

**CITY OF CORDOVA  
RESOLUTION 10-15-43**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CORDOVA, ALASKA,  
AUTHORIZING AN ADVISORY SERVICES AGREEMENT BETWEEN QUORUM  
HEALTH RESOURCES, LLC AND THE CITY OF CORDOVA**

**WHEREAS**, the City of Cordova, Alaska (“City”) is hoping to streamline operations of the Cordova Community Medical Center (“Hospital”) and to reduce the amount of revenue lost by the Hospital annually; and

**WHEREAS**, it is in the City’s best interest to contract with a company offering advisory hospital services to ensure the efficient and cost effective management of the Hospital; and

**WHEREAS**, the City Council anticipates that the use of a professional company offering such services will also increase the quality and availability of medical services in the community; and


**WHEREAS**, the City issued a request for proposals from health service management entities and has chosen the proposal by Quorum Health Resources, LLC.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Cordova, that:

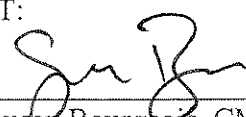
Section 1. The City Manager is authorized and directed to hire Quorum Health Resources, LLC for advisory services at the Hospital in accordance with the terms in the Advisory Services Agreement. The form and content of the Advisory Services Agreement now before this meeting is in all respects authorized, approved and confirmed, and the City Manager is hereby authorized, empowered and directed to execute and deliver the Advisory Services Agreement and its attachments in substantially the form and content now before this meeting but with such changes, modifications, additions and deletions therein as he shall deem necessary, desirable or appropriate, the execution thereof to constitute conclusive evidence of approval of any and all changes, modifications, additions or deletions therein from the form and content of said documents now before this meeting, and from and after the execution and delivery of said documents, the City Manager hereby is authorized, empowered and directed to do all acts and things and to execute all documents as may be necessary to carry out and comply with the provisions of the documents as executed.

**PASSED AND APPROVED THIS 7<sup>th</sup> DAY OF OCTOBER, 2015.**



  
\_\_\_\_\_  
Jim Kacsh, Mayor

ATTEST:

  
\_\_\_\_\_  
Susan Bourgeois, CMC, City Clerk

**ADVISORY SERVICES AGREEMENT  
COVER PAGE**

Date of Agreement: August 13, 2015

Hospital: Cordova Community Medical Center

Address of Hospital:

602 Chase Avenue

Cordova, AK 99574

Hospital's Owner: City of Cordova

Term of Agreement: Eighteen (18) months

Quorum: Quorum Health Resources, LLC

Address of Quorum:

105 Continental Place

Brentwood, TN 37027

Effective Date: August 31, 2015

Expiration Date: February 28, 2017

The capitalized terms in the attached Standard Terms and Conditions not otherwise defined shall have the definition of such terms as set forth on this Cover Page. The attached Standard Terms and Conditions are incorporated into this Advisory Services Agreement ("Agreement"). The following addenda checked "Yes" are also attached hereto and incorporated herein as part of this Agreement by this reference:

ADDENDUM	TITLE	If applicable, mark "YES". If not applicable, mark "N/A."
1	Base Services (Includes Schedule A)	YES
2	Compensation	YES
3	Business Associate Addendum	YES

Neither this Agreement nor any amendment or modification hereto shall be effective or legally binding upon either party, or any officer, director, employee or agent thereof, unless and until it has been reviewed, approved and executed by an authorized representative of each respective party.

**SIGNATURES AND APPROVALS:**

**Cordova Community Medical Center**

**Quorum Health Resources, LLC**

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

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

Printed Name: Randy Robertson

Printed Name: Robert A. Vento

Title: City Manager

Title: Senior Vice President

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

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

**ADVISORY SERVICES AGREEMENT  
STANDARD TERMS AND CONDITIONS**

**WHEREAS**, this Agreement is entered into by and between Quorum and Hospital. Both Quorum and Hospital are collectively referred to herein as the “Parties” and individually referred to herein as the “Party”.

**WHEREAS**, Hospital desires to retain Quorum to provide the hospital advisory services as outlined in the Addenda attached hereto (collectively referred to herein as the “Services”), and Quorum desires to provide those Services upon the terms and conditions stated below. This Agreement is entered into for the purpose of defining the Parties’ respective rights and responsibilities.

**NOW, THEREFORE**, in consideration of the mutual agreements set out below, the Parties agree as follows:

**Article I  
AUTHORITY AND RELATIONSHIP OF THE PARTIES**

**1.1 Retention of Authority and Responsibility.** The Hospital, through the Community Health Services Board (“Board”), shall exercise, throughout the Term (as defined on the Cover Page), ultimate authority, supervision, direction, and control over the business, policies, operation, and assets of the Hospital, and shall retain the ultimate authority and responsibility regarding the powers, duties, and responsibilities vested in the Hospital by applicable law and regulations. Nothing in this Agreement is intended to alter, weaken, displace or modify the responsibility of the Board for the Hospital’s direction and control as set forth in the Cordova Municipal Code and Hospital bylaws.. The Board shall retain the full responsibility for quality of care at the Hospital, for compliance by the Hospital with all applicable federal, state and local laws, including, without limitation, compliance with federal and state laws relating to “fraud and abuse” by hospitals and other healthcare providers and compliance with the federal Stark law of 42 U.S.C. § 1395nn *et seq.*, as amended. The Hospital does not, in any way, delegate to Quorum or any Special Employees defined herein any of the powers, duties and responsibilities vested in Hospital by law or by the bylaws of the Hospital except as expressly set forth herein or by approval of the Hospital’s Board

**1.2 Relationship of the Parties.** The Parties hereto intend by this Agreement solely to effect the provision of Services by Quorum to the Hospital as described herein, and this Agreement is not intended to extend to or involve any other activities of either Party. No other relationship is intended to be created among the Parties hereto, and nothing in this Agreement shall be construed as to make any Party hereto the employer or employee of any other, the joint venturer or partner of the other, or have the right to control or conduct the other’s business in any manner, other than as is herein explicitly provided. Neither Party shall ever have any liability for payment of wages, payroll taxes and other expenses of the other, except as otherwise provided in this Agreement. Quorum shall never have the right to direct the Hospital or the Hospital employees in the performance of their professional medical judgments. Neither Quorum nor any employee or agent of Quorum shall have the authority to legally bind the Hospital unless authorized to do so by the Board. Quorum shall not, by entering into and performing this Agreement, incur any liability for any of the existing obligations, liabilities or debts of the Hospital, and Quorum shall not, by acting hereunder assume or become liable for any of the future obligations, debts or liabilities of the Hospital.

**Article II  
SERVICES**

**2.1 General Responsibilities.** Quorum shall perform certain Services in exchange for payment of the fees and expenses defined in **Addendum 2**. Such Services shall include those Services outlined in this **Article II** and in the attached addenda as defined on the Cover Page. Such Services and any additional duties which may be undertaken by written agreement of the parties shall be performed in

a manner consistent with the policies and directives dictated by the Board, the financial resources available to the Hospital, the competitive marketplace in which the Hospital is located, and Medicare/Medicaid reimbursement and other laws.

## **2.2 Group Purchasing Organization.**

**2.2.1 Access to Group Purchasing Organization.** Subject to applicable law, Quorum acting through an affiliate, Quorum Purchasing Advantage, LLC (“QPA”), shall offer the Hospital access to its group purchasing organization operations which include, without limitation: (i) QPA's arrangements with certain vendors, including strategic service partners (“SSPs”); and (ii) access to vendors through arrangements between QPA and one or more other Group Purchasing Organizations (currently Healthtrust Purchasing Group, LP, referred to herein as “HPG”) (individually referred to as “GPO” and collectively referred to as the “GPO Program”). QPA's GPO Program may change from time to time. If the Hospital chooses to participate, the Hospital understands that it may be required to execute a written agreement with another GPO that QPA has selected to provide access to vendors, and may be required to abide by the requirements of any such contract. Access to QPA's GPO Program is available only to those facilities with a contractual relationship with Quorum. The Hospital also shall have the right to purchase supplies and services from vendors other than those vendors affiliated with Quorum, QPA or QPA's affiliated GPOs.

