in Bellevue, Washington, which operates an emergency department and currently maintains a level III trauma designation through the Washington State Department of Health; and

**WHEREAS**, the District desires to enter into the Emergency Department Management Services Agreement (“MSA”) with OMC; and

**WHEREAS**, the Commission, having reviewed the MSA attached hereto, and based on such review the Commissioners have determined that such agreement is in the best interest of the District and those served by the District.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of Public Hospital District No. 4, King County, as follows:

**SECTION 1:** The Commissioners have reviewed the agreement, attached hereto as Exhibit A.

**SECTION 2:** Upon such review, the Commission has determined that approval of the agreement is in the best interest of the District.

**SECTION 3:** Accordingly, the MSA is hereby approved. The Superintendent of Public Hospital District No. 4, King County, is authorized to sign and execute the agreement between the District and OMC.

**ADOPTED** by the Board of Commissioners of Public Hospital District No. 4, King County, at a duly and properly noticed regular meeting thereof, on the 12<sup>th</sup> day of November, 2020.

\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

## CERTIFICATION

I, the undersigned, Secretary of the Commission (the "Commission") of Public Hospital District No. 4, King County, Washington (the "District"), hereby certifies as follows:

1. The attached copy of Resolution No. 670-1120 (the "Resolution") is a full, true and correct copy of a resolution duly adopted at a regular meeting of the Commission of the District, as that resolution appears on the minute book of the District; and

2. A quorum of the members of the Commission was present throughout the meeting and a majority of the Commission members voted in the proper manner for the adoption of the Resolution.

IN WITNESS WHEREOF, I have hereunto set my hand this 12<sup>th</sup> day of November, 2020.

PUBLIC HOSPITAL DISTRICT NO. 4,  
KING COUNTY, WASHINGTON

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Kevin Hauglie  
Secretary of the Commission



**EMERGENCY DEPARTMENT MANAGEMENT SERVICES AGREEMENT  
BETWEEN OVERLAKE HOSPITAL MEDICAL CENTER  
AND KING COUNTY PUBLIC HOSPITAL DISTRICT NO. 4**

**THIS EMERGENCY DEPARTMENT MANAGEMENT SERVICES AGREEMENT (“Agreement”)** is made and entered into as of December 7, 2020 (the **“Effective Date”**) by and between Overlake Hospital Medical Center, doing business as Overlake Medical Center & Clinics (**“Overlake”** or **“OMC”**), a Washington non-profit corporation, with its principal place of business at 1035 116th Ave. N.E., Bellevue, WA 98004, and King County Public Hospital District No. 4 (**“District”**), a Washington municipal corporation. Overlake and the District are each a **“Party”** and collectively the **“Parties.”**

**RECITALS**

A. The District is a Washington State public hospital district created pursuant to RCW Chapter 70.44 (the **“Public Hospital District Act”** or **“PHD Act”**) for the purpose of providing hospital and other healthcare services within its geographic boundaries to all in need of such services without regard to race, religion, national origin or ability to pay. The District owns and operates the Snoqualmie Valley Hospital (**“SVH”** or **“Hospital”**), with its principal place of business at 9801 Frontier Ave. S.E., Snoqualmie, WA 98065. Hospital operates an emergency department (the **“Department”** or **“ED”**) and currently maintains Level V trauma designation through the Washington State Department of Health.

B. OMC is a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code providing general acute and tertiary inpatient and outpatient hospital services at its general acute care hospital located on OMC’s main campus in Bellevue, Washington, which operates an emergency department and currently maintains Level III trauma designation through the Washington State Department of Health.

C. District, as operator of the Hospital, has determined that OMC has developed and possesses specialized experience and expertise in the management of hospital emergency medical services and desires to engage OMC to manage its ED in order to improve the efficiency and quality of services provided by the Hospital’s ED. The District has determined that such an ED management arrangement would benefit the community served by District.

D. The PHD Act authorizes the District to contract with a Washington nonprofit hospital to obtain administrative and management services for the benefit of the District, the Hospital, and the community that the District and the Hospital serve.

E. At all times throughout the term of this Agreement, the Hospital, including its Department therein, will remain a separately licensed and accredited hospital for which the District retains ultimate responsibility.

**NOW, THEREFORE**, in furtherance of and pursuant to the foregoing recitals and principles, and in consideration of the covenants, promises and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

## AGREEMENT

### ARTICLE 1 DEFINITIONS

**1.1 General Interpretive Principles.** Whenever used in this Agreement, except as otherwise expressly provided or unless the context otherwise requires, any noun, pronoun or verb shall be deemed to include the plural as well as the singular and to cover all genders, whichever shall be applicable. The name assigned to this Agreement and the article, section and subsection captions used herein are descriptive and for convenience of reference only and shall not be construed to affect the meaning, intent, interpretation, construction, or effect of the Agreement. Unless otherwise specified, the terms "hereof," "herein" and similar terms refer to this Agreement as a whole, and references herein to articles, sections, subsections, exhibits and/or schedules refer to such in this Agreement. The words "include," "including," or a variant thereof shall be deemed to be without limitation.

**1.2 Definitions.** As used in this Agreement, the following capitalized terms have the meanings set forth below unless the context clearly indicates otherwise.

**Annual Budgets** means the annual operating and capital budgets of the Department, developed by the ED Manager working in collaboration with the Department Medical Director and Hospital administration for review and approval by the Hospital, as part of its adoption of the annual operating and capital budgets of the District.

**Bankruptcy Law** means Title 11 of the U.S. Code, or any similar federal or state law for the relief of debtors.

**Bond** means, with respect to the District, any bond, note or other evidence of indebtedness, including, without limitation, (i) special fund revenue bonds, revenue warrants, or other revenue obligations within the meaning of RCW 70.44.060(5)(a), (ii) general obligation bonds within the meaning of RCW 70.44.060(5)(b), (iii) interest-bearing warrants within the meaning of RCW 70.44.060(5)(c), and (iv) executory conditional sales contracts within the meaning of RCW 70.44.260.

**Calendar Year** means January 1 to December 31 of any particular year.

**Commencement Date** means the date that OMC begins providing Management Services pursuant to this Agreement.

**Critical Access Hospital** means the designation given by the Centers for Medicare and Medicaid Services ("CMS") to certain rural hospitals pursuant to 42 U.S.C. 1395i-4 and 42 C.F.R. Part 485 Subpart F and all other applicable law, including Hospital.

**District** means King County Public Hospital District No. 4.

**District Board** means the Board of Commissioners of King County Public Hospital District No. 4.

**ED Manager** or **Department Manager** has the meaning set forth in Section 2.1.

**Effective Date** means the date first set forth above.

**Effective Date of Termination** means the date that this Agreement is actually terminated.

**Event of Default** means an action or inaction, identified in 4.2.4, that is attributable to one of the Parties and provides a basis to terminate the Agreement.

**Information Sharing Agreement** means that certain Information Sharing Agreement dated contemporaneously with this Agreement by and between District and OMC.

**Initial Term** has the meaning set forth in Section 4.1.2.

**OMC Board** means the OMC Board of Trustees.

**Parties** means OMC and the District.

**Party** means either OMC or the District.

**Renewal Term** has the meaning set forth in Section 4.1.2.

## **ARTICLE 2 MANAGEMENT OF DEPARTMENT**

**2.1 General.** The District hereby retains OMC to provide a full-time (i.e., 1.0 FTE equivalent) ED Manager who possesses those qualifications typically required by OMC for its department managers, and who is reasonably acceptable to the Hospital (the “**ED Manager**” or “**Department Manager**”) who shall have responsibility for the day-to-day management operation of the Department as described herein. OMC and the ED Manager will provide the management and administrative services for the Department as further described in Section 3.3.1. In the course of providing Management Services, the ED Manager will report and be responsible to Hospital’s Director of Nurses (“DON”), who reports to the Hospital’s Chief Executive Officer (“Hospital CEO”). The management and administrative services described in Section 3.3.1 are collectively referred to in this Agreement as “**Services**” or “**Management Services.**” OMC and the ED Manager shall provide all Services in accordance with the terms of this Agreement and the requirements of applicable law.

**2.2 Hospital Responsibilities.** Notwithstanding District’s and the Hospital’s delegation of certain management and administrative responsibilities hereunder, the Parties acknowledge and agree that operational responsibility for the Department remains the independent right, obligation and responsibility of District as the licensed and accredited operator of the Hospital. Nothing in this Agreement is intended or shall be construed to alter or adversely affect District’s rights and responsibilities as owner, provider, or licensee of the Hospital in accordance with applicable law, rules and regulations. Without limiting the generality of the foregoing, and notwithstanding any provision to the contrary herein, District and the Hospital medical staff, as applicable, shall retain authority and remain responsible for the following (collectively, the “**District Reserved Rights**”):

2.2.1. Development and approval of the charge master and pricing for the services rendered in connection with the Department;

2.2.2. Development and approval of managed care contracting strategies, pricing and agreements for the services rendered in connection with the Department;

2.2.3. Approval of regulatory compliance and risk management policies and procedures for the Department, as developed with input from OMC as part of the Management Services provided hereunder;

2.2.4. Development of collective bargaining agreements and the determination of labor and personnel matters, including labor structure, compensation, and personnel policies and procedures for the Department;

2.2.5. Exercise of those powers, responsibilities and authorities of the District or the Hospital medical staff under the Hospital medical staff bylaws, rules and regulations in effect as of the Commencement Date, and as amended in good faith from time to time;

2.2.6. Maintain the Hospital as a licensed, and Medicare and Medicaid certified critical access hospital of which the Department is an outpatient service;

2.2.7. Pursuant to 42 CFR 485.601-485.645, retain responsibility for services furnished at the Hospital and ensure that the Department complies with all applicable conditions of participation and accreditation standards for hospitals participating in the Medicare Program;

2.2.8. Pursuant to 42 CFR 485.618, retain responsibility for complying with the requirements pertaining to emergency services; and

2.2.9. Exercise of such other powers, responsibilities and authorities that cannot lawfully be delegated by District or the Hospital medical staff to OMC under state or federal law (including licensing and certification laws, rules and regulations) or applicable accreditation standards and requirements, including, but not limited to: (i) any change in the mission statement of the Hospital; (ii) any change in the name under which the Hospital or the Department operates; (iii) the adoption of charity care policies for the Hospital and the Department; and (iv) appointment or change in appointment of Medical Directors for the Hospital or the Department.

**2.3 Other Rights and Responsibilities of District.** In addition to the District Reserved Rights described above, District and the Hospital have the following rights and responsibilities (collectively the “Other District and Hospital Responsibilities”):

2.3.1. Retain ultimate professional and administrative responsibility for all Department patients and for required facility licenses, accreditations, and certifications for the Department, including its Level V trauma designation;

2.3.2. Admit patients to the Department as Hospital patients in accordance with its standards of admission and the Department specific policies and procedures;

2.3.3. Employ or contract with qualified individuals or entities to provide professional medical services in the Department and ensure that such individuals and entities have not been excluded from participation in federal health care programs;

2.3.4. Construct, improve and equip facilities for the Department’s services at the Hospital and otherwise taking into consideration the advice and recommendation of OMC, and thereafter maintain such facilities as a first class facility for the Department’s services, including through the periodic replacement of equipment and remodeling of such facilities consistent with Hospital’s applicable policies and practices;

2.3.5. Maintain overall responsibility for District's marketing and public relations efforts of a type and quality and to an extent reasonably expected to attract patients to the Department and the Hospital;

2.3.6. Provide facility services, including but not limited to utilities, custodial, linen, housekeeping, security, and medical waste disposal services to the Department;

2.3.7. Provide facility non-physician employees to the Department;

2.3.8. Maintain appropriate insurance coverage;

2.3.9. Provide central supplies to the Department

2.3.10. Furnish hospital ancillary services (radiology, laboratory, pharmacy, etc.) to the Department, taking into consideration input regarding such ancillary services as may be given by OMC in connection with the Services provided;

2.3.11. Provide or arrange for the provision of maintenance, service, alteration, modification, replacement, repair or adjustment of Department equipment;

2.3.12. Maintain medical records of patients receiving Department services, provided that OMC shall have a right to access such records and the right to make copies of such records, subject to and consistent with applicable law;

2.3.13. In connection with Hospital's right to bill and collect for all professional and technical fees associated with Department services, perform such billing and collection services for the foregoing technical and professional fees;

2.3.14. Adopt and implement policies, procedures and operating practices designed to integrate the Department services with overall Hospital services in accordance with the Hospital's long-term and annual goals, objectives and operating plans;

2.3.15. Dedicate appropriate resources at the Hospital to establish access to clinical information, and productivity systems to enable OMC to provide Services supporting quality;

2.3.16. Timely share with OMC relevant quality information and reports concerning the performance of third parties with which Hospital contracts and which furnish services to Department patients consistent with the Information Sharing Agreement (if applicable) and Hospital's agreements with said third parties; and

2.3.17. Retain ultimate professional and administrative responsibility with respect to new Department-related services and initiatives based on recommendations from OMC, all of which must be approved in accordance with District's internal approval processes and which then must be incorporated into the Department's operating and capital budgets.

