

TULARE COUNTY AGREEMENT NO. \_\_\_\_\_

COUNTY OF TULARE  
HEALTH & HUMAN SERVICES AGENCY  
SERVICES AGREEMENT

THIS AGREEMENT ("Agreement") is entered into as of \_\_\_\_\_ between the COUNTY OF TULARE, a political subdivision of the State of California ("COUNTY"), and FONEMED, LLC ("CONTRACTOR"). COUNTY and CONTRACTOR are each a "Party" and together are the "Parties" to this Agreement, which is made with reference to the following:

- A. COUNTY wishes to retain services of CONTRACTOR to provide nurse triage services for patients seeking clinical services after business hours;
- B. CONTRACTOR has the experience and qualifications to provide the services COUNTY requires pertaining to the Public Health Branch; and
- C. CONTRACTOR is willing to enter into this Agreement with COUNTY upon the terms and conditions set forth herein.

THE PARTIES AGREE AS FOLLOWS:

- 1. **TERM:** This Agreement becomes effective as of July 1, 2019 and expires at 11:59 PM on June 30, 2022 unless earlier terminated as provided below, or unless the Parties extend the term by a written amendment to this Agreement.
- 2. **SERVICES:** See attached Exhibits A and B.
- 3. **PAYMENT FOR SERVICES:** See attached Exhibit B.
- 4. **INSURANCE:** Before approval of this Agreement by COUNTY, CONTRACTOR must file with the Clerk of the Board of Supervisors evidence of the required insurance as set forth in the attached Exhibit C.
- 5. **GENERAL AGREEMENT TERMS AND CONDITIONS:** COUNTY'S "General Agreement Terms and Conditions" are hereby incorporated by reference and made a part of this Agreement as if fully set forth herein. COUNTY'S "General Agreement Terms and Conditions" can be viewed at <http://tularecountycounsel.org/default/index.cfm/public-information/>
- 6. **ADDITIONAL EXHIBITS:** CONTRACTOR shall comply with the terms and conditions of the Exhibits listed below and identified with a checked box, which are by this reference made a part of this Agreement. Complete Exhibits D, E, F, G, G-1, and H can be viewed at <http://tularecountycounsel.org/default/index.cfm/public-information/>

**COUNTY OF TULARE  
HEALTH & HUMAN SERVICES AGENCY  
SERVICES AGREEMENT**

|                                     |                   |  |
|-------------------------------------|-------------------|--|
| <input checked="" type="checkbox"/> | <b>Exhibit D</b>  | Health Insurance Portability and Accountability Act (HIPAA) Business Associate Agreement   |
| <input checked="" type="checkbox"/> | <b>Exhibit E</b>  | Cultural Competence and Diversity  |
| <input checked="" type="checkbox"/> | <b>Exhibit F</b>  | Information Confidentiality and Security Requirements  |
| <input type="checkbox"/>            | <b>Exhibit G</b>  | Contract Provider Disclosures ( <u>Must be completed by Contractor and submitted to County prior to approval of agreement.</u> ) |
| <input type="checkbox"/>            | <b>Exhibit G1</b> | National Standards for Culturally and Linguistically Appropriate Services (CLAS) in Health and Health Care                       |
| <input type="checkbox"/>            | <b>Exhibit H</b>  | Additional terms and conditions for federally-funded contracts   |

**7. NOTICES:** (a) Except as may be otherwise required by law, any notice to be given must be written and must be either personally delivered, sent by facsimile transmission or sent by first class mail, postage pre-paid and addressed as follows:

**COUNTY:**

TULARE COUNTY HHSA, CONTRACTS UNIT  
5957 SOUTH MOONEY  
VISALIA, CA 93277  
Phone No. 559-624-8000  
FaX No: 559-713-3718

**With a Copy to:**

COUNTY ADMINISTRATIVE OFFICER  
2800 W. Burrel Ave.  
Visalia, CA 93291  
Phone No.: 559-636-5005  
Fax No.: 559- 733-6318

**CONTRACTOR:**

Fonemed, LLC  
3 Lincoln Dr. Suite A  
Ventura, CA 93001  
Phone No. 805-667-8205  
Fax No. 805-667-8207

(b) Notice personally delivered is effective when delivered. Notice sent by facsimile transmission is deemed to be received upon successful transmission. Notice sent by first class mail will be deemed received on the fifth calendar day after the date of mailing. Either Party may change the above address by giving written notice under this section.