**2.2.2 Group Purchasing Organization Fees.** The Hospital acknowledges that QPA may receive GPO Fees from vendors, including but not limited to SSPs, in connection with certain products and services that are purchased, licensed or leased by the Hospital, including, without limitation, fees for providing administration and distribution services to the Hospital on behalf of the vendors, including but not limited to SSPs. All such fees will equal three percent (3%) or less of the purchase price of the goods and services purchased from a participating vendor, including but not limited to SSPs, except as set forth on the Administrative Fee Exceptions Schedules attached hereto and incorporated herein as **Schedule A to Addendum 1**. On at least an annual basis, QPA will provide revised Administrative Fee Exceptions Schedules that identify all participating vendors, including but not limited to SSPs, who could pay fees in excess of three percent (3%) of the purchase price of the goods and services purchased from that vendor, as well as the maximum fee that the vendor, including but not limited to SSPs, will or could pay. QPA shall also disclose to the Hospital on an annual basis, and to the Secretary of Health and Human Services upon his or her request, the amount received from each vendor with respect to the Hospital's purchases under the GPO Program. Any and all rebates due and owing to Hospital from HPG shall be paid directly to Hospital by HPG. Hospital understands and agrees that Quorum and QPA are not responsible or liable for any such rebate payments.

**2.2.3 Limitation of Warranties.** **Quorum HEREBY DISCLAIMS AND EXCLUDES ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED (WHETHER ARISING UNDER LAW OR EQUITY OR CUSTOM OR USAGE), INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO ANY SUPPLIES, GOODS OR SERVICES PROVIDED TO THE HOSPITAL THROUGH THE GPO PROGRAM, OR FROM GPOS, AND THE HOSPITAL EXPRESSLY WAIVES RELIANCE UPON ANY SUCH WARRANTIES. HOWEVER, NOTHING IN THIS SECTION SHALL BE INTERPRETED TO LIMIT OR MODIFY ANY CLAIM WHICH THE HOSPITAL, AS AN ORIGINAL PURCHASER, MAY HAVE AGAINST THE MANUFACTURER OR SUPPLIERS (OTHER THAN Quorum OR QPA) OF ANY SUPPLIES, GOODS AND SERVICES.**

**2.3 Limitations on Quorum's Services.** Quorum's Services shall include only those Services specifically identified in this Agreement or otherwise by written agreement of the Parties. Without limiting the generality of the foregoing, Quorum's Services shall not include and shall not be construed as including any service, item, access or deliverable not specifically identified herein, and shall specifically not include or be construed as including such items as legal services, audit services (or the services of a certified public accounting firm), expert witness services, cost report preparation/oversight,

obtaining licenses, governmental approvals, provider numbers or similar items necessary for the operation of the Hospital, data processing or information system software or hardware, feasibility studies in connection with the Hospital's procurement of third-party financing, certificate of need applications related to major capital projects, facility master planning, architectural or engineering services, construction program management, and costs associated with Hospital website development or monthly hosting. **In addition, Quorum's Services shall not include any services arising from any misrepresentation made to Quorum by Hospital pursuant to Section 3.3.** Hospital warrants and represents that it has reviewed and understands the above-described limitations, and that it will not rely on Quorum or any service offered by Quorum as a source of information or expertise in any service, item, access or deliverable not specifically identified herein. Any modifications to the services to be provided by Quorum to Hospital set forth in this Agreement must be confirmed through a signed amendment to this Agreement or by a separate written agreement signed by an authorized representative of each Party.

**2.4 Representations and Warranties of Quorum.** Quorum represents and warrants that the following are true:

**2.4.1** Quorum has had this Agreement reviewed by legal counsel, and fully understands and acknowledges the provisions, scope, authority and division of responsibility herein.

**2.4.2** Quorum has the full authority to enter into this Agreement and the signature of Quorum's Authorized Representative on this document represents that this Agreement has been duly authorized, executed, and delivered, and represents a legal, valid, and binding agreement, enforceable against Quorum in accordance with its terms.

**2.4.3** The execution, delivery, and performance of this Agreement by Quorum, and consummation by it of the transactions contemplated hereby do not: (a) require any consent, waiver, approval, license, or authorization of any person or public authority which has not been obtained and is not presently in effect; (b) violate any provision of law applicable to Quorum; (c) conflict with or result in a default under, or create, any lien upon any of the property or assets of Quorum pursuant to any agreement or instrument; or (d) violate any judicial or administrative decree, regulation, or any other restriction of any kind or character to which Quorum is a party or by which Quorum or any of its assets may be bound.

**2.4.4** Quorum is currently solvent, and none of the execution, delivery or performance of Quorum of its obligations under this Agreement will render Quorum insolvent.

**2.4.5** Quorum recognizes and acknowledges the importance of adequate communication and notifications to Hospital regarding the services provided hereunder. Quorum agrees that it will, in a prompt and timely fashion, bring to Hospital's attention, in writing, any complaint, claim or dispute or allegation of breach it may have against Hospital, its agents, representatives, employees or contractors concerning the Services or subject matter of this Agreement.

**2.4.6** Quorum has not been sanctioned by the Health and Human Services office of the Inspector General as set forth on the Cumulative Sanctions Report, or excluded by the General Services Administration as set forth on the List of Excluded Providers [see <http://oig.hhs.gov/fraud/exclusions.html> and <http://els.arnet.gov/>]. Quorum will promptly notify Hospital if, during the Term, Quorum receives notice of any investigation conducted by a Federal Healthcare Program, Office of Health and Human Services or the Department of Justice.

### **Article III HOSPITAL RESPONSIBILITIES**

**3.1 Quorum Reliance on Hospital's Policies.** The Board shall communicate all policies and directives to Quorum, and Quorum shall be entitled to rely on and assume the validity of

communications from the Board and its designees. Quorum shall not be held responsible for any such policies and directives of which it has not been advised.

**3.2 Medical and Clinical Staff; Medical and Professional Matters.** The Medical Staff shall be organized and reasonably function according to its bylaws and the laws and regulations of the State where Hospital is located as they may be amended from time to time. Hospital shall retain authority for approval of the bylaws of the medical staff of Hospital. All matters requiring professional medical judgments, including without limitation, the evaluation of clinical competence, the supervision of clinical performance, the provision of clinical training and the control of the composition, qualification and responsibilities of the Hospital medical staff, shall remain the responsibility of the Board, the Medical Staff and allied health professionals. Quorum shall have no responsibility whatsoever for such medical judgments and Quorum shall not in any way be responsible for the credentialing of any healthcare professionals on staff at the Hospital. Hospital and its organized medical staff shall retain such roles and responsibilities as are necessary to meet the accreditation requirements of the **Joint Commission** and/or any other accrediting body which has accredited the activities of the Hospital and shall bear any responsibility for or any control over the clinical decisions, patient care, quality outcomes, infection control, or any other clinical or quality matter at the Hospital.

**3.3 Representations and Warranties of the Hospital.** The Hospital represents and warrants that the following are true:

**3.3.1** The Hospital has had this Agreement reviewed by independent legal counsel, and fully understands and acknowledges the provisions, scope, authority and division of responsibility herein.

**3.3.2** The Hospital has the full authority to enter into this Agreement and the signature of the Chairman of the Board on this document represents that this Agreement has been duly authorized, executed, and delivered by the Board as the governing body of the Hospital, and represents a legal, valid, and binding agreement, enforceable against the Hospital in accordance with its terms.

**3.3.3** The execution, delivery, and performance of this Agreement by the Hospital, and consummation by it of the transactions contemplated hereby do not: (a) require any consent, waiver, approval, license, or authorization of any person or public authority which has not been obtained and is not presently in effect; (b) violate any provision of law applicable to the Hospital; (c) conflict with or result in a default under, or create, any lien upon any of the property or assets of the Hospital pursuant to any agreement or instrument; or (d) violate any judicial or administrative decree, regulation, or any other restriction of any kind or character to which the Hospital is a party or by which the Hospital or any of its assets may be bound.