**2.4 Expansion of Scope of Management Services.** It is the Parties' intent that this Agreement and the Management Services be the means by which District obtains from OMC as many of the services desired by the Hospital in connection with the day-to-day management of the Department that can lawfully be provided by OMC based on existing licensing, accreditation and regulatory standards. If there

is a change in law that permits the provision of additional services by OMC for the Department, the Parties shall meet and confer in order to seek agreement to amend this Agreement to incorporate the additional services as appropriate.

### **ARTICLE 3 OMC AS MANAGER**

**3.1 Operation of the Department.** OMC, acting through the ED Manager (defined in Section 2.1 above), shall provide the Management Services described in this Agreement. Subject to provisions in this Agreement defining the responsibilities and authority reserved to the Hospital or to District (as the licensed operator of the Hospital) under state and federal licensing and certification laws, rules and regulations, and under applicable standards and requirements, and the ultimate governance and oversight power and responsibilities of Hospital and District Board, Management Services shall generally include managing and directing the day-to-day management and operations of the Department, subject to the direction of the Hospital CEO, including working collaboratively with the Department Medical Director, and managing the Department's facilities and services (subject to the terms and conditions of this Agreement). In addition, the specific Management Services to be performed by the ED Manager are set forth in Exhibit A, attached hereto and incorporated herein by this reference.

**3.2 Excluded Services.** The Parties specifically acknowledge and agree that the Management Services do not include arranging, negotiating and contracting for the provision of professional medical services to be provided in the Department or for the provision of a physician to serve as the Medical Director of the Department ("**Department Medical Director**") (as such services are further described in Section 3.2.1) (collectively, the "**Excluded Services**"), and such services are specifically excluded from the scope of Management Services to be provided by OMC hereunder. Hospital and District shall be solely responsible for negotiating, arranging and contracting with one or more third parties for the Excluded Services and OMC will not be a party to any such contracts (collectively, the "**Excluded Services Agreements**"), provided however, District may ask for OMC's input and assistance in any such efforts.

3.2.1. **ED Professional Staffing; Puget Sound Physicians.** District represents and warrants that District has or will by the Commencement Date enter into one (1) or more written agreements with Puget Sound Physicians, PLLC ("**PSP**") pursuant to which PSP will provide professional physician services in the Department and will also provide a physician to serve as the Department Medical Director (collectively, the "**PSP Agreement**"). District shall ensure that the PSP Agreement is not inconsistent with the terms of this Agreement, including but not limited to District's obligations under this Agreement. District shall also ensure that terms set forth in the PSP Agreement pertaining to the Department Medical Director are consistent with the terms of this Agreement, including but not limited to Section 3.3.2.

**3.3 General Management of Department.** The Parties acknowledge and agree that notwithstanding the District's delegation to OMC and the ED Manager responsibility for the day-to-day management of the Department hereunder, additional individuals will also assist with the overall management of the Department as further described in this Section 3.3.

3.3.1. **Department Manager.** The Department Manager shall perform the services described in Section 3.1 and Exhibit A. The Department Manager will perform the Management Services consistent with the terms of this Agreement, the Annual Budgets, applicable law, industry standards, and the missions, values, and applicable policies of District. OMC shall be responsible for selecting an individual to serve as the Department Manager, subject to the approval of Hospital, which approval shall not be

unreasonably withheld, and for contracting with such individual to serve as the Department Manager. If the individual serving in the role of Department Manager resigns or is terminated or removed for any reason, OMC shall have the right to select the replacement Department Manager, subject to the requirements of this Agreement. The Department Manager will work collaboratively with the Hospital, Department Medical Director, and other Hospital administrative leaders and staff. The performance of the Department Manager shall be reviewed at least annually by OMC's Director of Patient Care Services and Hospital CEO to ensure that the performance of the Department Manager is meeting the goals and expectations of the Parties.

3.3.2. Department Medical Director. The Department Medical Director shall be responsible for the medical operations of the Department. Consistent with Section 3.2.1, District shall be responsible for arranging, negotiating and entering into the PSP Agreement pursuant to which PSP will provide a physician to serve as the Department Medical Director. If the individual serving in the role of Department Medical Director resigns or is terminated or removed for any reason, PSP shall have the responsibility to select the replacement Program Medical Director consistent with the terms of the PSP Agreement. The qualifications and responsibilities of the Department Medical Director are more particularly described in the PSP Agreement. The Hospital CEO shall at all times remain responsible for directing and managing the Department Medical Director under the PSP Agreement and for ensuring the Department Medical Director fulfills all required obligations required of the same under the PSP Agreement. Without limiting the generality of the foregoing, the Hospital CEO shall ensure that the individual appointed to serve as the Department Medical Director under the PSP Agreement works in good faith to collaborate and partner with the ED Manager in connection with the Management Services provided hereunder and in the ED Manager's responsibility for the general day-to-day management of the Department. The ED Manager will promptly communicate any concerns or issues relating to the foregoing or with the performance of the Department Medical Director or PSP to the Hospital's DON, and District shall promptly address the issues with PSP. The performance of the Department Medical Director shall be reviewed at least annually the Hospital CEO and PSP, with input from the ED Manager, to ensure that the performance of the Department Medical Director is meeting the goals and expectations of the Hospital.

3.3.3. Other Members of the Management Team. The Department Manager and Department Medical Director may be supported by other Hospital administrative leaders and staff as requested by the ED Manager, and approved by the Hospital in its reasonable discretion, as necessary for the Department Management and Department Medical Director to fulfill their responsibilities.

3.3.4. Fees and Reimbursement. In consideration for the Management Services provided hereunder as such services are defined as of the Effective Date, District shall pay OMC an amount equal to the direct costs incurred by OMC in providing the ED Manager (including, without limitation, benefits and OMC's share of applicable employment taxes), plus ten percent (10.0%) of such direct costs incurred by OMC. The Parties may discuss additional services to be provided by OMC as Management Services and OMC reserves the right to charge additional fees for such additional services. Any additional services and related fees (if any) will be documented in writing as an amendment to this Agreement.

### **3.4 Branding**

3.4.1. OMC Management. District and OMC will represent to the District's community and to the general public that the Department is being managed by OMC. The Parties will work in good faith and otherwise cooperate with each other in such community representations and public communications. The Parties agree that such representation shall include signage outside the Department indicating that the

Department is managed by OMC. The signage shall be mutually acceptable to OMC and District, with mutual agreement required related to the use of each Party's marks and to representation of the Agreement and the relationship between the Parties created therefrom to the public, and shall be installed contemporaneous with the Commencement Date. In addition, on an annual, ongoing basis, OMC and District will partner in joint marketing activities and all such marketing activities will be jointly planned and all materials will be mutually agreed to by the Parties. Initially, the joint marketing activities will be limited to: (i) a joint press release, (ii) social media activities on the Parties' respective platforms, (iii) pursuit of earned media opportunities, and (iv) a zipcode targeted insert into OMC's Healthy Outlook publication (collectively, the **"Initial Marketing Activities"**), and such marketing activities will be commenced prior to, or contemporaneous with, the Commencement Date. Assets developed as part of the Initial Marketing Activities may be utilized by both Parties, subject to mutual agreement on scope, channels, and representation of relationship between the Parties created by this Agreement to the public. Ongoing and annual joint marketing activities will include a discussion of fees which OMC may charge in connection with such additional activities.

3.4.2. Use of Names and Marks. OMC will, as appropriate, permit the District to use its name and trademarks for the promotion of OMC's management of the Department consistent with Section 3.4.1. Before any use of OMC's name or marks beyond that specifically allowed by this Agreement, consent to such use must first be obtained in writing. When such approval is granted, the following provisions shall govern:

(1) Nature of Approval. OMC ("**Licensor**") shall be deemed to have only granted a limited, non-exclusive, nontransferable license to the District ("**Licensee**") to use Licensor's name and Marks (as defined below) within the scope of the approval. Licensee agrees to use Licensor's name and Marks only in the form and manner approved by Licensor and further agrees not to use any other trademark or servicemark in combination with Licensor's name or Marks without prior written approval of Licensor.

(2) Restrictions on License. The license granted in the preceding paragraph describes the entirety of any right that Licensee may have to use Licensor's name or Marks. Without limiting the generality of the foregoing, Licensee shall not sublicense or otherwise authorize any third party to use Licensor's name or Marks, or use Licensor's name or Marks for any purpose other than that approved or use Licensor's name or Marks after the end of the term of this Agreement.

(3) Ownership of Name and Marks. Licensor reserves all of its right, title and interest in and to its name and Marks and any Proprietary Rights (as defined below) associated with its name and Marks. All goodwill arising out of Licensee's use of Licensor's name and Marks will be owned by, and accrue to the sole benefit of Licensor as owner of its name and Marks.

(4) Protection of Name and Marks. Licensee acknowledges that Licensor's name and Marks are unique and valuable assets of Licensor. Licensee agrees that it shall not undertake any conduct or commit any acts and shall restrain all persons or entities under its control from undertaking any conduct or committing any acts that (a) diminish the value of Licensor's name and Marks or otherwise denigrate its positive image or business reputation, (b) infringe any Proprietary Right (as defined below) of Licensor related to its name or Marks, (c) act in derogation or compromise of any Proprietary Right, or (d) contest or challenge the validity of any Proprietary Right.



(5) Definitions. For purposes of this Section 3.4, the following terms have the following meanings:

(a) “Marks” means any logos, tradenames, trademarks, servicemarks or other product or service identifiers that Licensor uses to promote and identify Licensor’s products, services or operations.

(b) “Proprietary Right” means any copyright, trademark or servicemark right (including, without limitation, any applications for federal trademark or servicemark registration) or other intellectual property right that is protected or protectable, whether or not a filing in any government office is made, under laws of the United States of America or any state of the United States of America, or other foreign country.

## **ARTICLE 4 TERM AND TERMINATION**

### **4.1 Term**

4.1.1. Effective Date; Commencement Date. The Parties have executed this Agreement as of the Effective Date. The Parties intend that the Agreement shall be implemented (meaning that OMC will begin providing Management Services) on the Effective Date, or on such other date agreed to by the Parties (the “Commencement Date”). The Commencement Date shall be no later than December 31, 2020 unless mutually agreed by the Parties in writing.

(1) Conditions. The Parties acknowledge and agree that this Agreement is expressly conditioned upon the successful implementation of the Epic electronic health system (“Epic”) in the Department pursuant to that certain Electronic Health Record System Access Agreement entered into by and between the Parties (the “**EHR Agreement**”) and the commencement of EHR Services (as that term is defined in the EHR Agreement). If Epic is not fully implemented in the Department or the EHR Services do not commence by January 31, 2021, then either Party may terminate this Agreement upon providing thirty (30) days written notice to the other Party.

4.1.2. Initial Term; Renewal Term. This Agreement shall have an initial term beginning on the Commencement Date and continuing through December 31, 2023 (“**Initial Term**”), subject to the termination provisions herein. The Agreement shall automatically renew for up to one (1) additional three (3) year term (“**Renewal Term**”), unless a Party gives the other Party written notice at least one hundred eighty (180) days before the end of the then-current term. The Parties may mutually agree to extend this Agreement at any time. As used herein, “**Term**” shall refer to either the Initial Term or the applicable Renewal Term, as the case may be.

### **4.2 Termination**

4.2.1. Expiration of Term or Mutual Consent. This Agreement will terminate upon expiration of the Term or upon the written election of the Parties to mutually terminate this Agreement prior to the expiration of its Term.

4.2.2. Termination Without Cause. This Agreement may not be terminated without cause during the Term absent mutual agreement of the Parties.

4.2.3. Termination for Cause. This Agreement may be terminated prior to the expiration of its current Term after a Termination Trigger as set forth below. The following occurrences shall each constitute and be deemed a “**Termination Trigger**” under this Agreement, whether caused by a Party, whatever the reason and whether voluntary or involuntary, or whether effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule, or regulation of any administrative or governmental body, and whether occurring during the Initial Term or the Renewal Term:

(1) Material breach of any covenant or warranty in this Agreement by a Party, including, but not limited to: default by the District on any of its Bond obligations; or failure by OMC to operate the Department consistently with applicable law, rule, regulation, or binding standard.