**8. AUTHORITY:** CONTRACTOR represents and warrants to COUNTY that the individual(s) signing this Agreement on its behalf are duly authorized and have legal capacity to sign this Agreement and bind CONTRACTOR to its terms. CONTRACTOR acknowledges that COUNTY has relied upon this representation and warranty in entering into this Agreement.

**COUNTY OF TULARE  
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**9. COUNTERPARTS:** The Parties may sign this Agreement in counterparts, each of which is an original and all of which taken together form one single document.

**THE PARTIES**, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

Date: 7/17/19

FONEMED, LLC  
By Charlene Brophy  
Print Name Charlene Brophy  
Title CEO

Date: 7/17/19

By Isabel Attigliato  
Print Name Contracts Administrator  
Title Isabel Attigliato

[Pursuant to Corporations Code section 313, County policy requires that contracts with a **Corporation** be signed by both (1) the chairman of the Board of Directors, the president or any vice-president (or another officer having general, operational responsibilities), and (2) the secretary, any assistant secretary, the chief financial officer, or any assistant treasurer (or another officer having recordkeeping or financial responsibilities), unless the contract is accompanied by a certified copy of a resolution of the corporation's Board of Directors authorizing the execution of the contract. Similarly, pursuant to California Corporations Code section 17703.01, County policy requires that contracts with a **Limited Liability Company** be signed by at least two managers, unless the contract is accompanied by a certified copy of the articles of organization stating that the LLC is managed by only one manager.]

**COUNTY OF TULARE**

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

By \_\_\_\_\_  
Chairman, Board of Supervisors

ATTEST: JASON T. BRITT  
County Administrative Officer/Clerk of the Board  
of Supervisors of the County of Tulare

By \_\_\_\_\_  
Deputy Clerk

Approved as to Form  
County Counsel

By J. T. Britt 10/16/19  
Deputy  
Matter # 20191084

## EXHIBIT A

# FONEMED



*...for a healthy future*

### Addendum 1 Contract Renewal

**Date:** May 14, 2019  
**Client Name:** County of Tulare Health and Human Services Agency  
**Primary Contact:** Nancy Padjan  
**Telephone:** (559) 625-8048  
**Email:**

Client hereby contracts with FONEMED, LLC ("FONEMED") for Health Information Center Services ("Services") as specified below and on the terms and conditions set forth under:

- Appendix I, Client Specific Provisions;
- Appendix II, General Provisions;
- Appendix III, HIPAA/HITECH Business Associates Agreement, where applicable

#### PROVIDED SERVICES: (Check applicable boxes)

☒ Nurse Triage and Health Advice/Information Services :

☒ Per Call Or ☐ Membership

☐ Health provider

☐ After hours ☐ 24/7

☐ Other \_\_\_\_\_

- ☐ Occupational Exposure Hotline
- ☐ Care Transition Program
- ☐ Chronic Disease Management
- ☐ Remote Biometric Device Monitoring
- ☐ Wellness
- ☐ Behavioral Health
- ☐ First Report of Injury- Non Clinical Intake
- ☐ First Report of Injury and Triage- Clinical Service
- ☐ Live Care Clinic (RN Assessment and/or Physician Escalation)
- ☐ Other (specify)

# EXHIBIT B

## Appendix I Client Specific Provisions Per Call Nurse Advice

### 1) Pricing:

**Price per Call / Monthly Minimum:** \$24.95/ \$495.00

**Setup Fee – Primary Location/Office/Practice/Group:** Waived – Continuing client

**Setup Fee – Additional Locations/Offices/Practices/Groups:** N/A

**Holiday Surcharge:** \$5.00/call

**Additional Paging (15% Surcharge) – see Section 18:** ☐ Yes ☒ No

**2) Term:** Agreement shall continue in effect until the end of the agreement period or before by cancellation of either party upon prior written notice of at least thirty (30) days.