**3.3.4** The Hospital is currently solvent, and none of the execution, delivery or performance of the Hospital of its obligations under this Agreement will render the Hospital insolvent.

**3.3.5** **The Hospital understands and fully acknowledges that as it relates to all applicable federal, state and local laws, regulations and ordinances, as well as Medicare and Medicaid claim processing regulations pertaining to the Hospital and its operations, the Hospital holds sole and absolute responsibility and that Hospital shall seek independent legal advice to the extent necessary to ensure compliance with such authorities at all times. Neither Quorum nor any of its agents, representatives or employees shall be responsible or have any liability for the Hospital's compliance with such law, regulations, ordinances or authorities.** The Hospital warrants that, as of the date hereof, it has received and, during the Term, shall retain accreditation by the Joint Commission or other similar accrediting or certifying body and is responsible for obtaining and maintaining all licenses, permits, provider numbers, and approvals required for the operation of the Hospital.

**3.3.6** The Hospital recognizes and acknowledges the importance of adequate communication and notifications to Quorum regarding the services provided hereunder. Hospital agrees

that it will, in a prompt and timely fashion, bring to Quorum's attention, in writing, any complaint, claim or dispute or allegation of breach it may have against Quorum, its agents, representatives, employees or contractors concerning the services or subject matter of this Agreement.

**3.3.7** The Hospital is and for the Term of the Agreement will be eligible to participate in Medicare, Medicaid, CHAMPUS/TRICARE and other federal healthcare programs (together, the "Federal Healthcare Programs"), and Hospital has not been sanctioned by the Health and Human Services office of the Inspector General as set forth on the Cumulative Sanctions Report, or excluded by the General Services Administration as set forth on the List of Excluded Providers [see <http://oig.hhs.gov/fraud/exclusions.html> and <http://els.arnet.gov/>]. The Hospital will promptly notify Quorum, if, during the Term, Hospital receives notice of any investigation conducted by a Federal Healthcare Program, Office of Health and Human Services or the Department of Justice.

**3.4 Hospital Responsibility for Costs.** The Hospital shall be responsible for all costs and expenses incurred to operate the Hospital. Such costs shall include, without limitation, the following: (a) all costs related to the employment by the Hospital of the Hospital employees; (b) all costs related to the contracting of professional services from providers, including the medical director, practicing physicians, and nurse practitioners; (c) all supplies used at the Hospital; (d) occupancy costs associated with the facilities used by the Hospital; (e) taxes incurred by the Hospital; (f) furniture, fixtures, leasehold improvements, signs and equipment used in facilities owned or operated by the Hospital; (g) insurance purchased for the Hospital; (h) attorney's fees incurred in the name and on behalf of the Hospital; (i) costs of advertising the Hospital's services; (j) direct costs of marketing materials for the Hospital; (k) costs associated with information systems developed by or for the Hospital. Costs which are the responsibility of the Hospital shall be paid from the funds of the Hospital in the Hospital's accounts and the Hospital shall at all times maintain sufficient funds in such accounts for such purposes. Nothing contained herein shall obligate Quorum to make any payments from its own funds or resources, incur any costs, or assume any liabilities either primarily or as guarantor on behalf of the Hospital, or to advance any monies to the Hospital.

**3.5 Covenant Not to Hire.** During the Term, and for a period of one (1) year following the early termination or expiration of the Term for any reason, the Hospital will not, directly or indirectly, through an affiliate, or separate employee leasing or staffing company or otherwise, employ, or solicit for employment, any Quorum employee or consultant unless Quorum gives its written consent thereto. As liquidated damages for any breach of this Covenant by the Hospital, the Hospital agrees that, if it breaches this **Section 3.5** of the Agreement, the Hospital will pay Quorum three (3) times the then current Annual Fee within thirty (30) days of the employment as reasonable compensation to Quorum for damages incurred by such actions on the part of the Hospital. The obligation to pay this amount in the event of an otherwise prohibited direct employment of an employee of Quorum is agreed and confirmed by the Parties to constitute a fair, reasonable and appropriate payment to Quorum under the circumstances to reasonably compensate Quorum for damages incurred. The Parties mutually affirm that the payment amount does not constitute a penalty. Notwithstanding any other provisions of this Agreement, the failure on the part of the Hospital to pay this amount on or before the date when due shall create an immediate right on the part of Quorum to pursue collection of this amount with interest in the amount set forth in **Section 6** of **Addendum 2** to this Agreement. The Hospital agrees to reimburse Quorum for any and all reasonable attorney's fees, or other costs and expenses as may be incurred by Quorum in order to enforce the obligations of the Hospital set forth in this **Section 3.5**. Furthermore, in the event that the Hospital fails to uphold its obligations hereunder, the Parties confirm that Quorum may seek any and all remedies in law or equity, including injunctive relief, relating to any violation of this Section or of any other provisions of this Agreement.

## **Article IV OWNERSHIP OF INFORMATION; CONFIDENTIALITY**

### **4.1 Ownership of Information.**

**4.1.1** All operating procedures, protocols, information systems, computer data bases, and other non-public proprietary business systems or information not uniquely pertaining to the Hospital (collectively, "Quorum's Proprietary Information") that are or were created or developed by Quorum, or obtained by Quorum from sources other than the Hospital, shall be the exclusive property of Quorum. Nothing contained in this Agreement shall be construed as a license or transfer of Quorum's Proprietary Information or any portion thereof, either during the Term or thereafter. Upon the termination or expiration of this Agreement, Quorum shall have the right to retain all of Quorum's Proprietary Information, and any Party hereto, upon request, shall return to Quorum all of Quorum's Proprietary Information in its possession. Notwithstanding the foregoing, written reports, database, procedures, protocols, computer data base, policies, educational materials, regulatory analysis reports and updates and other written documents delivered by Quorum to the Hospital during the Term of this Agreement in connection with the Services provided by Quorum pursuant to this Agreement shall not constitute Quorum Proprietary Information.

**4.1.2** All operating procedures, protocols, information systems, computer data bases, and other non-public proprietary business systems or information owned or developed in whole or in part by or for Hospital personnel (collectively, the "Hospital's Proprietary Information"), shall be the exclusive property of the Hospital. Nothing contained in this Agreement shall be construed as a license or transfer of the Hospital Proprietary Information or any portion thereof, either during the Term or thereafter. Upon the termination or expiration of this Agreement, the Hospital shall have the right to retain all such Hospital Proprietary Information, and any Party hereto, upon request, shall return to the Hospital all Hospital Proprietary Information in its possession.

**4.2 Confidentiality.** Each Party agrees that it shall not, and shall cause its officers, directors, employees and agents to not disclose to any third party any confidential or proprietary data, reports, or other information or materials concerning the other Party hereto, including, without limitation, any aspect of the Proprietary Information, and the terms or prices of any agreement under the Group Purchasing Program, without the prior written consent of the Party whose information is to be disclosed, except as otherwise required by applicable court or administrative order, law or regulation. Each Party shall notify the other Parties immediately of any suspected or actual breach of these confidentiality requirements, and related facts. Promptly upon the expiration or earlier termination of this Agreement, if requested, each Party shall return to the other Party originals and copies, whether in electronic or other medium, of all reports, records, memoranda, and other materials that contain proprietary information belonging to the other Party.