(2) District loses its license, or a certification or accreditation that is legally required in order to operate the Department or Hospital.

(3) Material failure by either Party to support any act in alignment with the goals and intent of this Agreement, or either Party’s actions to disparage or otherwise actively interfere with the stated goals and intent of the Parties per this Agreement, following a mutually agreed dispute resolution process.

(4) Exclusion or suspension of a Party from participation in Medicare, Medicaid or any government health care benefit program.

(5) A Party is convicted of a criminal felony. For purposes of this Agreement, a conviction includes: a judgment of conviction that has been entered against the Party by a federal, state, or local court that is final and non-appealable; a finding of guilt against the entity that has been accepted by a federal, state, or local court; a plea of guilty or nolo contendere by the entity that has been accepted by a federal, state, or local court; or the entering into participation in a first offender, deferred adjudication, or other arrangement or program where judgment of conviction has been withheld. This Termination Trigger may not be cured. If any of the foregoing events occurs with respect to an individual providing services under this Agreement, the employing Party shall immediately cause that individual to cease providing services under this Agreement, and if the Party fails to do so, the other Party may, in its discretion, deem such to be a Termination Trigger.

(6) A Party, pursuant to or within the meaning of any Bankruptcy Law, (1) commences a voluntary case, (2) consents to the entry of an order for relief against it in an involuntary case, (3) consents to the appointment of a custodian of it or for all or substantially all of its property, or (4) makes a general assignment for the benefit of its creditors. This Termination Trigger may not be cured.

(7) A court of competent jurisdiction enters an order or decree under any Bankruptcy Law that (1) is for relief against a Party in an involuntary case, (2) appoints a custodian of the Party or for all or substantially all of its property, or (3) orders the liquidation of a Party, and the order or decree remains unstayed and in effect for ninety (90) consecutive days.

(8) A Party, in whole or in substantial part, is taken by execution or other process of law directed against the Party, or is taken upon or subject to any attachment by any creditor of the Party, if such attachment is not discharged within ninety (90) days after being levied.

(9) The existence or continuation of the Management Services provided hereunder is prohibited by applicable laws or is in violation of any court or governmental order, decree, judgment or

other declaration of relief and such court or governmental action is final and binding and is not subject to appeal, by either the District, OMC or both of them.

(10) Upon the approval of the District Board and OMC Board, following a change in law or circumstances that causes this Agreement to create a substantial legal risk or other significant risk relating to the District's obligations as a PHD.

(11) The PSP Agreement is terminated for any reason, and the Hospital fails to enter into an agreement, with a replacement physician group that is approved by OMC in its reasonable discretion, within one hundred twenty (120) days of such termination of the PSP Agreement, each Party shall have the right to terminate this Agreement.

(12) The EHR Agreement is terminated for any reason, each Party shall have the right to terminate this Agreement, but only if such Party exercises such right, and provides written notice of termination to the other Party at least ninety (90) days before the expiration or termination of the EHR Agreement, unless ninety (90) days' notice is not possible due to the timing of termination of the EHR Agreement in which case a Party shall give as much notice as possible after becoming aware of the termination of the EHR Agreement.

4.2.4. Termination Process. In the event that a Party believes that a Termination Trigger has occurred (either during the Initial Term or subsequently) based on the action or inaction of the other Party (an "**Event of Default**"), the Parties shall adhere to the following process:

(1) The Party who believes default has occurred shall issue a written notice of default to the other Party that clearly sets forth the alleged default in reasonable detail and states that the default must be remedied or cured within the Cure Period (as defined in Section 4.2.4(2)).

(2) The Cure Period must be of sufficient duration to allow the breaching Party a reasonable opportunity to cure. The Cure Period shall be presumed to be not less than sixty (60) days unless the context requires a shorter period.

(a) If a material breach of the Agreement occurs after a Party has previously cured the same or a similar breach and continues a pattern of repeatedly and intentionally breaching the Agreement in a manner clearly demonstrating that it is not acting in good faith, the terminating Party is not obligated to provide the other Party with further opportunity to cure.

(b) If the Event of Default is incurable, no Cure Period need be provided.

(3) A written notice of termination shall be issued stating that the Event of Default either has not be remedied or cured during the Cure Period or is incurable. The notice shall set forth the Effective Date of Termination. The Effective Date of Termination shall not be less than one hundred eighty (180) days after the notice of termination has been given, unless the Parties jointly consent in writing to an earlier termination date or an earlier date is otherwise required by law.

4.2.5. Automatic Termination. If the EHR Agreement between the Parties is terminated for any reason, this Agreement shall automatically terminate effective the same date as the termination of the EHR Agreement.

**4.3 Disputes Regarding Events of Default.** If either Party should give a written Notice of Default to the other, and the recipient of such notice contests the existence of such Event of Default, such recipient may refer the matter for resolution pursuant to the dispute resolution provisions of Section 7.3. During the period that such matter is being resolved through such mechanisms, the Party alleging the Event of Default may not terminate this Agreement. Notwithstanding the foregoing, a Party may nonetheless seek injunctive or other special relief if, in such Party's judgment, such action is necessary to prevent irreparable harm to either Party, and such action may be taken without the need of posting bond or other collateral.

**4.4 Contract Modifications for Prospective Legal Events.** In the event any state or federal law or regulation, now existing or enacted or promulgated after the date hereof, are interpreted by judicial decision, a regulatory agency or by the mutual concurrence of respective legal counsel of the Parties in such a manner as to indicate that this Agreement or any provision hereof may be in violation of such laws or regulations, the Parties shall amend this Agreement as necessary to avoid such violation, while preserving the underlying economic and financial arrangements between them and without doing substantial economic detriment or creating substantial legal jeopardy to either Party.

## **ARTICLE 5 INDEMNIFICATION**

**5.1 District's Duty to Indemnify.** District agrees to defend, indemnify, and hold harmless OMC and its affiliates, directors, trustees, officers, employees, representatives or agents for any and all losses, claims, damages, liabilities, costs or expenses, including reasonable attorney or consultant fees by third parties arising or resulting from (i) the negligent acts or omissions of the District, its commissioners, officers, employees, representatives, or agents in the performance of duties imposed by this Agreement, (ii) the negligent or willful misconduct of or breach of failure of performance of this Agreement by the District, the Department, or District's healthcare practitioners, or (iii) District's operation of the Department prior to the Commencement Date. This indemnification shall not apply to the extent that the claim, suit, damage, or liability is caused by the negligent, reckless or intentionally tortious acts or omissions of OMC or its directors, officers, employees, representatives, or agents.

**5.2 Overlake's Duty to Indemnify.** OMC agrees to defend, indemnify, and hold harmless the District and its commissioners, officers, employees, representatives or agents for any and all losses, claims, damages, liabilities, costs or expenses, including reasonable attorney or consultant fees by third parties arising or resulting from the negligent acts or omissions of OMC, its directors, officers, employees, representatives, or agents in the performance of duties imposed by this Agreement, or the negligent or willful misconduct of or breach of failure of performance of this Agreement by OMC. This indemnification shall not apply to the extent that the claim, suit, damage, or liability is caused by the negligent, reckless or intentionally tortious acts or omissions of the District or its commissioners, officers, employees, representatives, or agents.

**5.3 Requirements for Indemnification.** The obligation to indemnify is conditioned on the party seeking indemnification (the "**Indemnified Party**"): (a) providing written notice to the other party (the "**Indemnifying Party**") of any claim, demand or action within thirty (30) days after the Indemnified Party has knowledge of such claim, demand or action; provided, however, that failure to provide such notice shall only relieve the Indemnifying Party's obligations to the extent that the Indemnifying Party is actually prejudiced by such failure; (b) permitting the Indemnifying Party to assume full responsibility to investigate, prepare for, defend and settle any such claim, demand or action; provided that the

Indemnified Party shall not be required to admit fault or pay money without the party's prior written consent, which consent shall not be unreasonably conditioned, delayed or withheld; and (c) assisting the Indemnifying Party, at the Indemnifying Party's reasonable expense, in the investigation of, preparation for and defense of any such claim, demand or action. The Indemnifying Party shall act reasonably and in good faith with respect to all matters relating to the settlement or disposition of any claim, demand or action as the disposition or settlement relates to the party being indemnified.

## **ARTICLE 6**

### **COMPLIANCE WITH MEDICARE, MEDICAID AND OTHER LAWS**

**6.1 Laws and Regulations.** The Parties shall comply with all applicable provisions of law, and other valid rules and regulations of all governmental agencies having jurisdiction over: (a) the operations of the District, the Hospital or the Department; (b) the licensing of healthcare practitioners; and (c) the delivery of healthcare services to patients of governmentally regulated third-party payors whose members/beneficiaries receive healthcare services from OMC or District or their respective physicians.

**6.2 Application of Requirements.** The Parties specifically recognize that one intent for entering into this Agreement is to provide services to patients who may be covered by Title XVIII of the Social Security Act (the "**Medicare Program**"), and that each has an obligation to comply with the requirements of the Medicare Program for payment of such services. Each Party hereby agrees to cooperate with the other in order to assure that these requirements are met, although the Parties may in their own judgment and discretion opt out of the Medicare Program as to services not covered by this Agreement.

**6.3 Compliance with Medicare Anti-Kickback and Self-Referral and Anti-Rebate Laws.** Neither Party shall engage in any activity prohibited by 42 U.S.C. § 1395nn (42 Code of Federal Regulations, Part 411, (411.1 to 411.361)), 42 U.S.C. § 1320a-7a and 42 U.S.C. § 1320a-7b (42 Code of Federal Regulations, Part 1001 (1001.952(a) to 1001.1001)) or any other federal, state, or local law or regulation relating to the referral of patients, including, without limitation, anti-rebating and self-referral prohibitions and limitations, as those regulations now exist or as subsequently amended, renumbered or revised, nor shall either Party associate or engage in similar activities with respect to any third party payors, including, but not limited to, soliciting or receiving, directly or indirectly, any compensation, in cash or in kind or offering to pay any compensation to a third person in exchange for referring an individual to a person for the furnishing of any item or service for which payment may be made in whole or in part by Medicare or Medicaid or any other state or federally funded health care program.

**6.4 No Referral Obligation.** Nothing in this Agreement shall be construed to require the Parties to refer patients to each other in violation of any law.

**6.5 Exclusions; No Sanctions.** Each Party hereto represents and warrants that neither it, nor, to the best of its knowledge, any of its officers, directors, commissioners, employees or agents (1) is currently excluded, suspended or debarred from participation in any federal health care program or from participating in any government procurement or nonprocurement contract, or has ever been convicted of a criminal offense under 42 U.S.C. § 1320a-7b or subject to a civil penalty under 42 U.S.C. § 1320a-7a; or (2) is currently excluded by such federal health care program or a governmental agency. Each of the Parties will promptly provide written notice to the other of any such exclusion, debarment, sanction or conviction. Such notice shall provide grounds for the immediate termination of this Agreement by any Party unless such excluded, suspended or debarred person has been terminated.

**6.6 Automatic Amendments.** To the extent that any provisions of this Agreement are in conflict with the provisions of the Medicare statutes or regulations, this Agreement shall automatically, without any action by the Parties, be deemed to have been amended, in order to bring it into conformity with the Medicare statutes or regulations, unless such amendment fundamentally changes the intent and purpose of this Agreement and ability to continue it. If the Medicare statutes or regulations are amended, and such amended statutes or regulations are in conflict with the provisions contained in this Agreement, this Agreement shall be automatically amended to conform to the new Medicare statutes or regulations. Each Party shall notify the other in writing of all amendments to this Agreement that result from operation of this paragraph to the extent they are known. To the extent the operation of this section materially and adversely affects the respective rights of either Party under this Agreement, the Parties agree they shall make a reasonably good faith effort to negotiate a written amendment to this Agreement ameliorating any such adverse effects.

**6.7 HIPAA.** The Parties acknowledge that medical and other records (“Protected Health Information” or “PHI”) are protected by and subject to numerous laws, rules and regulations regarding privacy, security, confidentiality, consent, access and disclosure. The Parties agree to comply with all privacy, security, confidentiality, consent, access and disclosure requirements, including all documentation and access requirements, of applicable federal and state laws, rules and regulations, including, without limitation, the Washington State Uniform Health Care Information Act (RCW 70.02), Personal Information, Notices of Security Breach (RCW 19.255) and the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d, and the implementing administrative simplification regulations codified at 45 C.F.R. Subtitle A, Subchapter C, Part 160 et. seq. (“HIPAA”). The Parties agree to enter into a mutually agreeable Business Associate Agreement regarding compliance with the HIPAA privacy regulations.