**3) Requested Start Date:** 7/01/2019-06/30/2022

**4) Will there be a physician on call?** ☐ Yes ☒ No

**If Yes, please provide specifics about the on-call schedule:**

- ☐ A schedule with one contact number per night, sent monthly at least seven days in advance of the start of the month (no surcharge).
- ☐ A schedule shared with other practices and/or provided or updated weekly (5% surcharge).
- ☐ A schedule incorporating multiple offices and/or provided or updated more frequently than once a week (10% surcharge).

### 5) Client's Clinical Contact:

**Name:** Denise Gonzalez

**Email:** dogonzal@tularehhsa.org

**Phone:** 559-623-0790

**6) Client's Billing Address and Contact: Address:** Health Operations-HHSA

5957 S. Mooney Blvd.

Visalia, CA 93277

**Contact:** Nancy Padjan

**Email:** npadjan@tularehhsa.org

**Phone:** 559-624-8048

### 7) Other Special Provisions or agreed changes to General Provisions

**8) Covered Service:** FONEMED will provide Client access to the following Services:

- Triage Assessment and Provision of General Health Advice Services by Registered Nurses
- Telephone Health Information Library

Service requests, outside of those contracted for in this Agreement, will be forwarded to Client.

**9) Service Description:** Registered Nurses, utilizing FONEMED's proprietary software and licensed medical protocols, assist individuals in making informed healthcare choices. Nurses address callers' healthcare concerns and assess symptom presentations to recommend the most appropriate level of care in the most appropriate time frame. Fonemed licenses evidence based Schmitt/Thompson protocols which also include behavior health and dental advice.

**10) Client Information Form and Start Date:** FONEMED must receive both the signed Services Agreement and completed Client Information Form at least two weeks (10 business days) before implementation of the agreed upon Services (minimum of three weeks (15 business days) for Clients expecting over 300 calls a month). Unless mutually agreed, a delay in receiving the information per the above time frames may result in a delay in the Start Date. FONEMED will confirm a Start Date in writing with Client.

The Start Date will be no later than six weeks from the receipt of a signed contract, unless mutually agreed upon. In the event that FONEMED does not receive a completed Client Information Form within six weeks (30 business days) from the date of this agreement, implementation will be completed to the maximum extent possible by FONEMED and client will be responsible for minimum contracted fees starting on that day.

**11) Services Information:** Client may, at its option, develop and maintain a community services database consisting of medical and related services that are available to patients within the relevant community for use by FONEMED. FONEMED is not responsible for the accuracy of information supplied to patients on behalf of Client.

**12) Acceptance of Calls:** FONEMED will accept all calls originating from the Client's answering service or directly from the Client (as applicable), and will bill Client as set forth in this Agreement.

**13) Follow-up Calls:** FONEMED will routinely contact up to 5% of callers to assess their satisfaction with the triage service and understanding of referral instructions. FONEMED agrees to share the results of such contacts with Client upon request.

**14) Reporting:** FONEMED will provide Client with a monthly listing of all calls received, including the call identification number, caller name, call time and date, and call type. FONEMED will forward encounter reports to Client following every call or upload reports to a secure FTP site. Client hereby affirms that the individuals at Client's location with access to the monthly invoices and the encounter reports are authorized to view Protected Health Information provided under the Business Associates Agreement.

**15) Nurse Triage Fees and Billing:**

- **Service and Setup Fees:** Billing charges include one-time setup fees, and recurring per call service fees subject to a monthly minimum. The non-refundable setup fees are based on the number of locations/offices/ practices/groups and any additional telephone lines set up as individual entities for billing, paging or reporting purposes. The per-call fee includes the call to/from the patient, faxed/uploaded encounter report, basic physician paging and any required follow-up calling. Recurring fees are subject to annual revision following the initial Agreement Term.
- Invoices will be forwarded to the Client at the beginning of every month consisting of the minimum balance due plus any additional per-call fees due from previous month call volume in excess of the minimum balance. The minimum is payable starting at the official Services Start Date that will be communicated to Client via email after receipt of the completed Client Information

Form. Any paging, texting, translation or schedule surcharges (see below) will be in addition to this minimum. The monthly minimum is payable even if no calls are received from Client in that calendar month.

#### **16) Other Services and Fees:**

- **Holiday Surcharge:** There is a holiday surcharge of \$5.00 for every call taken from 12:00 AM to 11:59 PM (Client's time zone) on New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving and Christmas.
- **Language:** The above fees represent inbound/outbound triage calls in English or Spanish. For Spanish calls, if a FONEMED Spanish-speaking nurse is not available then the call may be transferred to an affiliate's medical call center or triaged using a real-time translation service.