**4.3 Public Announcements; No Disparagement.** Except as otherwise provided herein, neither Party may disclose the terms of this Agreement, nor any agreement supplementing this Agreement, to any other person or entity, except by mutual written consent of the Parties. Without limiting the foregoing, neither Party, nor any officer, director, trustee, employee or agent of such Party (each a "Restricted Party"), shall issue any press release or make any public statement with respect to this Agreement, or any matter arising from this Agreement, or otherwise release, publish or make available to the public, in any manner whatsoever, any information or announcement regarding this Agreement, or its terms, without the prior written consent of the other Party. Each Party agrees that it will refrain from making, and will prohibit any of its Restricted Parties from making, any disparaging comment and/or public statements (oral or written) about the other or its business. Each of the Parties hereto agree that in the event of any termination or threatened termination of this Agreement, they will not disclose, or permit any of their respective Restricted Parties to disclose to anyone who is not a Party to this Agreement (or their respective legal counsel), any facts or circumstances related to such termination or threatened termination. The terms of this **Section 4.3** shall not apply to: (i) any disclosure required for the performance of a Party's obligations hereunder, (ii) any disclosure of the existence or terms of this Agreement made in the notes to the audited financial statements of a party or its affiliates required to be made in accordance with generally accepted accounting principles as reasonably determined by the independent public accountants of such Party, (iii) any such disclosure made in connection with any public or private securities offering, (iv) any disclosure required to be made by law or regulation, Open Meetings Act or Public Records Act, or (v) any disclosure made in response to any court or administrative



order or summons, subpoena or similar legal process except that, in each case, performance of such Party shall provide the other Party with reasonably prompt notice thereof, and such Party shall be permitted, at its expense, to seek a protective order or other appropriate remedy.

**4.4 Injunctive Relief.** The Parties agree that violations of this **Article IV** would result in irreparable harm and that, in addition to any other rights and remedies provided by law, a Party shall be entitled to injunctive relief to enforce the other Party's obligations under this **Article IV**.

## **Article V** **INSURANCE AND INDEMNIFICATION**

**5.1 Indemnification by the Hospital.** Hospital shall defend, indemnify, save and hold harmless Quorum, its shareholders, members, directors, officers, employees, agents and direct or indirect parents or subsidiary entities ("Quorum Indemnified Party") from and against any and all judgments, losses, claims, damages, liabilities, fines, penalties, costs and expenses (including reasonable attorneys' fees and expenses paid or incurred by a Quorum Indemnified Party), joint or several, which may be asserted against any Quorum Indemnified Party arising out of any breach by Hospital of any covenant or any representation or warranty in this Agreement, or arising out of the negligent activities or operations of the Hospital, or occasioned by Quorum's performance of its duties under and in compliance with the terms of this Agreement, where such has been requested or approved by the Board, excepting claims arising from the negligence of Quorum ("Quorum Claim"). It is the intent of the Parties that this indemnification shall include, without limitation, (i) any pending or threatened medical malpractice, other tort claim, contractual claim or any other claim or cause of action; (ii) any act or omission by any former or current Hospital employee, Medical Staff member, or other personnel; (iii) any action against any Quorum Indemnified Party brought by any of the current or former employees of the Hospital, members or Medical Staff unless such action arises directly from the willful and unauthorized conduct of Quorum or its employees; (iv) any violation of any requirement applicable to the Hospital under any federal, state, or local law or regulation; and (v) the negligence, criminal conduct, or misconduct of the Hospital, and/or the Hospital's employees, Medical Staff members, allied health professionals, and/or agents, which listing is intended to be illustrative and not all inclusive.

**5.2 Indemnification by Quorum.** Quorum shall defend, indemnify, save and hold harmless the Hospital, its members, directors, officers, trustees, employees, agents, direct or indirect parents or subsidiary entities (collectively, a "Hospital Indemnified Party") from and against any and all judgments, losses, claims, damages, liabilities, fines, penalties, costs and expenses (including reasonable attorneys' fees and expenses paid or incurred by a Hospital Indemnified Party), joint or several, which may be asserted against any Hospital Indemnified Party arising out of any breach by Quorum of any covenant or any representation or warranty in this Agreement, or arising out of the negligent activities or operations of Quorum (a "Hospital Claim"). It is the intent of the Parties that this indemnification shall include, without limitation, (i) any pending or threatened tort claim, contractual claim or other claim or cause of action that arises solely from the negligence, recklessness, or intentional acts or omissions of Quorum; (ii) any act or omission by any Quorum employee, or other Quorum contract personnel; (iii) any material violation of any requirement applicable to Quorum under any federal, state, or local law or regulation; and (iv) the negligence, criminal conduct, or misconduct of Quorum and/or Quorum's employees and/or agents, which listing is intended to be illustrative and not all inclusive.

**5.3 Conditions on Indemnification.** The obligations of an indemnifying party ("Indemnitor"), as set forth above, are conditioned upon: (i) the indemnified party ("Indemnitee") within a reasonable time notifying the Indemnitor of any claim, demand, action or cause of action, or any incident of which the Indemnitee has actual or constructive knowledge, which may reasonably result in a claim, demand or action, and for which the Indemnitee will look to Indemnitor for indemnification, (ii) Indemnitee, its directors, officers, employees and servants, cooperating fully with Indemnitor in Indemnitor's investigation and review of any such claim, demand, action or incident, and (iii) Indemnitee not entering into any admissions, agreements or settlements which may affect the rights of Indemnitee or Indemnitor without the prior written consent and approval of Indemnitor. Indemnitor reserves the right,

in its sole discretion and at its cost, to assume the defense of Indemnitee in any such claim, action or proceeding.

**5.4 Defense Costs.** The Indemnitor shall have the right to employ separate counsel reasonably acceptable to Indemnitee in any such action and to participate in the defense thereof, with the fees and expenses of such counsel at the expense of Indemnitor. The Indemnitee shall have the right but not the obligation to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of Indemnitee unless (a) employment of such counsel and payment of the fees and expenses thereof by the Indemnitee has been specifically authorized in writing by the Indemnitor, or (b) in the reasonable judgment of Indemnitee, employment of such counsel is necessary because the claim or defense for which such counsel is employed is inconsistent or in conflict with the claims or defenses of the Indemnitor, or (c) the Indemnitee shall have reasonably concluded that there may be claims or defenses available to it that are different from or in addition to those available to the Indemnitor, in any of which events such fees and expenses shall be borne by the Indemnitor, but in any such event, the Indemnitor shall not have the right to direct the defense of such action on behalf of the Indemnitee. The Indemnitor shall not be liable for any settlement of any such action effected by the Indemnitee without the Indemnitor's consent, but if settled with the consent of the Indemnitor or if there shall be a final judgment for the plaintiff in such action against the Indemnitee or the Indemnitor with or without the consent of the Indemnitor, the Indemnitor agrees to indemnify and hold harmless the Indemnitee to the extent provided herein.

## **5.5 Limitations of Liability and Claims.**

**5.5.1 Certain Damages.** Neither Party, their employees, agents, representatives and/or affiliates, shall have any liability to the other Party for any indirect, consequential, incidental, exemplary, special or punitive damages or costs, including, without limitation, lost profits, loss of good will or loss of tax-exempt status for the Hospital or the Hospital's financing, even if such Party has been advised, knew or should have known, of the possibility thereof. Notwithstanding the foregoing, the parties confirm that Quorum has the right to seek and recover any and all actual damages as may be recoverable under law or equity in the event of an improper termination of the Agreement or other improper action by the Hospital, including, as applicable, loss of future payments of the Annual Fee or any portion thereof.

**5.5.2 Cumulative Liability of Quorum.** Excluding the indemnification obligation contained in this **Article V**, the cumulative liability of Quorum, its employees (including, without limitation, the Special Employees), agents, representatives and/or affiliates to the Hospital for any and all claims, regardless of the form of action, arising out of, or relating in any way to, this Agreement or any other prior agreement between the Parties, a Party and an Affiliate of the other Party or an Affiliate of a Party with an Affiliate of the other Party, shall not exceed the total amount of the Annual Fee paid by the Hospital to Quorum as of the date any such claim actually accrued or was filed.

**5.5.3 Acknowledgment.** Quorum shall have no liability whatsoever for the financial condition of the Hospital at any time prior to, during, or after the Term. Quorum shall have no right or interest in nor increase in compensation related to any improvement to the financial condition of the Hospital at any time prior to, during, or after the Term. Quorum makes no warranty or guarantee regarding the ultimate success or performance of the Hospital or the Services provided hereunder. For this reason, the Hospital agrees that it shall not be entitled to seek or obtain any offset against amounts owed by the Hospital to Quorum hereunder as a result of financial losses by the Hospital, and Quorum shall not be entitled to seek or obtain any additional compensation from the Hospital as a result of financial improvements by the Hospital. It is confirmed that neither party nor any of their affiliates shall make a claim or seek indemnification against the other party or the other party's affiliates for any losses, claims, damages, liabilities, costs, and expenses except as provided by **Section 5.1** or **Section 5.2** hereof.