## **ARTICLE 7 OTHER PROVISIONS**

**7.1 Authorization and Advice of Counsel.** Each Party does hereby represent and warrant to the other that it (a) has had full opportunity to study and review (and has fully read) this Agreement in its entirety; (b) has been advised that all Parties have the right to consult and should consult independent counsel respecting their rights and duties under this Agreement; and (c) has had access to all such information as has been requested.

**7.2 Communications.** Prior to the Effective Date, neither Party shall make any public pronouncement regarding the transactions and arrangements relating to the Agreement without the express written consent (which may include e-mail approval) of the other Party. Following the Effective Date, OMC and the District shall promptly make a joint and mutually acceptable press release regarding this Agreement. The District will not otherwise make any public pronouncement regarding this Agreement without the express written consent (which may include e-mail approval) of OMC. “Public pronouncement” means any statement, however communicated, including without limitation a press release or promotional materials, intended for (or reasonably expected to result in) general dissemination, but shall not include materials used in connection with a legally-required filing with a regulatory body, or any statement that is (1) intended for and reasonably expected to be limited to the internal use of the maker or the other Party to this Agreement, and distributed only to those personnel with a legitimate need to know the information contained in such statement, and (2) not likely to become available to the general public or any segment thereof. Action taken at, or in connection with, an open public meeting (including listing in the agenda, distribution of materials to Commissioners and staff, and listing in the minutes of the meeting), or in compliance with any public records act, shall not be subject to this provision.

### 7.3 Dispute Resolution

7.3.1. Meet and Confer. The Parties agree to meet and confer on any issue that is the subject of a dispute (“Meet and Confer”) if initiated by another Party. The Party seeking to initiate the Meet and Confer procedures (“Initiating Member”) will give written notice to the other Party, describing in general terms the nature of the dispute, the initiating Party’s position and a summary of the evidence and arguments supporting its position, and identifying one or more individuals with authority to settle the dispute on such party’s behalf. (The individuals so designated by a Party will be known as the “Authorized Individuals.”)

(1) The Party receiving such notice (the “Responding Party”) will have twenty (20) days within which to respond. The response will include the Responding Party’s position and a summary of the evidence and arguments supporting its position and will also identify one or more Authorized Individuals with authority to settle the dispute on such party’s behalf. The Authorized Individuals for the Members will meet at a mutually acceptable time and place within ten (10) business days of the date of receipt of the Responding Party’s response and thereafter as often as they deem reasonably necessary to exchange relevant information and to attempt to resolve the dispute.

(2) If the matter has not been resolved within twenty (20) business days after the last date on which the meeting could take place in compliance with this section, then each Party will refer the underlying matter to the chief executive officers for resolution. If such referral fails to resolve the matter within two (2) weeks after such referral, either Party may initiate non-binding mediation as set forth in Section 7.3.2 hereof.

(3) All deadlines specified in these Meet and Confer provisions may be extended by mutual agreement of the affected parties. The Parties recognize that any agreement that may be reached during the Meet and Confer process, may be subject to the approval of the respective member’s governing board.

7.3.2. Mediation. If the “meet and confer” process outlined above fails to result in a resolution of a dispute, the Members agree to try in good faith to settle dispute by mediation administered by the American Health Lawyers Association (“AHLA”) mediation service. The Members will jointly notify AHLA of their intent to use the mediation service, select a mediator from the AHLA roster, and mediate pursuant to the terms of the AHLA’s Agreement to Mediate. In the event the Members cannot agree on a third-party mediator within fourteen (14) days, the mediator shall be selected by the AHLA. The mediation will be convened in Seattle, Washington or such other location as agreed by the Parties. The Parties to the dispute shall share the expenses of the mediator and other costs of mediation on an equal basis.

7.3.3. Arbitration. If the dispute cannot be resolved by nonbinding mediation within sixty (60) days following the end of the good faith period, the dispute shall be referred for definitive resolution by binding arbitration conducted in accordance with the AHLA Alternative Dispute Resolution Service Rules of Procedure for Arbitration (“Arbitration Rules”), which rules and procedures are deemed to be incorporated by reference into this Agreement. The arbitration shall be conducted by a single arbitrator mutually agreed upon by the Parties. If the Parties cannot agree on an arbitrator within fourteen (14) days, the arbitrator shall be selected by the AHLA Dispute Resolution Service from its panel of arbitrators. The arbitration shall take place in Seattle, Washington or such other location as agreed upon by the Parties. The arbitrator shall render his/her final award in writing, including findings of fact, conclusions of law and his or her decision, and shall be required to issue a “reasoned” award which is based on the facts

and applicable law of the case. The decision shall contain a brief statement of the claim(s) determined and the award made on each claim. In making the decision and award, the arbitrator shall apply applicable law. The decision of the arbitrator shall be binding. The fees and expenses of the arbitrator shall be shared equally among the Parties. The prevailing party shall be entitled to recover its reasonable attorneys' fees in any arbitration proceeding. The award of the arbitrator shall be final and may be enforced in a court having jurisdiction therefor. Arbitrations hereunder must be commenced within the time period allowed for the commencement of actions in the courts of the State of Washington.

7.3.4. **Jurisdiction and Venue.** Subject to the Dispute Resolution provisions hereinabove, the venue for any action or suit related to this Agreement shall be in the King County Superior Court in King County, Washington.

7.4 **Governing Law.** The interpretation of this Agreement and the resolution of any disputes arising under this Agreement shall be governed by the laws of the State of Washington without regard to the conflict of law provisions of such state. If any action or other proceeding is brought on or in connection with this Agreement, the venue of such action shall be in the Superior Court of King County, Washington.

7.5 **Attorneys' Fees.** In any action at law or in equity or in any arbitration to enforce any of the provisions or rights under this Agreement, the unsuccessful party in such litigation or arbitration, as determined by the court or arbitrator(s) in a final judgment or decree, shall pay the successful party or parties all costs, expenses and reasonable attorneys' fees incurred therein by such party or parties (including, without limitation, such costs, expenses and fees on any appeals), and if such successful party shall recover judgment in any such action or proceeding, such costs, expenses and attorneys' fees shall be included in, as part of, such judgment.

7.6 **Equitable Remedies.** The Parties acknowledge that a breach of this Agreement may not be adequately remedied by monetary damages. The nonbreaching party shall have available any and all equitable remedies, including the remedies of injunctive relief and specific performance.

7.7 **Binding Agreement; Assignment.** This Agreement and all of the provisions hereof will be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns; provided, however, neither Party may assign this Agreement nor any of the rights, interests, or obligations hereunder without the prior written consent of the other Party which may be withheld in its sole discretion.

7.8 **Notices.** Written notice required under this Agreement shall be delivered personally or sent by U.S. registered or certified mail, postage prepaid and return receipt requested, or sent by overnight mail by a reputable carrier addressed to the designated individuals at the following addresses:

If to OMC:

Overlake Hospital Medical Center  
1035 116<sup>th</sup> Avenue NE  
Bellevue, WA 98004  
Attn: Chief Executive Officer



With a copy (which shall not constitute notice) to:

Ogden Murphy Wallace, PLLC  
901 5<sup>th</sup> Avenue, Suite 3500  
Seattle, WA 98164  
Attn: Donald W. Black

If to the District:

King County Public Hospital District No. 4  
9801 Frontier Ave SE  
Snoqualmie, WA 98065  
Attn: Superintendent

With a copy (which shall not constitute notice) to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**7.9 Amendments and Waivers.** This Agreement may be amended or modified only by a mutual written agreement executed by the Parties. The waiver of any right, condition or covenant of this Agreement by either Party shall be effective only if and to the extent that the same shall be in writing and signed by such Party. Without limiting the foregoing, no express or implied consent to or waiver of any breach or default by a Party in the performance of such Party's obligations under this Agreement shall be deemed or construed to be a consent to or waiver of any other breach or default in the performance by such Party of the same or any other obligations of such Party under this Agreement. Failure to insist upon strict compliance with any of the terms of this Agreement or failure on the part of any Party to complain of any act or omission of the other Party or to declare any Party in default, irrespective of how long such failure continues, shall not constitute or be deemed a waiver by such non-complaining Party of its rights with respect to the failure of the other Party to comply with its obligations under this Agreement. No course of dealing between and among the Parties will be deemed effective to modify, amend or discharge any part of this Agreement or any rights or obligations of any Party under or by reason of this Agreement.

**7.10 Relationship of the Parties.** In the performance of this Agreement, each Party is at all times acting as an independent contractor with respect to the other Party. This Agreement creates no relationship of partners, joint venturers, or employer and employee between District and OMC. Accordingly, no employee of one Party shall have any right, entitlement, or claim against the other Party for social security benefits, worker's compensation benefits, retirement, vacation pay, sick leave, or any other employee benefits of any kind except and solely to the extent of a written agreement to the contrary executed by both the employer and employee.

**7.11 No Third-Party Rights.** The Parties do not intend the benefits of this Agreement to inure to any third party not a signatory hereto. This Agreement shall not be construed as creating any right, claim or cause of action against any Party by any person or entity not a party to this Agreement.

**7.12 Insurance.** During the Term of this Agreement, both Parties shall maintain in force and effect, through self-insurance or otherwise, comprehensive general liability and professional liability insurance

each with levels of coverage of not less than Two Million (\$2,000,000) per claim and Ten Million Dollars (\$10,000,000) annual aggregate, and worker's compensation if and as required by law. The Parties agree to maintain such insurance throughout the Term of this Agreement and continuing after expiration or termination of this Agreement for the periods contained in the applicable statute of limitations. If any policy is written on a claims-made basis, a Party will secure tail or extending reporting coverage in the event such policy is canceled or replaced. A Party will provide proof of insurance upon request. A Party will notify the other Party in writing promptly after the Party has knowledge of any revocation, suspension, reduction or limitation of such coverage that would adversely affect the Party's ability to comply with the insurance requirements of this paragraph. Failure to maintain required insurance may be deemed a material breach of the Agreement.

**7.13 Remedies.** Subject to the Dispute Resolution provisions herein, the non-breaching party shall be entitled, in the event of a breach by the other party of any provision herein, to pursue any and all available judicial and equitable remedies, including specific performance and injunctive relief. Except as otherwise provided for herein, no remedy conferred by any of the specific provisions of this Agreement or available to a Party 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.

**7.14 Expenses.** All fees and expenses incurred in connection with this Agreement including, without limitation, all legal, accounting, financial advisory, consulting, and all other fees and expenses of third parties involving the negotiation and effectuation of the terms and conditions of this Agreement and the transactions contemplated hereby and thereby, shall be the obligation of the respective Party incurring such fees and expenses.

**7.15 Severability.** If all or any part of this Agreement is declared by any court or governmental authority to be unlawful, invalid or unenforceable, such unlawfulness, invalidity or unenforceability shall not serve to invalidate any portion of this Agreement not declared to be unlawful, invalid or unenforceable and any section or part of a section so declared to be unlawful, invalid or unenforceable shall, if possible, be interpreted or construed in a manner which will give effect to the terms of such section or part of a section to the fullest extent possible while remaining lawful and valid. The Parties further agree to replace such void or unenforceable provision of this Agreement with a valid and enforceable provision that shall achieve, to the extent possible, the economic, business, and other purposes of such void or unenforceable provision. The remainder of this Agreement shall be effective and binding upon the Parties; Provided, however, that if the unenforceability of the section or part of section, in the reasonable judgment of the affected Party, renders the balance of the Agreement as uneconomic and frustrates that Party's purpose in entering into this Agreement, the affected Party may terminate this Agreement for Cause.

**7.16 Entire Agreement; Modification.** This Agreement, along with the exhibits hereto, which are incorporated herein by this reference, constitutes the entire agreement of the Parties hereto with respect to the subject matter hereof and supersedes all prior agreements, negotiations or discussions, whether written or otherwise, between the Parties relating to the subject matter hereof. No other oral or written agreement with respect to the subject matter hereof shall bind or obligate the Parties. This Agreement may be amended or modified by written instrument signed by the Parties. Such amendments may be for the purposes of, among other things, adding or deleting Management Services to this Agreement or expanding the purposes for which the Parties entered into this Agreement.

**7.17 No Strict Construction.** The language used in this Agreement will be deemed to be the language jointly chosen by the Parties hereto to express their mutual intent, and no rule of strict construction will be applied against any Party.

**7.18 Counterparts.** This Agreement may be executed in two or more counterparts, and such counterparts shall, together, constitute and be one and the same instrument. Delivery by fax, email or other electronic means of a copy of a signature page of this Agreement showing a signature by or on behalf of any party to this Agreement will have the same effect as delivery of a manually-signed original of this entire Agreement executed by that party.

**7.19 Authority.** Each of the individuals executing this Agreement on behalf of District and OMC warrant that they are an authorized signatory of the entity for which they are signing, and have sufficient corporate authority to execute this Agreement.