If any other language translation is required, FONEMED will conference in a translation service. All costs for the translation will be passed through to Client (potentially \$40 or more per call), in addition to the standard per-call fee above. Any client restrictions to service must be requested in writing to FONEMED and mutually agreed upon prior to implementation of services. FONEMED will provide approval of restriction to Client in writing. FONEMED RNs will still process foreign-language calls when deemed to be urgent or emergent.

- **Paging:** An electronic communication including paging and texting to Client's physician on-call is included in the per-call price. This includes paging in the event that there is something that a FONEMED nurse cannot handle or if the patient is insistent. If Client requests multiple contact attempts or other frequent communications, for example for specific dispositions or for prescription refills, there will be a 15% surcharge on the total invoice amount each month.
- **On-Call Schedules:** FONEMED will maintain on-call schedules for physician practices in order to perform routine or additional paging. Due to demands of using multiple contacts or constantly changing on-call schedules, there is a surcharge of 7% for any on-call schedules other than simple schedules (defined as one doctor on call every night, put forward in a monthly schedule and provided to FONEMED at least seven days before the start of the month). Schedule specifics are included in Appendix 2.
- **Patient Education Materials:** Any costs for the production and distribution of materials describing FONEMED Services shall be the responsibility of Client. Client shall secure FONEMED written approval prior to making any use of any materials, including but not limited to, printed and electronic media, which refer to or describe the FONEMED services. FONEMED shall have not less than five (5) working days to approve such materials.
- **Other Services:** If Client desires services beyond standard triage, standard reporting, and paging (see examples), mutually agreed upon by both will be priced accordingly. Any additional services and associated pricing will be submitted to Client for signature before the additional services begin. Paging examples: 1) Paging for specific dispositions; 2) Frequent paging; 3) Prescription refills.

## Appendix II GENERAL PROVISIONS

(Any essential changes to these provisions must be agreed in Appendix I. No alterations to the text of these provisions is permitted in this Appendix)

1. **Assurances:** Client agrees to provide FONEMED with complete information in a timely manner as specified in "I Client Specific Provisions" of this Agreement in order for FONEMED to provide Services to Client and its beneficiaries. Client expressly agrees that FONEMED's ability to provide these Services is a function of the Client's performance of its obligations under this Agreement. Services may be delayed or rendered impossible to deliver if Client fails to fulfill its obligations under this Agreement; any such failure by the Client shall in no way relieve the Client of its obligation to pay fees as outlined in this Agreement.
2. **Ownership of Data:** FONEMED retains ownership of all of its intellectual property used in fulfillment of this Agreement. Client retains ownership of all information it provides to FONEMED; FONEMED shall have a nonexclusive right to use such information to evaluate the services provided and to affect improvements and/or modifications to the Services.
3. **Protected Health Information:** In the course of providing Services, FONEMED will have access to Protected Health Information (PHI) relating to the specifics of the calls. Both parties agree to comply with all applicable federal, state and local laws, rules and regulations including the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and modified by the Health Information Technology for Economic and Clinical Health ("HITECH") Act of 2009 and the Omnibus Rule of 2013 in the performance of their obligations hereunder. If Client has authorization from its patients/members to have access to their PHI, FONEMED will provide PHI back to Client subject to both parties entering into a Business Associates Agreement (BAA). Client is responsible for providing the Business Associate Agreement that corresponds to the laws and regulations regarding Protected Health Information for the jurisdiction(s) in which client serves as the Covered Entity. This PHI will only be released to Client's facility or Client's physician practice or clinic (the "Covered Entity," as defined by HIPAA) for the purpose of assisting with further treatment and for inclusion in each caller's medical records maintained by Client's facility, practice or clinic. FONEMED will NOT release PHI to entities that have not provided and completed a Business Associates Agreement.
4. **Caller Information:** FONEMED shall provide Client with information regarding patient calls to the Service Center, setting forth the identity of such patients only upon satisfaction of the requirements for Protected Health Information specified in 3, above.