**5.5.4 Limitation of Claims.** With respect to any claim, demand, action, or cause of action that Hospital may have or allege to have against Quorum or any Quorum Indemnified Party at any

time relating in any way to the relationship between Hospital and Quorum or any Quorum Indemnified Party, whether arising in contract, tort, indemnity, contribution or otherwise (“Hospital Claim”), the parties agree, stipulate and confirm that Hospital must initiate, file and serve an arbitration proceeding asserting any Hospital Claim against Quorum or any Quorum Indemnified Party (in accordance with **Section 8.1** of this Agreement) within 180 days from the date that the Hospital Claim first arises. If the Hospital does not initiate, file and serve the Hospital Claim through arbitration within the required 180-day period, every such Hospital Claim shall be irrevocably waived and forfeited. The Parties confirm that this limitation is valid and enforceable without regard to the time period as might have otherwise been allowed under state or federal law for the Hospital Claim to be asserted, which time period(s) and attendant right(s) are replaced and superseded by the provisions set forth hereunder.

**5.6 Insurance.** The Hospital has, and shall maintain at its own cost and expense, throughout the Term, the following minimum insurance coverage with an insurance company approved by Quorum with an AM Best rating of A or better:

Worker’s Compensation	Statutory Amount
Employer’s Liability	\$100,000
Comprehensive General Liability (CGL)	\$1,000,000 per occurrence \$3,000,000 aggregate
Hospital Professional Liability (HPL)	\$1,000,000 per occurrence \$3,000,000 aggregate
Umbrella/Excess (Over CGL and HPL)	\$5,000,000 per occurrence and aggregate
Automobile Liability	\$1,000,000
Directors’ and Officers’ Liability	\$2,000,000
Employment Practice	\$1,000,000
Crime Insurance	\$500,000
Property Insurance	Insurable Value

Property damage insurance shall insure against loss or direct physical damage to the Hospital’s buildings, furnishings, equipment, machinery, and boiler under standard all-risk coverage (including, but not limited to, fire, smoke, lightning, windstorm, explosion, aircraft or vehicle damage, riot, civil commotion, vandalism, and malicious mischief) and shall also include damage due to flood and earthquake unless waived by Quorum.

Quorum (and its parent companies) shall be named as additional insureds, with respect to this Agreement, under the comprehensive general, hospital professional, directors’ and officers’, employment practice and umbrella/excess liability policies. Their rights to invoke the protection of such policies shall be severable from and independent of the Hospital’s rights, and these policies shall not be terminable or non-renewable except upon thirty (30) days prior written notice to Quorum. If such coverage is written on a claims-made form, following termination or expiration of this Agreement, the Hospital shall: (i) continue such coverage to survive with Quorum and its parent company as an additional insured for the period of the applicable statute of limitations; or (ii) shall provide an extended reporting endorsement (tail coverage) covering Quorum and its parent company for claims arising during the Term, but not reported until after the termination or expiration of this Agreement. Should the Hospital change insurance companies during the Term, the Hospital shall maintain coverage which includes claims incurred but not reported under the prior coverage (prior acts coverage). No later than thirty (30) days following the execution of this Agreement, and thirty (30) days following the end of each policy year, the Hospital shall give to Quorum a copy of the endorsements naming Quorum and its parent companies as an additional insured. It is the intention of the parties that such insurance and bond shall protect the Hospital, Quorum and Quorum’s parent company and will be the primary insurance for such parties for any and all losses covered thereby, notwithstanding any insurance which may be maintained by Quorum or its affiliates covering any such loss. The Hospital hereby waives any right of contribution with respect to a loss covered under such policies (or their deductibles) against Quorum or its insurance carriers.

**Article VI**  
**TERM AND TERMINATION**

**6.1 Term.** The Term of this Agreement shall commence on the Effective Date with the initial term to be for eighteen (18) months (the “Initial Term”) and be automatically renewed for periods of twelve (12) months each to be effective on the first day after the expiration of the Initial Term and, thereafter, the anniversary of that day (each, a “Renewal Term”) unless terminated as provided herein (collectively referred to as the “Term”).

**6.2 Termination for Cause and without Cause.**

**6.2.1 Bankruptcy.** Either Party may terminate this Agreement immediately in the event the other Party: files a petition commencing a voluntary case against it under the U. S. Bankruptcy Code; makes a general assignment for the benefits of its creditors; becomes insolvent; becomes unable to pay its debts as they become due; files a petition or answer in any proceeding seeking for itself or consenting to, or acquiescing in, any insolvency, receivership, composition, readjustment, liquidation, dissolution, or similar relief under any present or future statute, law, or regulation, or files an answer or other pleading admitting or failing to deny or to contest the material allegations of the petition filed against it in any such proceeding; seeks or consents to, or acquiesces in, the appointment of any trustee, receiver of it or any material part of its property; or has commenced against it any involuntary case under the U. S. Bankruptcy Code, or a proceeding under any receivership, composition, readjustment, liquidation, insolvency, dissolution, or like law or statute, which case or proceeding is not dismissed or vacated within sixty (60) days from commencement.

**6.2.2 Casualty.** In the event that the physical plant housing the Hospital is destroyed, or is so damaged that it is reasonably anticipated that the Hospital will not, within ninety (90) days, commence repair or reconstruction, with a view toward resuming full operation within another ninety (90) days after such commencement, then any Party may terminate this Agreement upon no less than thirty (30) days’ notice.

**6.2.3 Breach or Default.** Except as otherwise provided in **Subsection 6.2.4** below, if a Party hereto (“Defaulting Party”) fails substantially to perform any of its material obligations under this Agreement, the other Party (“Non-Defaulting Party”) may give the Defaulting Party a “Notice of Default.” The Notice of Default shall set forth the nature of the obligation that the Defaulting Party has not performed and shall be in writing. The Defaulting Party will have sixty (60) days to cure the default (the “Cure Period”). If the Defaulting Party does not cure the default within the Cure Period, the Non-Defaulting Party shall have the right to terminate this Agreement with the effective date of such termination to be at midnight on the last business day of the Cure Period. A Party’s termination or failure to terminate this Agreement shall not waive any breach of this Agreement. Any actual waiver of any breach of this Agreement shall not constitute a waiver of any future breaches of this Agreement, whether of a similar or dissimilar nature.

**6.2.4 Nonpayment.** If the Hospital fails to make any payment to Quorum hereunder within ten (10) days following Quorum’s notice to the Hospital of non-payment, Quorum, among other rights and remedies pursuant to this Agreement or otherwise available at law or in equity, shall have the right to terminate this Agreement immediately. Failure to terminate this Agreement shall not waive any breach of this Agreement or release the Hospital from any liability under this Agreement. Any actual waiver of any breach of this Agreement shall not constitute a waiver of any future breaches of this Agreement, whether of a similar or dissimilar nature.

**6.2.5 Licenses.** Quorum shall have the right to terminate this Agreement immediately in the event any material license or certification required by the Hospital to operate cannot be obtained, or is suspended, terminated, or revoked.

**6.2.6 Representations.** Either Party may terminate this Agreement upon at least thirty (30) days written notice in the event any representation made by the other Party in this Agreement is found to be untrue in any respect which would have a material adverse effect upon either Party's financial condition or business operations, or would have a material adverse effect upon either Party's ability to perform under this Agreement.

**6.2.7 Litigation.** Either Party may terminate this Agreement upon at least thirty (30) days advance written notice in the event there is entered against the other Party one or more judgments or decrees which either Party reasonably believes would have a material adverse effect upon its financial condition, business operations ability to perform under this Agreement.