[Signatures appear on next page]

**IN WITNESS WHEREOF**, the Parties hereby execute this Agreement effective as of the day and year first set forth above.

**OVERLAKE HOSPITAL MEDICAL CENTER**  
d/b/a Overlake Medical Center & Clinics  
1035 116<sup>th</sup> Ave. N.E., Bellevue, WA 98004

**KING COUNTY PUBLIC HOSPITAL DISTRICT NO. 4**  
d/b/a Snoqualmie Valley Hospital  
9801 Frontier Ave. S.E., Snoqualmie, WA 98065

By: \_\_\_\_\_  
J. Michael Marsh  
Its President and CEO

By: \_\_\_\_\_  
\_\_\_\_\_  
Its \_\_\_\_\_

Date signed: \_\_\_\_\_

Date signed: \_\_\_\_\_

Exhibits

Exhibit A – Department Manager Responsibilities

## EXHIBIT A

### **OMC AND DEPARTMENT MANAGER DUTIES AND SERVICES**

The key functions of the ED Manager include identifying best practices that can be implemented in the Department; directing and supporting providers and other personnel working in the Department in implementation of new practices; and developing the annual budgets, in consultation with the Hospital and for approval by the Hospital. With respect to all activities taken by the ED Manager on behalf of District, the Hospital, or the Department, the ED Manager shall act in the best interest of District, the Hospital, and the Department, and prioritize the health care needs of District residents. As a part of the Services, the ED Manager will:

1. Operate the Department in compliance with District's and Hospital's policies and procedures.
2. Develop and implement new policies and processes for the purpose of quality improvement, process improvement, cost reduction, and operational efficiency, and will make recommendations to the Hospital regarding revisions to existing Department policies and procedures.
3. Develop and participate in committees for the purpose of quality improvement, process improvement, cost reduction, and operational efficiency, all subject to oversight by Hospital's governing body and subject to the terms and conditions of this Agreement and the Information Sharing Agreement, and assist in the management of specific processes within the Department.
4. Assist Hospital in short-term and long-term strategic planning regarding services provided by the Department.
5. Annually develop Department capital and operating budgets in accordance with Hospital's planning and budgeting processes and timelines.
6. Develop annual goals and objectives of the Department, including an annual operating plan with specific performance targets for the Department.
7. Provide the Hospital with recommendations regarding Department facilities and equipment management, equipment purchasing and maintenance, and clinical supplies management.
8. Assist Hospital in its evaluation of professional personnel providing services in the Department, and conduct annual performance evaluations of the non-physician Department staff consistent with Hospital's evaluation processes, including making recommendations regarding disciplinary actions for Department staff.
9. Consistent with Information Sharing Agreement, advise and assist District regarding medical staff credentialing standards and criteria applicable to District physicians and allied health professionals for use by District, and provide input regarding the appointment, reappointment and disciplinary actions of specific providers consistent with District's standard credentialing processes.

10. Monitor Department staffing, including making recommendations regarding the number of non-physician personnel necessary to operate the Department consistent with the Department's approved Annual Budgets, the qualifications required for non-physician Department staff to Hospital for approval, and the physicians and advanced practice professionals who provide professional services in the Department.
11. Review monthly operational and statistical reports and implement the changes needed to improve the Department's performance.
12. Be responsible for maintaining the Department's Cardiac, Stroke, and similar certifications and accreditations with the applicable agencies and insurance companies.
13. Be responsible for responding to patient, staff and physician complaints concerning the Department.
14. Provide educational and advisory resources to improve the clinical quality and operational performance of the Department.
15. Implement Department quality management and utilization review.
16. Participate in and provide input regarding District's Infection Control with respect to Department services, assist the Hospital Infection Control Program in the collection of data on all infections for Department patients, and encourage Department staff to comply with the developed protocols, all subject to oversight by the Hospital's governing body and subject to the terms and conditions of this Agreement.
17. Identify, develop and implement Department cost reduction and clinical efficiency strategies.
18. With District's approval, communicate on the Department's behalf to third parties on matters for which ED Manager has responsibility pursuant to this Agreement.
19. Collaborate and partner with District in joint marketing activities regarding OMC's management of the Department as further described in Section 3.4.1
20. Make recommendations regarding the scope and mechanism for delivery of clinically appropriate ancillary services necessary to support patient care in the Department.
21. Provide feedback regarding the Department Medical Director and PSP's compliance with PSP's obligations under the PSP Agreement.
22. Make recommendations regarding the frequency and appropriateness of Department staff training consistent with the Department's Annual Budgets.
23. Perform other administrative duties and management responsibilities relating to Department operations as may be reasonably requested by Hospital and agreed to by OMC.

In addition, OMC will meet at least annually with the Hospital CEO to evaluate the performance of the ED Manager.



## **BUSINESS ASSOCIATE AGREEMENT**

THIS BUSINESS ASSOCIATE AGREEMENT ("Business Associate Agreement" or "Agreement") is executed as of the date last signed below ("Effective Date") between Overlake Hospital Medical Center hereinafter referred to as "Business Associate" and King County Public Hospital District No. 4 d/b/a Snoqualmie Valley Hospital, hereinafter referred to as "Covered Entity." Business Associate and Covered Entity are referred to herein as a "Party," and collectively, the "Parties."

### **Section 1** **Definitions**

- 1.1 **"Business Associate"** shall mean Overlake Hospital Medical Center.
- 1.2 **"Breach"** shall have the same meaning as the term "breach" given under 45 C.F.R. 164.402.
- 1.3 **"Covered Entity"** shall mean King County Public Hospital District No. 4 d/b/a Snoqualmie Valley Hospital, its clinics and subsidiaries who may receive services from Business Associate pursuant to the Underlying Contract(s).
- 1.4 **"Individual"** shall have the same meaning as the term "individual" under the Privacy Rule and the Security Rule, including, but not limited to, 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- 1.5 **"Designated Record Set"** means "Designated Record Set" as defined in 45 C.F.R. §164.501. The designated record set is the group of medical records and billing records about individuals maintained by or for the Covered Entity to make decisions about such individuals.
- 1.6 **"HIPAA"** means the Health Insurance Portability and Accountability Act.
- 1.7 **"HIPAA Regulations"** means the implementing regulations of HIPAA codified at 45 C.F.R. Parts 160 and 164.
- 1.8 **"HITECH"** means the Health Information Technology for Economic and Clinical Health Act.
- 1.9 **"Privacy Rule"** shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.
- 1.10 **"Protected Health Information" or "PHI"** shall have the same meaning as the term "protected health information" in 45 CFR 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity pursuant to the Underlying Contract(s).
- 1.11 **"Electronic Protected Health Information" or "Electronic PHI"** shall have the same meaning given to the term "electronic protected health information" under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. §160.103, as applied to the information that Business Associate creates, receives, maintains or transmits from or on behalf of Covered Entity.
- 1.12 **"Required by Law"** shall have the same meaning as the term "required by law" in 45 CFR 164.501.



1.13 **“Secretary”** shall mean the Secretary of the Department of Health and Human Services or his designee.

1.14 **“Security Incident”** shall have the meaning given to such term under the Security Rule, including, but not limited to, 45 C.F.R. §164.304.

1.15 **“Security Rule”** shall mean Security Standards at 45 C.F.R. Parts 160 and 162 and Parts 164, Subparts A and C.

1.16 **“Underlying Contract(s)”** shall mean one or more written agreements between Covered Entity and Business Associate that require Business Associate to be provided with, to have access to, and/or to create PHI, including that certain Electronic Health Record System Access Agreement and that certain Emergency Department Management Services Agreement entered into between the Parties.

1.17 **“Unsecured PHI”** shall have the same meaning given to the term “unsecured protected health information” under 45 C.F.R. Part 164, limited to the information created or received by Business Associate from or on behalf of Covered Entity pursuant to the Underlying Contract(s).

1.18 **“Washington Uniform Health Care Information Act”** means the Washington Uniform Health Care Information Act codified at 70.02 RCW.

## **Section 2**

### **Background and Purpose**

2.1 The Parties have entered into, and may in the future enter into, one or more written Underlying Contract(s), that require Business Associate to be provided with, to have access to, and/or to create Protected Health Information, that is subject to the HIPAA Regulations and the Washington Uniform Health Care Information Act. This Business Associate Agreement shall supplement each of the Underlying Contract(s) only with respect to Business Associate’s use, disclosure, and creation of PHI under the Underlying Contract(s) to allow Covered Entity and Business Associate to comply with the HIPAA Regulations and the Uniform Health Care Information Act. Business Associate acknowledges that as of the effective date of the Underlying Contract(s), as a business associate, it is responsible to comply with the Security Rule and Privacy Rule pursuant to Subtitle D of HITECH, including Sections 164.308, 164.310, 164.312 and 164.316 of title 45 of the Code of Federal Regulations, as applicable, and any other implementing regulations applicable to Business Associate’s use and disclosure of PHI. Except as so supplemented, the terms of the Underlying Contract(s) shall continue unchanged and shall apply with full force and effect to govern the matters addressed in this Business Associate Agreement and in each of the Underlying Contract(s).

## **Section 3**

### **Obligations and Activities of Business Associate**

3.1 Business Associate agrees to not use or disclose PHI or Electronic PHI other than as permitted or required by this Agreement or as Required by Law. Business Associate may use and disclose PHI only if the use or disclosure is in compliance with each applicable requirement of section 164.504(e) of Title 45 of the Code of Federal Regulations.

3.2 Business Associate agrees to use appropriate safeguards to prevent the use or disclosure of PHI or Electronic PHI in addition to those safeguards provided for by this Agreement.

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

3.4 Business Associate agrees to promptly report to Covered Entity any use or disclosure of the PHI or Electronic PHI not provided for by this Agreement. Business Associate also agrees to report to the Covered Entity any Security Incident (as defined by the Security Rule) of which it becomes aware. Notwithstanding the foregoing, Business Associate and Covered Entity acknowledge the ongoing existence and occurrence of attempted but unsuccessful Security Incidents that are trivial in nature, such as pings and port scans, and Covered Entity acknowledges and agrees that no additional notification to Covered Entity of such unsuccessful Security Incidents is required.

3.5 Business Associate agrees to ensure that any subcontractor to whom it provides PHI or Electronic PHI received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions under HIPAA that apply through this Agreement to Business Associate with respect to such information.

3.6 Within twenty (20) days of receiving a written request from Covered Entity, Business Associate shall make available to the Covered Entity PHI necessary for Covered Entity to respond to Individuals' requests for access to PHI about them in the event that the PHI in Business Associate's possession constitutes a Designated Record Set. In the event any individual requests access to PHI directly from Business Associate, Business Associate shall within five (5) business days forward such request to the Covered Entity.

3.7 Within thirty (30) days of receiving a written request from Covered Entity, Business Associate shall make available to the Covered Entity PHI for amendment and incorporate any amendments to the PHI or make any amendments to the PHI as Covered Entity directs in the time and manner designated by Covered Entity in accordance with the Privacy Rule in the event that the PHI in Business Associate's possession constitutes a Designated Record Set.

3.8 Within thirty (30) days of receiving a written request from Covered Entity, Business Associate shall make available to Covered Entity the information required for Covered Entity to provide an accounting of disclosures of PHI as required by the Privacy Rule. Business Associate shall provide Covered Entity with the following information: (i) the date of the disclosure, (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person, (iii) a brief description of the PHI disclosed, and (iv) one of the following, as applicable: (a) a brief statement of the purpose of such disclosure which includes an explanation that reasonably informs the individual of the basis for such disclosure or in lieu of such statement, (b) a copy of a written request from the Secretary of Health and Human Services to investigate or determine compliance with HIPAA; or (c) a copy of the individual's request for an accounting. In the event the request for an accounting is delivered directly to Business Associate, Business Associate shall within seven (7) business days forward such request to the Covered Entity.

3.9 Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of PHI or Electronic PHI received from, or created or received by Business Associate on behalf

of Covered Entity, available to the Secretary for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule and the Security Rule.

3.10 Business Associate shall notify Covered Entity within fifteen (15) days of Business Associate's discovery of a Breach of Unsecured PHI. When known, Business Associate shall identify each individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been accessed, acquired, or disclosed during the Breach. Following a Breach of Unsecured PHI, Business Associate shall investigate the cause of the Breach, take reasonable steps to mitigate harm to individuals whose Unsecured PHI was breached, and implement policies and procedures to protect against further Breaches. Business Associate shall reasonably cooperate with Covered Entity in complying with the Breach notification provisions of 45 C.F.R. 164 Subpart D, if applicable.