# APPENDIX III

## HIPAA/HITECH Business Associates Agreement

Client is responsible for providing the Business Associates Agreement that corresponds to the laws and regulations regarding Protected Health Information (PHI) for the jurisdiction(s) in which client serves as the Covered Entity.

If Client has not obtained appropriate authorizations from their individual clients or is not in compliance with applicable laws and regulations regarding PHI FONEMED is prohibited by law from sharing PHI with client.

CLIENT:

BY: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

FONEMED:

BY: Isabel Delarosa

  
Signature

5-14-19  
Date

## EXHIBIT C

### **PROFESSIONAL SERVICES CONTRACTS** **INSURANCE REQUIREMENTS**

CONTRACTOR shall provide and maintain insurance for the duration of this Agreement against claims for injuries to persons and damage to property which may arise from, or in connection with, performance under the Agreement by the CONTRACTOR, his agents, representatives, employees and subcontractors, if applicable.

#### A. Minimum Scope & Limits of Insurance

1. Coverage at least as broad as Commercial General Liability, insurance Services Office Commercial General Liability coverage occurrence form GC 00 01, with limits no less than \$1,000,000 per occurrence including products and completed operations, property damage, bodily injury and personal & advertising injury. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. Insurance Services Office Form Number CA 00 01 covering Automobile Liability of \$1,000,000 per occurrence including any auto or, if the CONTRACTOR has no owned autos, hired and non-owned auto coverage. If an annual aggregate applies it must be no less than \$2,000,000.
3. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. Professional Liability (Errors and Omissions) insurance appropriate to the CONTRACTOR's profession, with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

#### B. Specific Provisions of the Certificate

1. If the required insurance is written on a claims made form, the retroactive date must be before the date of the contract or the beginning of the contract work and must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract work.
2. CONTRACTOR must submit endorsements to the General Liability reflecting the following provisions:
  - a. *The COUNTY, its officers, agents, officials, employees and volunteers are to be covered as additional insureds as respects; liability arising out of work or operations performed by or on behalf of the CONTRACTOR including material, parts, or equipment furnished in connection with such work or operations.*
  - b. *For any claims related to this project, the CONTRACTOR's insurance coverage shall be primary insurance as respects the COUNTY, its officers, agents, officials, employees and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, agents, officials, employees or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.*
  - c. *CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of CONTRACTOR may acquire against the county by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.*

d. Each insurance policy required by this agreement shall be endorsed to state that coverage shall not be canceled, except after written notice has been provided to the COUNTY.

3. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the COUNTY for all work performed by the CONTRACTOR, its employees, agents and subcontractors. CONTRACTOR waives all rights against the COUNTY and its officers, agents, officials, employees and volunteers for recovery of damages to the extent these damages are covered by the workers compensation and employers liability.

C. Deductibles and Self-Insured Retentions

Deductibles and Self-insured retentions must be declared and any deductible or self-insured retention that exceeds \$100,000 will be reviewed by the COUNTY Risk Manager for approval.

D. Acceptability of Insurance

Insurance must be placed with insurers with a current rating given by A.M. Best and Company of no less than A-:VII and a Standard & Poor's Rating (if rated) of at least BBB and from a company approved by the Department of Insurance to conduct business in California. Any waiver of these standards is subject to approval by the County Risk Manager.

E. Verification of Coverage

Prior to approval of this Agreement by the COUNTY, the CONTRACTOR shall file with the submitting department, certificates of insurance with original endorsements effecting coverage in a form acceptable to the COUNTY. Endorsements must be signed by persons authorized to bind coverage on behalf of the insurer. The COUNTY reserves the right to require certified copies of all required insurance policies at any time.

WAIVERS:

I represent and attest that I am a person authorized to make representations on behalf of the CONTRACTOR, and represent the following:

(mark X if applicable)

☒ Automobile Exemption: I certify that FONEMED does not own nor use vehicles in the performance of the agreement for which this insurance requirement is attached.

☐ Workers' Compensation Exemption: I certify that \_\_\_\_\_ is not required to carry workers' compensation coverage or has filed an exemption with the State of California as required by law.

☐ I am requesting a waiver to reduce the auto liability limits.

I acknowledge and represent that we have met the insurance requirements listed above.

Print Name ISABEL DELAROSA-ATTIGLIATO Date: 2/21/19

Contractor Name FONEMED

Signature Isabel Delarosa-Attigliato