**6.2.8 Without Cause Effective End of Initial Term or any Renewal Term.** Either Party may terminate this Agreement upon at least thirty (30) days advance written notice with such termination to be effective only at the end of the Initial Term or any Renewal Term.

### **6.3 Effects of Termination or Expiration.**

**6.3.1 In General.** In the event of the termination or expiration of this Agreement for any reason, Quorum shall immediately be paid all fees theretofore earned, and reimbursed for all expenses incurred by Quorum in accordance with the terms of this Agreement. In the event Quorum should terminate the Agreement for cause as specified in **Section 6.2** above or the Hospital should terminate the Agreement without a specified right to terminate under the Agreement, Quorum shall immediately be paid all professional fees that would normally be paid by the Hospital and would accrue each month from the date of notice of termination through the end of the Term of the Agreement. The right to terminate this Agreement, and to receive payment of any amounts owing as of the effective date of termination, shall be in addition to any other remedy available at law or in equity. The expiration or termination of this Agreement for any reason shall be without prejudice to any payments or obligations which may have accrued or become due hereunder prior to the date of termination, or which may become due after such termination.

**6.3.2 Participation in Group Purchasing Organization.** The Hospital hereby acknowledges and agrees that following the effective date of termination or expiration of this Agreement:

(a) **HPG.** The Hospital shall have not more than sixty (60) days to transition any affiliation between the Hospital and HPG to another group purchasing organization not affiliated with Quorum (if any) or to otherwise wind down the Hospital's relationship with HPG (the "Transition Period"). For at least twelve (12) months after the expiration of the Transition Period, the Hospital will not be able to access HPG as a "participating provider" within HPG.

(b) **SSPs.** The Hospital shall no longer have access to the "preferred pricing" offered by the SSPs through QPA's GPO Program for any new contractual relationship(s) with SSP vendors. For vendor agreements entered into prior to the effective date of the termination or expiration of this Agreement, the pricing in those vendor agreements between the Hospital and the SSP vendors may remain in place until the renewal or expiration of those vendor agreements, at which time SSP "preferred pricing" will no longer be available to the Hospital.

## **Article VII**

### **ALTERNATIVE DISPUTE RESOLUTION**

**7.1 Mediation.** The parties agree that any and all differences, controversy or claims arising out of or relating to this Agreement, or the breach of this Agreement and any related documents that are unable to be resolved by the parties acting and negotiating in good faith, prior to the commencement of arbitration as set forth in **Section 7.2** shall be submitted to mediation. In the event the parties are unable to agree on the selection of a mediator within thirty (30) days of one party delivering a notice of dispute to the other party or in the event the mediation does not resolve the dispute, the parties agree that any and all differences, controversies or claims arising out of or relating to this

agreement, or the breach of this agreement and any related documents, shall be submitted to and settled by binding arbitration in Tennessee.

**7.2 Agreement to Arbitrate.** Except for any breach of **Article IV**, to which a Party is entitled to seek injunctive relief in a court of competent jurisdiction, any controversy or claim arising out of or relating to this Agreement, or any other Prior Agreement between the Parties, a Party and an Affiliate of the other Party or an Affiliate of a Party with an Affiliate of the other Party or the breach, termination or validity thereof, shall be determined by binding arbitration in Brentwood, Williamson County, Tennessee, in accordance with the provisions of this **Article VII** and the arbitration rules of the American Health Lawyers Association Dispute Resolution Service (“AHLADRS”) in effect on the date of this Agreement by a single arbitrator who: (i) has the qualifications and experience set forth in **Section 7.3** below; and (ii) is selected as provided in **Section 7.4** below. The arbitrator shall base the award on this Agreement, and applicable law and judicial precedent, and shall accompany the award with a written explanation of the reasons for the award. The award shall be issued within 30 days of the last day of the arbitration proceeding at which live testimony is provided. The arbitration shall be governed by the laws of the state of Tennessee applicable to contracts made and to be performed therein. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

**7.3 Qualifications of Arbitrator.** Every person nominated or recommended to serve as an arbitrator hereunder shall be a lawyer with excellent academic and professional credentials who has had experience as an arbitrator and at least fifteen (15) years of experience as a practicing attorney who actively practices in the substantive subject matter area involved in the dispute.

**7.4 Selection of Arbitrator.** The arbitrator shall be selected as provided in this **Article VII**, and otherwise in accordance with the rules of the AHLADRS in effect during the Term of this Agreement, except that each Party shall be entitled to strike on a peremptory basis any or all names of potential arbitrators on the list submitted by the AHLADRS as not being qualified in accordance with the criteria set forth in **Section 7.3** above.

**7.5 Authority of Arbitrator.** The arbitrator shall have the exclusive authority to decide the scope of issues to be arbitrated. Any challenge to the arbitrability of any issue related in any way to the matters or claims in dispute between the Parties shall be determined solely by the arbitrator. Also, any challenge to the validity of this arbitration provision, or any subpart thereof, shall be determined and decided exclusively by the arbitrator.

**7.6 Discovery; Arbitration Hearing.** Rule 4.02 of the arbitration rules of the AHLADRS is hereby modified to provide that discovery shall be limited to: (i) the production, by all Parties to the arbitration, to the other Parties thereto of all documents and electronic or computer records relevant or pertaining to any of the matters at issue; and (ii) to allow each Party to the arbitration to take five depositions, none of which may last more than eight hours (exclusive of breaks and adjournments). These limits may be relaxed only upon the express agreement of each of the Parties to the arbitration and the arbitrator. Rule 4.04 of the AHLADRS arbitration rules is modified to provide that once the evidentiary hearing commences, it shall continue day-to-day until completed, with the exception of Saturdays, Sundays and legal holidays. Otherwise, the evidentiary hearing can only be adjourned by agreement of all of the Parties and of the arbitrator for a period of time agreed upon by all of them.

## **Article VIII** **MISCELLANEOUS**

**8.1 Duty to Cooperate.** The Parties acknowledge that their mutual cooperation is critical to the ability of Quorum to perform its duties hereunder successfully and efficiently. Accordingly, each Party agrees to cooperate with the other fully in formulating and implementing the goals and objectives that are in the Hospital’s best interest. The Parties agree that either Party’s failure to mutually cooperate constitutes a breach under this Agreement and, in such an event, the non-breaching Party shall be entitled to terminate this Agreement pursuant to **Subsection 6.2.3** above.

**8.2 Further Documents.** The Parties do hereby covenant and agree that they and their successors and assigns will execute any and all instruments, releases, assignments, and consents which may reasonably be required of them in order to carry out the provisions of this Agreement.

**8.3 Effect on Successors; Survival.** This Agreement shall be binding upon, enforceable by, and inure to the benefit of, the Parties and their successors and assigns. Notwithstanding anything herein to the contrary, the provisions of **Sections 2.3, 2.4, 3.3, 3.5 and Articles IV, V, VI, VII and VIII** shall survive the expiration or early termination of this Agreement.

**8.4 Entire Agreement.** This Agreement contains the entire agreement among the Parties relating to the subject matter of this Agreement. Except as otherwise provided herein, the terms of this Agreement may be modified or amended only by written agreement of the Parties. The parties specifically confirm that they make no reliance upon any prior or contemporaneous promises, statements, representations, brochures, or materials made or provided by any person that are not specifically incorporated or referenced herein, including, without limitation, any Prior Agreement(s) between the Parties, if applicable.

**8.5 Governing Law.** This Agreement shall be governed by and construed, interpreted, and enforced pursuant to **Section 7.2** of this Agreement.

**8.6 Notices.** All notices under this Agreement by any Party to the other shall be in writing. All notices, demands, and requests shall be deemed to be delivered if given upon the earlier of (i) actual delivery to the intended recipient or its agent or (ii) three (3) days after deposit in the United States Mail, postage prepaid, registered or certified mail, return receipt requested, or (iii) upon delivery if sent by prepaid express delivery service:

**To Quorum:** Quorum Health Resources, LLC  
105 Continental Place  
Brentwood, TN 37027  
Attn: President and CEO

**With copy to:** Legal Department  
4000 Meridian Boulevard  
Franklin, TN 37067  
Attn: General Counsel

**To the Hospital:** Cordova Community Medical Center  
602 Chase Avenue  
Cordova, AK 99574  
Attn: City Manager

**8.7 Waiver.** The failure of any Party to exercise any right or enforce any remedy contained in this Agreement shall not operate as or be construed to be a waiver or relinquishment of the exercise of such right or remedy, or of any other right or remedy herein contained.