#### **Section 4**

##### **Permitted Uses and Disclosures by Business Associate**

##### **General Use and Disclosure Provisions**

4.1 Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information or Electronic PHI to perform functions, activities, or services ("Services") for, or on behalf of, Covered Entity as specified in any Underlying Contract(s) between Covered Entity and Business Associate, provided that such use or disclosure would not violate the HIPAA Regulations if done by Covered Entity.

4.2 Business Associate may use PHI for the proper management and administration of the Business Associate and to carry out the legal responsibilities of the Business Associate, provided the disclosures are permitted under applicable state and federal law. Business Associate may also disclose PHI to third parties for the proper management and administration of Business Associate or to fulfill and present or future legal responsibilities of Business Associate, provided that Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

#### **Section 5**

##### **Obligations of Covered Entity**

5.1 Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity provides to its patients in accordance with 45 CFR 164.520, as well as any changes to such notice.

5.2 Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information or Electronic PHI to which the Covered Entity has agreed; provided that Covered Entity shall not agree to an Individual's request for a restriction on the use or disclosure of PHI to the extent that such restriction prevents Business Associate from providing Services under the Agreement and the Underlying Contract(s)

5.3 Covered Entity shall, pursuant to 45 CFR 164.502(b), disclose the minimum necessary amount of PHI to Business Associate needed to accomplish the intended purpose of the disclosure.

5.4 Covered shall ensure that all PHI disclosed to Business Associate is secured through the use of a technology or methodology specified by the Secretary in the guidance issued under Section 13402(h)(2) of Public Law 111-5 that renders PHI unusable, unreadable, or indecipherable to unauthorized persons.

## **Section 6**

### **Term and Termination**

6.1 Term. This Business Associate Agreement shall be effective on the earliest effective date for any Underlying Contract(s) and shall remain in effect in until terminated pursuant to Section 6.2 below, or upon termination of all of the Underlying Contract(s).

6.2 Termination for Cause. Upon a Party's knowledge of a material breach by the other Party of this Agreement, the non-breaching Party shall, by written notice to the breaching Party, provide a 30-day opportunity for the breaching Party to cure the breach or end the violation. The non-breaching Party may terminate this Agreement and any Underlying Contract(s) between Covered Entity and Business Associate if the breaching Party does not cure the breach or end the violation within such 30-day period. In addition, the non-breaching Party may immediately terminate this and any Underlying Contract(s) between the Covered Entity and the Business Associate, if the breaching Party has breached a material term of this Agreement and cure is not possible.

6.3 Effect of Termination.

(1) Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

(2) In the event that Business Associate determines that returning or destroying the Protected Health Information or Electronic PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible, and Business Associate shall extend the protections of this Agreement to such Protected Health Information or Electronic PHI and limit further uses and disclosures of such Protected Health Information or Electronic PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information or Electronic PHI.

## **Section 7**

### **Miscellaneous**

7.1 Regulatory References. A reference in this Agreement to a section in the HIPAA Regulations means the section as in effect or as amended, and for which compliance is required.

7.2 Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity and Business Associate to comply with the requirements of the HIPAA Regulations.

7.3 Survival. The respective rights and obligations of Covered Entity and Business Associate under Sections 6.3, 7.1, 7.3, 7.4, 7.5, 7.6, 7.7, 7.8, and 7.9 shall survive the termination of this Agreement.

7.4 Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity and Business Associate to comply with HIPAA, HITECH, and the Uniform Health Care Information Act and any other privacy laws as set forth by the Federal Government and/or the State of Washington. The terms of this Agreement shall prevail in the case of any conflict with the terms of any Underlying Contract to the extent necessary to allow Covered Entity and Business Associate to comply with the HIPAA Regulations and the HITECH Act and its implementing regulations.

7.5 Notices. Any notices to be given hereunder to a party shall be made via U.S. Mail or express courier to such party's address given below, and/or (other than for the delivery of fees) via facsimile to the facsimile telephone numbers listed below.

If to Covered Entity:	King County Public Hospital District No. 4 9801 Frontier Avenue S.E. Snoqualmie, WA 98065 Attention: Compliance Officer Fax: 425-831-3412
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If to Business Associate:	Overlake Hospital Medical Center 1035 116 <sup>th</sup> Avenue N.E. Bellevue, WA 98004 Attention: Chief Privacy Officer Email: PrivacyOfficer@overlakehospital.org Fax: 425-688-5087
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Each party named above may change its address for notice by the giving of notice thereof in the manner hereinabove provided.

7.6 Counterparts; Facsimiles. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.

7.7 Severability. If any provision of this Agreement, or any other agreement document, or writing pursuant to or in connection with this Agreement, is found to be wholly or partially invalid or unenforceable, the remainder of the agreement is unaffected.

7.8 Indemnification; Limitation of Liability. The Parties (each an "Indemnified Party") agree to indemnify, defend and hold harmless each other and each other's respective employees, directors, officers, agents or other members of its workforce (each of the foregoing hereinafter referred to as "Indemnified Party"), against all actual and direct damages suffered by the Indemnified Party arising out of a third party claim ("Claim") brought against Indemnified Party that is solely and directly caused by Indemnifying Party's breach of this Agreement. Indemnifying Party's obligations under this Section 7.8 are conditioned on the Indemnified Party (i) promptly notifying the Indemnifying Party of any Claim subject to indemnification hereunder, (ii) giving Indemnifying Party the right to control and direct the preparation, defense and settlement of any such Claim, and (iii) reasonably cooperating with Indemnifying Party in such defense. Business Associate's indemnification obligations under this Section 7.8 are conditioned on

Covered Entity's compliance with Section 5 of this Agreement. In no event shall either Party be liable to the other Party under this Agreement for (i) direct damages that exceed the amounts paid by Covered Entity to Business Associate under the Underlying Contract(s) in the twelve (12) months preceding the event giving rise to liability, and (ii) any consequential, indirect, special or punitive damages. The Parties' obligation to indemnify any Indemnified Party shall survive the expiration or termination of the Agreement for any reason.

7.9 Disputes. If any controversy, dispute or claim arises between the Parties with respect to this Business Associate Agreement, the Parties shall make good faith efforts to resolve such matters informally and in accordance with any dispute resolution process specified in the Underlying Contract(s). This Agreement shall be governed by the laws of the State of Washington and the venue for any dispute under this Agreement is King County, Washington, without regard to any statute or case law on choice of laws.

7.11 Independent Contractor. Covered Entity and Business Associate are and shall be independent contractors to one another and nothing herein shall be deemed to cause this Agreement to create an agency, partnership, or joint venture between the Parties.

IN WITNESS WHEREOF, Business Associate and Covered Entity have caused this Agreement to be signed and delivered by their duly authorized representatives, effective as of the date set forth above.

OVERLAKE HOSPITAL MEDICAL CENTER KING COUNTY PUBLIC HOSPITAL  
DISTRICT NO. 4

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date signed: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: Kim Witkop, MD  
Title: CEO-interim/CMO  
Date signed: \_\_\_\_\_

**Public Hospital District No. 4, King County**

**KING COUNTY, WASHINGTON**

**RESOLUTION NO. 671-1120**

**A RESOLUTION** of the Board of Commissioners of Public Hospital District No. 4, King County, authorizing and approving the appointment and compensation of Interim Superintendent and Chief Executive Officer Renee K. Jensen.

**WHEREAS**, Public Hospital District No. 4, King County, (the "District") is a public hospital district and municipal corporation duly organized and existing under the laws of the State of Washington and doing business as Snoqualmie Valley Hospital; and

**WHEREAS**, pursuant to R.C.W. 70.44.003 and 70.44.010, the District is a public hospital district authorized to own and operate hospitals and other health care facilities for the public purpose of providing hospital services and other health care services to residents of the district and to others; and

**WHEREAS**, the Board of Commissioners is vested with authority to employ superintendents; and

**WHEREAS**, the Board of Commissioners remains committed to attracting and retaining persons of superior qualifications for the position of Superintendent and Chief Executive Officer; and

**WHEREAS**, the Board of Commissioners has determined that Renee K. Jensen possess the requisite skills, leadership abilities and experienced needed by the District in the position of the Interim District Superintendent and Chief Executive Officer at this time; and

**WHEREAS**, Renee K. Jensen desires and is willing to serve as the interim District Superintendent and Chief Executive Officer at this time; and

**WHEREAS**, the Board of Commissioners desires to appoint Renee K. Jensen effective November 12, 2020, in conformity with RCW 70.44.080 in the capacity of Interim Superintendent and Chief Administrative Officer, and may also carry and use the title of Chief Executive Officer in accordance with common practice in the healthcare industry; and

**WHEREAS**, Renee K. Jensen shall hold the office until further action of the Board of Commissioner consistent with the Employment Agreement and terms therein, dated November 12, 2020, attached and incorporated herein by reference; and

**WHEREAS**, pursuant to RCW 70.44.070, the Superintendent shall receive such compensation as the Commission shall fix by resolution; and

**WHEREAS**, Renee K. Jensen shall receive the compensation and benefits as provided for in the attached Employment Agreement approved by the District and Renee K. Jensen; and

**WHEREAS**, the District has determined it is in the best interests of the District and the organization as a whole to provide authorization, appointment and appropriate compensation for Renee K. Jensen as the Interim Superintendent and Chief Executive Officer;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of Public Hospital District No. 4, King County, as follows:

**SECTION 1: Appointment.** The Board of Commissioners hereby authorizes and appoints Renee K. Jensen effective November 12, 2020, in conformity with RCW



70.44.080 as the Interim Superintendent and Chief Administrative Officer, and who may also carry and use the title of Chief Executive Officer in accordance with common practice in the healthcare

**SECTION 2: Authority.** Renee K. Jensen shall be vested with all the authority and responsibilities afforded to Superintendents of Washington Public Hospital Districts as provided by Washington law in conformity with RCW 70.44.080 and to hold the office until further action of the Board of Commissioners pursuant to the attached Employment Agreement incorporated herein by reference.

**SECTION 3: Compensation.** Compensation adopted by this resolution for the Interim District Superintendent and Chief Executive Officer, Renee K. Jensen shall be as provided for in the Employment Agreement, attached and incorporated herein by reference, effective November 12, 2020.

**ADOPTED** by the Board of Commissioners of Public Hospital District No. 4, King County, at a duly and properly noticed meeting thereof, on the 12<sup>th</sup> day of November 2020.

\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

## CERTIFICATION

I, the undersigned, Secretary of the Commission (the "Commission") of Public Hospital District No. 4, King County, Washington (the "District"), hereby certifies as follows:

1. The attached copy of Resolution No. 671-1120 (the "Resolution") is a full, true and correct copy of a resolution duly adopted at a regular meeting of the Commission held at Snoqualmie Valley Hospital on November 12, 2020, as that resolution appears on the minute book of the District; and the Resolution is now in full force and effect; and

2. A quorum of the members of the Commission was present throughout the meeting and a majority of the Commission members voted in the proper manner for the adoption of the Resolution.

IN WITNESS WHEREOF, I have hereunto set my hand this 12<sup>th</sup> day of November 2020.

PUBLIC HOSPITAL DISTRICT NO. 4,  
KING COUNTY, WASHINGTON

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Kevin Hauglie  
Secretary of the Commission

## EMPLOYMENT AGREEMENT

This Employment Agreement ("Agreement") is dated this 9 day of Nov, 2020, and made effective on November 12, 2020 (the "Effective Date") upon confirmation by the District Board of Commissioners, between Public Hospital District No. 4, King County, Washington, a Washington municipal corporation (the "District") and Renee K. Jensen ("Executive").

1. Employment. The District employs Executive and Executive accepts employment on the terms and conditions in this agreement. Executive is employed in the capacity of Interim Superintendent and Chief Executive Officer. The Board shall review Executive's job performance and salary no later than six (6) months from the Effective Date of this Agreement for transition from interim status and any considered salary adjustment as determined by the Board in its sole discretion, provided that, absent cause or Executive's consent, it may not be adjusted downward. The Board may use the benchmark indicators of other Western Washington, or national Critical Access Hospitals in analyzing financial stability, quality of health care service provided, patient satisfaction, intensity or lack thereof of patient complaints, employee job performance and satisfaction, and any other objective comparisons that can be made involving patient safety and financial viability.

2. Duties. In this capacity, Executive shall have primary responsibility for implementation of the business strategies of District. Executive shall report directly to, and take direction from, District's Board of Commissioners (the "Board") and to no other District Executive. Executive shall perform the duties customarily performed by a Superintendent and Chief Executive Officer of a public hospital district in the State of Washington, provided that Executive's precise duties may be changed, extended or curtailed, from time to time, at the Board's direction through motion or resolution passed by the board, and Executive shall assume and perform the further reasonable responsibilities and duties that the Board may assign from time to time through motion or resolution passed by the board.

3. Intensity of Effort; Other Business. Executive shall devote Executive's entire working time, attention and efforts to District's business and affairs, shall faithfully and diligently serve District's interests and shall not engage in any business or employment activity that is not on District's behalf (whether or not pursued for gain or profit) except for (a) activities approved in writing in advance by the Board and (b) passive investments that do not involve Executive providing any advice or services to the businesses in which the investments are made. Acknowledgement is made of Executive's ownership of Jensen2Solutions and expectations from both parties that work on behalf of Jensen2Solutions will not overlap or interfere with work on behalf of the Hospital and that any potential conflicts of interest shall be resolved in the interest of the District.

4. Term. The term of this agreement starts on the Effective Date and expires One (1) year later (the "Initial Term"). This agreement shall automatically be renewed for successive one-year terms (each referred to as an "Extended Term") unless either party gives written notice of nonrenewal at least 90 days before the expiration of the term. Unless stated otherwise, the word "year" as used in this agreement refers to incremental periods of 365 days each (366 days

Initial RKJ

in the case of a leap year), not calendar years. This agreement may terminate before the expiration of any term as provided below.

5. Termination. Executive's employment may be terminated before the expiration of this agreement as follows, in which event Executive's compensation and benefits shall terminate except as otherwise provided below:

a. By Employer Without Cause. Employer may terminate Executive's employment at any time, with or without cause or advance notice. Following the initial 6 month interim period, if Employer terminates Executive's employment when neither cause nor permanent disability exists, however, and provided that Executive releases Employer and its agents from any and all claims in a signed, written release satisfactory in form and substance to Employer, Employer shall pay to Executive termination payments equal to 90 days of Executive's salary if termination occurs in the second six months of employment and 180 days of Executive's salary if termination occurs following one year of employment. These termination payments shall be paid out at Executive's normal salary rate on regular payroll days subject to normal payroll deductions. Executive shall not be required to mitigate the amount of these termination payments by seeking other employment or otherwise, and no income to Executive of any kind shall reduce the termination payments.

b. Continuation of Benefits. Hospital will pay EXECUTIVE an amount equivalent to the payment needed to continue her then current level of medical and dental benefits coverage for the time period required under COBRA for she and her dependents enrolled at the time of his termination, for up to the length of the Severance Period beginning in the month after her termination. The medical payments will be paid in monthly installments. If EXECUTIVE secures equivalent benefits through another position or through a spouse/partner, the medical payments will cease, although any COBRA coverage access will continue as provided for by current law.

c. By Employer for Cause. Employer may terminate Executive's employment for cause. Written notice of the circumstances to terminate Executive's employment for cause subject to cure may be drafted and proposed to the Board by any member of the Board and shall be followed by a special meeting and vote of the Board. If Employer wishes to terminate Executive's employment for cause it shall first give Executive 20 calendar days' written notice of the circumstances constituting cause and an opportunity to cure, unless the circumstances are not subject to being cured. Any written notice of the circumstances constituting cause and an opportunity for cure must be approved by a majority of the Board. Following the notice and opportunity to cure (if cure is not made), or immediately if notice and opportunity to cure are not required, Employer may terminate Executive's employment for cause by giving written notice of termination. Written findings giving rise to such termination may or may not be drafted by the Board. The notice may take effect immediately or at such later date as Employer may designate, provided that Executive may accelerate the termination date by giving five business days' written notice of the acceleration. Any termination of Executive's employment for cause must be approved by a majority of the Board. Executive must be given no less than three (3) business days' notice of the meeting at which termination is to be considered, and a reasonable opportunity to address the Board.

Initial RKZ

For purposes of this agreement "cause" means and is limited to dishonesty, fraud, commission of a felony or of a crime involving moral turpitude, destruction or theft of Employer property, physical attack to a fellow Employee, intoxication at work, use of narcotics or alcohol to an extent that materially impairs Executive's performance of his or her duties, willful malfeasance or gross negligence in the performance of Executive's duties, violation of law in the course of employment that has a material adverse impact on Employer or its Employees, Executive's insubordination or failure or refusal to perform Executive's duties as directed by the Board, Executive's failure or refusal to carry out the orders of the Board, misconduct materially injurious to Employer, neglect of duty, poor job performance, or any material breach of Executive's duties or obligations to Employer that results in material harm to Employer.

For purposes of this agreement, "neglect of duty" means and is limited to the following circumstances: (i) Executive has, in one or more material respects, failed or refused to perform Executive's job duties in a reasonable and appropriate manner (including failure carry out the orders of the Board), (ii) the Board President or the President's designee has counseled Executive in writing about the neglect of duty and given Executive a reasonable opportunity to improve (this written counseling and opportunity to improve must be approved by a majority of the board and shall satisfy the requirement of 20 calendar days' written notice described above), and (iii) Executive's neglect of duty either has continued at a material level after a reasonable opportunity to improve or has reoccurred at a material level within one year after Executive was last counseled.

For purposes of this agreement, "poor job performance" means and is limited to the following circumstances: (i) Executive has, in one or more material respects, failed to perform Executive's job duties in a reasonable and appropriate manner, (ii) the Board President or the President's designee has counseled Executive in writing about the performance problems and given Executive a reasonable opportunity to improve (this written counseling and opportunity to improve must be approved by a majority of the board and shall satisfy the requirement of 20 days' written notice described above), and (iii) Executive's performance problems either have continued at a material level after a reasonable opportunity to improve or the same or similar performance problems have reoccurred at a material level within one year after Executive was last counseled.

d. By Executive Without Good Reason. Executive may terminate Executive's employment at any time, with or without good reason, by giving ninety (90) days' advance written notice of termination.

e. By Executive for Good Reason. Executive may terminate Executive's employment for good reason, in which event Executive shall be entitled to the same rights under this agreement as if Employer had terminated Executive's employment without cause. If Executive wishes to terminate employment for good reason Executive shall first give Employer 30 days' written notice of the circumstances constituting good reason and an opportunity to cure, unless the circumstances are not subject to being cured. Following the notice and opportunity to cure (if cure is not made), or immediately if notice and opportunity to cure are not required, Executive may terminate employment for good reason by giving written notice of termination. The notice may take effect immediately or at such later date as Executive may designate, provided that Employer may accelerate the termination date by giving five business days' written notice of the acceleration.

Initial RLJ

For purposes of this agreement, "good reason" means and is limited to the occurrence without cause and without Executive's consent of a material reduction in the character of Executive's duties, level of work responsibility or working conditions, a reduction in Executive's salary, Employer's failure to provide compensation or benefits owed to Executive, or any material breach by Employer of its duties or obligations to Executive that results in material harm to Executive.

Severance Upon Reorganization. If EXECUTIVE's employment is terminated by EXECUTIVE within One Hundred Eighty (180) days after a merger or other organizational and operating consolidation of Hospital with any other entity (the "Reorganization") that results in (a) the Board losing ultimate control of a majority of the operations of Hospital (based on revenue after contractual allowances and deductions), (b) the majority control of the Board changing to individuals previously not on the Board and who are appointed or controlled by another organization, or (c) a Material Reorganization, as defined and provided below, (d) or implementation of a management agreement, EXECUTIVE shall be entitled to Severance Payments (as defined above) for a period of ten (10) months beginning upon the effective date of EXECUTIVE's resignation, subject to the terms and deductions contained in this Section 6. A "Material Reorganization" shall be any restructuring of Hospital's existing corporate organization that materially limits Hospital's operation as an independent hospital organization, and that results in a change in the majority control of the Board or a material and enduring change in the responsibilities of EXECUTIVE as Superintendent and EXECUTIVE of Hospital. If EXECUTIVE elects to resign pursuant to this Subsection, she shall provide Hospital with a notice of resignation within One Hundred Eighty (180) days after the effective date of the Reorganization. The effective date of the resignation shall be six (6) months after the date of the notice unless (a) Hospital provides EXECUTIVE notice of an earlier effective date, or (b) EXECUTIVE provides Hospital notice of an earlier effective date that is reasonably acceptable to Hospital.

f. Death. Executive's employment shall terminate automatically upon Executive's death.

g. Permanent Disability. Employer may terminate Executive's employment immediately if Executive becomes permanently disabled. For purposes of this agreement Executive will be considered "permanently disabled" if, for a continuous period of 90 days or more, Executive has been unable to perform the essential functions of the job (even with reasonable accommodation) because of one or more mental or physical illnesses and/or disabilities, provided that Employer shall grant additional unpaid leave to the extent required by law.

6. Compensation. Executive's salary initially shall be \$265,000 (two-hundred sixty-five thousand dollars) per year, which shall be computed and paid in equal installments consistent with District's normal payroll procedures. Following one year of employment Executive is eligible for an Annual Incentive bonus as described in Exhibit A.

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7. Benefit Plans. EXECUTIVE shall be entitled to the benefits set forth in Exhibit C, Executive Benefits. Hospital shall have the right to review and amend all benefits provided to Executive under this Agreement upon providing written notice of such amendments to Executive.

8. Dues. Hospital agrees to budget for the payment of dues for EXECUTIVE's participation in (a) community organizations such as the Chamber of Commerce, Rotary, etc.; and (b) health care related professional associations such as the American College of Health Care Executives, etc.

9. Disability. If Executive is unable to perform the essential functions of the job because of Executive's **own mental or physical illness or disability that continues for a** continuous period of three weeks or more, the following shall apply:

a. For the first 90 days of disability, Executive shall be provided paid disability leave, with full compensation and benefits.

b. After 90 days of continuous disability, District may terminate this agreement, provided that District shall grant additional unpaid leave to the extent required by law. During any additional unpaid leave, benefits will not be provided except as may be required by the applicable benefit plan(s) or COBRA.

c. The foregoing notwithstanding, paid disability leave is limited to 90 days in any 24-month period. If this allowance has been exhausted, unpaid leave, with paid benefits continued to the extent allowed by the applicable benefit plan(s), shall be substituted for paid leave.

d. Any available sick leave or disability benefits may be used to continue pay during any period of leave that otherwise would be unpaid.

10. Business Expenses. Executive is authorized to incur reasonable travel expenses required to carry out her duties. District shall reimburse Executive for those expenses as per District's travel and cost reimbursement policies. Executive shall provide to District the itemized expense account information that District reasonably requests.

11. Indemnification. District shall defend and indemnify Executive from and against any and all claims that may be asserted against Executive by third parties (including derivative claims asserted by third parties on behalf of District) that are connected with Executive's employment by District, to the extent permitted by applicable law with exception of intentional criminal acts of the Executive. The foregoing notwithstanding, District shall not be required to defend or indemnify Executive (a) in criminal proceedings, (b) in civil proceedings where Executive is the plaintiff or (c) to the extent it is finally adjudicated that Executive did not act in good faith and in the reasonable belief that Executive's actions were appropriate in the discharge of Executive's duties for District. District may fulfill its duty of defense by providing competent legal counsel of District's choosing. The foregoing rights are in addition to any other rights to which Executive may be entitled under any other agreement, policy, bylaw, insurance policy, ordinance, statute or other provision.

Initial RK

12. Confidentiality. Executive agrees that information not generally known to the public to which Executive has been or will be exposed as a result of Executive's employment by District is confidential information that belongs to District. This includes information developed by Executive, alone or with others, or entrusted to District by its customers or others. District's confidential information includes, without limitation, information relating to District's trade secrets, know-how, procedures, purchasing, accounting, marketing, sales, customers and Executives. Executive will hold District's confidential information in strict confidence and will not disclose or use it except as authorized by District and for District's benefit.

13. Limitations on Publicity. Except for actions in the course of employment for the benefit of District or as may be authorized by District in writing, Executive will not be involved in the preparation of any book, article, story, video or film about District, its business or activities, and Executive will not give interviews about those subjects without prior Board approval.

14. Possession of Materials. Executive agrees that upon conclusion of employment or request by District, Executive shall turn over to District all documents, files, electronic media and other materials or work product in Executive's possession or control that were created pursuant to or derived from Executive's services for District.

15. Noncompetition. Executive agrees that District has many substantial, legitimate business interests that can be protected only by Executive agreeing not to compete with District under certain circumstances. These interests include, without limitation, District's contacts and relationships with its customers, District's reputation and goodwill in the industry, and District's rights in its confidential information. Executive therefore agrees that for ~~12 months~~ <sup>11/14/2008</sup> after Executive's employment with District ends, regardless of the reason it ends, Executive shall not, directly or indirectly (a) solicit, acquire or conduct any business competitive to the District within thirty (30) miles of the District, from or with any of District's customers, or (b) be an Executive, employer, consultant, officer, director, partner, trustee or shareholder of more than 5% of the outstanding common stock of any person or entity that solicits, acquires or conducts any such business from or with District's customers.