**8.8 Enforceability; Severability.** The invalidity or unenforceability of any term or provision of this Agreement shall not, unless otherwise specified, affect the validity or enforceability of any other term or provision, which shall remain in full force and effect.

**8.9 Headings; Gender; Interpretation.** The headings and other captions contained in this Agreement are for convenience of reference only and shall not be used in interpreting, construing or enforcing any of the provisions of this Agreement. Whenever the context requires, the gender of all words used herein shall include the masculine, feminine and neuter, and the number of all words shall include the singular and plural.

**8.10 Access to Books and Records.** Until the expiration of four (4) years after the furnishing of Services pursuant to this Agreement, the Parties shall, upon written request, make available to the Secretary of Health and Human Services (the “Secretary”) or the Comptroller General, or their duly authorized representative(s), the contract, books, documents, and records necessary to verify the nature and extent of the cost of such Services. If any Party carries out any of its obligations under this Agreement by means of a subcontract with a value of \$10,000 or more, that Party agrees to include this requirement in any such subcontract. The availability of Quorum’s books, documents, and records shall be subject at all times to all applicable legal requirements, including without limitation such criteria and procedures for seeking and obtaining access that may be promulgated by the Secretary by regulation. Neither Party shall be construed to have waived any applicable attorney client privilege by virtue of this **Section 8.10.**

**8.11 Counterpart Signature.** This Agreement may be executed in one (1) or more counterparts (facsimile transmission or otherwise), each of which shall be deemed an original Agreement and all of which shall constitute but one Agreement.

**8.12 Compliance with Laws.** In performing their respective duties hereunder, the Parties shall conduct themselves in full accordance with all applicable state, federal and local laws and regulations, including, without limitation, the federal physician self-referral law (commonly known as the “Stark Law,” 42 U.S.C. §1395nn *et seq.*) and the anti-fraud and abuse provisions of the Social Security Act (42 U.S.C. §1320a-7 *et seq.*). Nothing in this Agreement shall require either Party to arrange for or send patients to the other Party or to the other Party’s affiliated hospitals or providers.

**8.13 Changes in Law.**

**8.13.1 Legal Event; Consequences.** Notwithstanding any other provision of this Agreement, if: (i) the Internal Revenue Service, or any of the governmental agencies that administer the Medicare, Medicaid or other federally funded programs (or their representatives or agents), or any other federal, state or local governmental or nongovernmental agency, or any court or administrative tribunal passes, issues or promulgates any final law, rule, regulation, standard, interpretation, order opinion, decision or judgment, including but not limited to those relating to any regulations determining tax exempt status (collectively or individually, a “Legal Event”), which, in the good faith judgment of one Party (the “Noticing Party”), materially and adversely affects the tax-exempt status of any of the Hospital’s financing or either Party’s tax status, licensure accreditation, certification or ability to bill, to claim, to present a bill or claim or to receive payment or reimbursement from any federal, state or local governmental or nongovernmental payer, or (ii) which Legal Event subjects the Noticing Party to a risk of prosecution or civil monetary penalty, or (iii) which Legal Event, in the good faith judgment of the Noticing Party, indicates a rule or regulation with which the Noticing Party desires further compliance, or (b) in the reasonable opinion of counsel to either Party any term or provision of this Agreement could trigger a Legal Event, then the Noticing Party may give the other Party written notice requesting commencement of the Renegotiation Period, as defined in **Subsection 8.13.2** below.

**8.13.2 Renegotiation Period; Termination.** In the event of notice under **Subsection 8.13.1** above, the Parties shall negotiate in good faith for a period of sixty (60) days from the giving of such notice (“Renegotiation Period”) to attempt to amend the Agreement to resolve the Legal Event. If this Agreement is not so amended within the Renegotiation Period, this Agreement shall terminate as of midnight on the 60<sup>th</sup> day after said notice was given. Except as otherwise required by applicable law, any amounts owing to either Party hereunder shall be paid, on a pro rata basis, up to the date of such termination, and any obligation hereunder that is to continue beyond expiration or termination shall so continue pursuant to its terms. All opinion of counsel presented by the Noticing Party hereunder, and any corresponding opinions given by the other Party in response, shall be deemed confidential and given solely for purposes of renegotiation and settlement of a potential dispute, and shall not be deemed disclosed so as to waive any privileges otherwise applicable to said opinions.



**8.14 Compliance Program.** The Hospital represents that it has developed and implemented a Compliance Program. The Hospital will maintain, update and abide by the terms of its Compliance Program during the Term. The Hospital will provide Quorum with a report from time to time, but no less often than annually, on the status of its Compliance Program. Quorum agrees to comply with the requirements of the Hospital's Compliance Program in carrying out its duties under this Agreement, to bring items of potential noncompliance to the attention of the Board when actually discovered by Quorum (and of which Quorum has actual notice) and, at the direction of the Board, to take corrective action prescribed by the Board once any item of noncompliance is identified; provided, that, the costs (including, without limitation, legal and consulting fees and expenses incurred in undertaking any corrective action) required to develop, implement, update and maintain the Compliance Program shall be the sole responsibility of the Hospital and the Board.

**8.15 HIPAA and Business Associate Agreement.** The Parties hereby acknowledge and agree to comply with the Business Associate Addendum attached hereto as Addendum 3 and incorporated herein by this reference, to evidence their compliance with privacy standards adopted by the U.S. Department of Health and Human Services as they may be amended from time to time, 45 C.F.R. parts 160 and 164, subparts A, D and E ("the Privacy Rule"), the security standards adopted by the U.S. Department of Health and Human Services as they may be amended from time to time, 45 C.F.R. parts 160, 162 and 164, subpart C ("the Security Rule"), and the requirements of Title XIII, Subtitle D of the Health Information Technology for Economic and Clinical Health (HITECH) Act as well as any applicable state confidentiality laws.

**8.16 Binding Affect and Assignment.** This Agreement shall be binding upon, and shall inure to the benefit of, the Parties hereto, and their assigns or successors in interest. **Provided, further** that the rights and obligations of each Party under this Agreement shall not be assigned to any third-party without the prior, written consent of the other Party; **provided, that,** Quorum may assign any or all of its rights and obligations under this Agreement to an affiliate, or to a third-party in connection with a sale of substantially all of its assets to such third-party, without the prior consent (written or otherwise) of the Hospital.

## ADDENDUM 1 - BASE SERVICES

This **Addendum 1** is attached to and made a part of that certain Advisory Services Agreement, with an Effective Date of the 31<sup>st</sup> day of August, 2015.