For purposes of this agreement, District's customers are defined as (a) all customers serviced by District at any time within 12 months before Executive's employment with District ended, (b) all customers and potential customers whom District actively solicited at any time within 12 months before Executive's employment with District ended, and (c) all successors, owners, directors, partners and management personnel of the customers just described in (a) and (b).

16. Nonraiding of Executives. Executive recognizes that District's workforce is a vital part of its business. Therefore, Executive agrees that for 12 months after Executive's employment with District ends, regardless of the reason it ends, Executive will not directly or indirectly solicit any Executive to leave his or her employment with District. This includes that Executive will not (a) disclose to any third party the names, backgrounds or qualifications of any District Executives or otherwise identify them as potential candidates for employment, or (b) personally or through any other person approach, recruit, interview or otherwise solicit Executives of District to work for any other employer.

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17. Dispute Resolution. All disputes between Executive and District that otherwise would be resolved in court shall be resolved instead by the following alternate dispute resolution process (the "Process").

a. Disputes Covered. This Process applies to all disputes between Executive and District, including those arising out of or related to this agreement or Executive's employment at District. Disputes subject to this Process include but are not limited to pay disputes, contract disputes, wrongful termination disputes and discrimination, harassment or civil rights disputes. This Process applies to disputes Executive may have with District and also applies to disputes Executive may have with any of District's Executives or agents so long as the Executive or agent with whom Executive has the dispute is also bound by or consents to this Process. This Process applies regardless of when the dispute arises and will remain in effect after Executive's employment with District ends, regardless of the reason it ends. This Process does not apply, however, to workers' compensation or unemployment compensation claims.

b. Arbitration. All disputes that are not resolved by agreement (in mediation or otherwise) shall be determined by binding arbitration. Arbitration is a process in which one or more neutral people decide the case after hearing evidence presented by both sides. The arbitration shall be governed by the Arbitration Procedures attached as Exhibit B, which are a part of this Process. Executive and District agree that the disputes covered by this Process will not be decided in court by a judge or jury.

c. Injunctive Relief. Either party may request a court to issue such temporary or interim relief (including temporary restraining orders and preliminary injunctions) as may be appropriate, either before or after arbitration is commenced. The temporary or interim relief shall remain in effect pending the outcome of arbitration. No such request shall be a waiver of the right to submit any dispute to arbitration.

d. Employment Status. This Dispute Resolution Process does not guarantee continued employment, require discharge only for cause or require any particular corrective action or discharge procedures.

18. Governing Law. This agreement shall be governed by the internal laws of the State of Washington, and venue in King County Washington, without giving effect to provisions thereof related to the choice of laws or conflict of laws.

19. Saving Provision. If any part of this agreement is held to be unenforceable, it shall not affect any other part. If any part of this agreement is held to be unenforceable as written, it shall be enforced to the maximum extent allowed by applicable law. The indemnification, confidentiality, possession of materials, noncompetition, non-raiding and dispute resolution provisions of this agreement shall survive after Executive's employment by District ends, regardless of the reason it ends, and shall be enforceable regardless of any claim Executive may have against District.

20. Waiver. No waiver of any provision of this agreement shall be valid unless in writing, signed by the party against whom the waiver is sought to be enforced. The waiver of

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any breach of this agreement or failure to enforce any provision of this agreement shall not waive any later breach.

21. Assignment; Successors. District may assign its rights and delegate its duties under this agreement. Executive may not assign Executive's rights or delegate Executive's duties under this agreement.

22. Binding Effect. This agreement is binding upon the parties and their personal representatives, heirs, successors and permitted assigns.


23. Counterparts. This agreement may be executed in any number of counterparts, each of which shall be an original and all of which, taken together, shall constitute a single agreement.

24. Legal Representation. In connection with this agreement, Executive has been advised to consult with independent legal counsel before signing this agreement and has had the opportunity to do so.

25. Complete Agreement. This agreement, together with the attached Exhibits, is the final and complete expression of the parties' agreement relating to Executive's employment. This agreement may be amended only by a writing signed by both parties; it may not be amended orally or by course of dealing. The parties are not entering into this agreement relying on anything not set out in this agreement. This agreement shall control over any inconsistent policies or procedures of District, whether in effect now or adopted later, but District's policies and procedures that are consistent with this agreement, whether in effect now or adopted later, shall apply to Executive according to their terms.

DATED as of the date first written above.

EXECUTIVE:

  
Renee K Jensen

DISTRICT:

Public Hospital District No. 4  
King County, Washington

By \_\_\_\_\_  
Emma Herron  
Board President

Initial

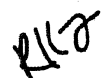


Exhibit A  
Annual Incentive Bonus

This bonus is designed to incent Executive for leadership excellence in four distinct and measurable areas:

- I. Financial
- II. Growth
- III. Quality
- IV. Service

Incentive Plan Design

- Each metric has a Threshold, a Target, and a Stretch level of achievement.
- The entire incentive plan has a Trigger\*\* which must be met (meeting the Financial threshold goal) in order to be eligible for incentive on performance on any metric.
- The metrics are weighted, with more weight placed on the Financial goal.

The incentive metrics associated with each area for the plan year will be identified and defined prior to the start of each plan year which will for convenience be a calendar year. The incentive plan will initiate fully in plan year 2022.

The initial plan year, 2021, will include only metrics for Quality and will not require fulfillment of another Trigger measure for eligibility:

	Threshold
Quality Metrics performance as identified by Quality Steering committee and confirmed by Board weight 100%	5 % over prior year equates to 5% bonus

Quality Measures: The Quality Steering Committee will identify during its final meeting of 2020 up to four quality measures to be achieved in 2021.

Incentive Plan Administration

- Executive must have been employed by The District for at least one year and be employed by The District at the time the incentive is awarded to receive the incentive.
- For Plan Years 2022 and thereafter:
  - Executive must achieve positive net income or achieve budget, whichever is greater, to "activate" or trigger the remainder of the incentive plan. If the net income Threshold level metric is not met, no other parts of the incentive plan are available for payout, even if all other metrics are met at or above a Threshold level of achievement.

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- If the Net Income Threshold Level metric is achieved, the plan can pay out for achievement of one or more other metrics.
- The Board must identify and approve the Metrics each year for the following year's incentive plan.
- The Board has the right to alter the plan design based on the needs of the organization or trends in the market through a contract amendment.

Incentive Plan Payout for Plan Years 2022 and thereafter:

- The following table displays the percent of base salary that the EXECUTIVE shall receive upon achievement of each metric at Threshold, Target and Stretch levels (contingent upon Trigger metric achievement). The least that could be earned is 13% and the greatest that can be earned is 25%.
- If all metrics are achieved at Threshold level, Executive is eligible for 15% of base salary as the annual incentive plan payout.
- If all metrics are achieved at Target level, Executive is eligible for 20% of base salary as the annual incentive plan payout.
- If all metrics are achieved at Stretch level, Executive is eligible for 25% of base salary as their annual incentive plan payout.
- If different metrics are achieved to varying extents Executive is eligible for incentive percent multiplier to their base salary equal to the sum of the highest achievements in each metric.
- The payout would occur in Q2 of the year following the plan year, once the audited financial results are complete. The first year eligible for payout will be 2023 based upon performance in the 2022 plan year.

		Metric	Threshold Level payout	Target Level payout	Stretch Level payout
1	Financial weight 80%	Positive net income or break-even achieved, whichever is greater	13%	17%	21%
2	Growth weight 6.67%	To Be Determined	0.67%	1%	1.33%
3	Quality weight 6.67%	Quality Improvement Measures	0.67%	1%	1.33%
4	Service weight 6.67%	Patient Satisfaction Measures	0.67%	1%	1.33%
Total if all measures reached in each level			15%	20%	25%

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## EXHIBIT B ARBITRATION PROCEDURES

These arbitration procedures are a part of the Dispute Resolution Process (the "Process") set out in the agreement to which this Exhibit is attached.

**Commencement.** Arbitration shall be commenced by serving a written demand for arbitration on the other party, either personally or by both regular first class mail and certified mail, return receipt requested. If arbitration is commenced by District it must be first be approved by a majority of the board. The arbitration need not be filed with any arbitration administrator, but a party may file the arbitration with Judicial Dispute Resolution of Seattle, WA. ("JDR") if the party believes that administration by JDR would be beneficial.

**Arbitrators.** There shall be a single neutral arbitrator. If the parties cannot agree on the identity of the arbitrator within 10 days of the arbitration demand, the arbitrator shall be selected by the administrator of JDR.

**Representation by Counsel.** All parties shall have the right to representation by legal counsel at any stage of the proceedings.

**Location.** The arbitration shall be conducted in Seattle, WA, unless the parties agree to conduct the arbitration elsewhere.

**Rules.** The arbitration shall be conducted in accordance with the JDR Dispute Resolution Rules to the extent not inconsistent with the other terms of this Dispute Resolution Process.

**Prehearing Matters.** There shall be no discovery or dispositive motion practice, except that the arbitrator shall authorize discovery that is appropriate to ensure a fair hearing. Discovery shall not extend the time limits set out below. The arbitrator may enter prehearing orders on any appropriate subject, including mediation, scheduling, discovery, witness disclosure, issues to be heard, preliminary injunctive relief, the joinder of parties (provided the party joined is bound by or consents to this Dispute Resolution Process) or consolidation of the arbitration with any other involving common issues of law or fact or which may promote economy. The arbitrator may impose reasonable sanctions on a party for failure to comply with the arbitrator's orders.

**Hearing.** The arbitrator shall hold a private hearing within 90 days of the initial demand for arbitration and shall conclude the hearing within three days. These time limits are included to expedite the proceeding, but the arbitrator may for good cause allow reasonable extensions or delays, and any extensions or delays shall not affect the validity of the award. The arbitrator shall not be bound by the rules of evidence or of civil procedure, but rather may consider such writings and oral presentations as reasonable business people would use in the conduct of their day-to-day affairs and may require both parties to submit some or all of the evidence through written declarations or using any other manner of presentation that the arbitrator decides is appropriate. Live testimony and cross-examination shall be allowed, but only to the extent necessary to ensure a fair hearing on material issues.

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**Decision.** The arbitrator's written decision shall be made within 14 calendar days after the hearing, but a failure to meet this deadline shall not affect the validity of the award. The decision shall contain a brief statement of the claim(s) determined and the award made on each claim. Absent fraud, collusion or willful misconduct by an arbitrator, the award shall be final and binding and judgment may be entered in any court having jurisdiction.

**Law; Remedies.** In making the decision and award, the arbitrator shall apply applicable substantive law. On issues of state law, the substantive law (not including choice of law rules) of the State of Washington shall control. The arbitrator may award injunctive relief or any other remedy that would have been available in court. If a court, applying applicable substantive law, would be authorized to award punitive or exemplary damages, the arbitrator shall have the same power, but the arbitrator otherwise shall not award punitive or exemplary damages. All statutes of limitations that would apply in court shall apply in the arbitration. Questions about whether a dispute must be **arbitrated shall be determined by the arbitrator. The arbitrator may award attorneys' fees and costs to the prevailing party.** The District shall pay all arbitration fees, except for the then current filing fee for filing a claim in the Superior Court of the State of Washington, King County, which amount shall be paid by Executive.

**Arbitration Law.** This Dispute Resolution Process is governed by the Federal Arbitration Act, 9 U.S.C. § 1 et seq. (the "FAA"). **The provisions of the FAA (and to the extent not preempted by the FAA, the provisions of the law of the state in which Executive principally reports to work that generally apply to commercial arbitration agreements, such as provisions granting stays of court actions pending arbitration) are incorporated into this Dispute Resolution Process to the extent not inconsistent with the other terms of this Process.**

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**EXHIBIT C**  
**EXECUTIVE BENEFITS**

EXECUTIVE shall be eligible to receive all standard Hospital benefits for management employees, subject to all eligibility and contribution requirements and other conditions included in the policies, plans and programs:

- (a) Six weeks of paid time off per year following initial 90 days of employment
- (b) Professional meeting leave time to attend professional meetings and educational seminars, and to attend to such outside professional duties in the hospital field, as have been mutually agreed between her and the Chair of the Board. Attendance at such approved meetings and accomplishment of approved professional duties shall be fully compensated service time and shall not be considered vacation time. Hospital shall reimburse EXECUTIVE for all reasonable expenses incurred by her incident to attendance at approved professional meetings, and such expenses incurred by EXECUTIVE in furtherance of the interests of Hospital.
- (c) Purchase of a cellular phone to be used for business purposes together with the monthly charges therefore.

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