**1. Account Executive and Account Executive Team.** Quorum shall assign an Account Executive and Account Executive Team to assist the Hospital with achieving the value and benefits available through this Agreement. The following Base Services shall be provided to the Hospital and shall be coordinated by the Account Executive:

- Attendance at Board meetings on at least a quarterly basis in-person by the Account Executive and/or other members of the assigned regional support team and other Board meetings by telephone or video conference.
- Business and Strategic Planning:
  - Assisting the CEO and Board in developing an annual business plan
  - Together with the CEO, monitoring the Hospital's progress toward achievement of goals established in the annual business plan and reporting to the Board on progress
  - Advising the Board on significant strategic and business decisions
  - Assisting with strategic financial planning
- Operations and Financial Advisory Support:
  - Conduct regular operations reviews with the CEO and CFO, including reviewing a monthly financial report and advising on operational improvements
  - Review the annual operating budget and capital budget
- CEO Evaluation:
  - Providing assistance to the Board as they conduct an annual evaluation of the CEO
- Reimbursement Support and Advice:
  - Reviewing the Hospital's prepared cost report and analyzing critical access hospital modeling or other reimbursement strategies
  - Providing reimbursement advisory updates including changes in regulations
  - Providing an annual third party contractual allowance review (a detailed review of the contractual accounting processes, contractual allowances and cost report settlements as reported on the Hospital's financial statements in order to identify potential errors)
- CEO and CFO Executive Recruitment
  - Quorum will assist the Hospital with executive recruitment for the positions of CEO and CFO if needed. Quorum shall communicate with the Board to establish the Board's desired qualifications, job description requirements and commercially reasonable and competitive salary range for such personnel. Thereafter, Quorum shall seek to recruit candidates for the position to be filled who fit such Board-established parameters. If no such candidates are recruited, Quorum shall notify the Board, and shall meet with the Board to re-establish qualifications, job description requirements and salary parameters to expand Quorum's recruitment efforts. Upon recruiting candidates who meet these qualifications, Quorum shall present such candidates to the Board. The Board shall, within ten (10) business days after presentment of the last candidate, notify Quorum of the Board's preferred candidate. If, however, such Board-preferred candidate declines the Board's offer, Quorum shall meet with the Board to determine if another presented candidate is acceptable to the Board, or to establish expanded parameters for the recruitment of further candidates for the position.

- The Quorum Financial Comparative Database.
  - The Hospital shall assist Quorum with collecting the Hospital's financial and operational comparative data to be included in Quorum's Financial Comparative Database. Quorum agrees to blind all comparative data, including Hospital's comparative data, prior to sharing such data with other facilities. The Hospital understands that it shall have access to its comparative data as well as other facilities' blinded comparative data via a link provided by Quorum to the Hospital and that the blinded data can and shall be used for self-analysis and trending purposes only.
  
- Compliance Program Self-Assessment.
  - In order to gain the substantial benefits of a compliance program, the U.S. Sentencing Commission and the Office of Inspector General, DHHS, strongly recommend that the Hospital periodically review the effectiveness of its compliance programs. Furthermore, the Hospital, as part of its Agreement with Quorum, is required to file an annual compliance report with Quorum. This service can assist the Board with meeting the expectations of the government as well as its contractual obligations to Quorum.
  - On an annual basis the Quorum Compliance Director will notify the Account Executive that the annual compliance report is due and will send an electronic copy of Quorum's Compliance Program Self-Assessment (the "Questionnaire") to the Hospital's Compliance Officer, CEO and CFO for completion by the Board within the required period (the "Annual Compliance Report"). In turn, the Account Executive will notify the Board that its Annual Compliance Report is due and will offer the Questionnaire as a means for completing both the Annual Compliance Report and a compliance program self-assessment.
  - If agreed to by the Board, the Hospital's Compliance Officer, at the direction of the Board and the Hospital's legal counsel, will complete the Questionnaire and supply supporting documentation to each question, where applicable. The completed Questionnaire along with any proposed corrective action will then be submitted to the Board and signed by the Board Chair, the Hospital's Compliance Officer and approved by Hospital's legal counsel. It will then be the responsibility of the Board to monitor the completion of any corrective action deemed necessary.
  - A copy of the completed Questionnaire will be returned to the Quorum Compliance Director to serve as the Annual Compliance Report to Quorum, as required by this Agreement. If the Board elects not to use the Questionnaire, the Hospital will still be required to submit an Annual Compliance Report to Quorum per this Agreement.
  
- Quorum Learning Institute.
  - Quorum will provide the Board and the Hospital (including its employees) with access to Quorum's management training and development offerings currently provided through the Quorum Learning Institute. Members of the Board and Hospital Senior Management, including the Compliance Officer, may attend certain Annual Conferences and Core Educational Offerings (as Quorum may designate in its Quorum Learning Institute product catalog which Quorum reserves the right to change at its discretion at any time) on a tuition-free basis. In addition, Quorum may provide Medical Staff Leadership programs which can be attended by designated Medical Staff Leaders on a tuition-free basis. Any and all tuition fees and other expenses for any Hospital employees (other than members of Hospital Senior Management) shall be charged to the Hospital, unless otherwise waived, in writing, by Quorum. Notwithstanding any waiver by Quorum

of tuition fees, any and all travel-related expenses for any and all Hospital employees or Board members attending any of the educational programs offered by Quorum will be the sole responsibility of the Hospital.

- The Quorum Learning Institute programs are offered in Brentwood, Tennessee, and at other locations from time to time. Course catalogs and announcements will be sent to the Board and the Hospital from time to time during the Term. In addition, the Hospital's CEO and CFO will be invited to participate in all education programs hosted by Quorum's Regional Office responsible for the Hospital relative to health care issues for today's marketplace. Quorum will also provide the Hospital with copies of the various publications developed by the Quorum Learning Institute on their regularly-scheduled publication dates.

The Hospital understands and acknowledges that only the foregoing "Base Services" that have been specifically selected by the Hospital are included in this Agreement. If the Hospital has chosen not to receive services offered by Quorum to its clients, Quorum is not responsible for the Hospital's choice not to contract for those services, even if either Quorum or the Hospital, or their employees, agents or representatives, have reason to believe that the Hospital needs a service that it has not chosen to purchase. Any consulting services that the Hospital decides to obtain from Quorum shall be subject to a separate proposal or amendment that will be subject to the Standard Terms and Conditions of this Agreement.

**Quorum Purchasing Advantage, LLC  
Strategic Service Partners - GPO Fee  
Exception List**

**July 2015**

Agilum	6%
Agnity Healthcare	6%
Armstrong Relocation	3-6%
Arrow-Intechra	5%
Audit Trax	10-25%
Availity	4% for new service agreements
CareTech	5.5%
Century II Staffing	6%
Clinical Colleagues, Inc	Administrative fees are flat fees based on case volume and the total number of QPA facility contracts with Clinical Colleagues
Chameleon Corporation	6%
Clarity Group	7%
CHG Medical Staffing, Inc	5%
CompHealth Associates, Inc.	5%
CompHealth Locums	5%
CompleteRx	5%
CoreBTS, Inc.	5%
CPS Payments Services, LLC	2 - 4.95%
ECI	Administrative fees are flat fees based on ED and inpatient volume
Edict Systems, Inc.	5%
Recondo Technology	6%
EmCare	Administrative fees are flat fees based on ER volume and the total number of QPA facility contracts with EmCare
Fast Health	<u>FastHealth Patient Education</u> Fast Health will pay QPA \$25/month in admin fees when SSP collects the on-going monthly service charge from each facility. If the contracted monthly fee is greater than or equal to \$500/month, the administrative fee to QPA will be \$50/month. <u>Fast Command Disaster Response System</u> SSP will pay QPA \$25/month in administrative fees when SSP collects the on-going monthly service charge from each facility. If the contracted monthly fee is greater than or equal to \$700/month, the administrative fee to QPA will be \$75/month.
Future Vision Energy, LLC	4%
Gallagher Healthcare Services, Inc.	Annual Consulting Fee of \$145,000

**Quorum Purchasing Advantage, LLC  
Strategic Service Partners - GPO Fee  
Exception List**

**July 2015**

Global Compliance Services	5% on new contracts and existing contracts where price was adjusted to pricing table in Exhibit 'A' during the time of contract renewal.
GPS Consulting	4%
HFMA	10%
MEDHOST	4% on Software models added after sale
Healthcare Transformations (HCT)	5%
Healogics	3% plus a flat fee of \$24,000 per year paid in quarterly installments.
Hospital Physician Partners	Administrative fees are flat fees based on ER volume and the total number of QPA facility contracts with Hospital Physician Partners
Hospital Solutions, Inc.	4% on Motor Vehicle Accident/Lien Service \$3,000 - \$6,000 on Eligibility Services (quotes based on bed size)
In10sity Healthcare	8%
InQuicker	5%
Intermedix	3-4%
Innovative Funding Partners	4%
Institutional Bond Network	\$1,000 annual flat fee per engagement
Language Line Services	4%
Maintenance First (formerly Panda Software)	10% - 40%
McKesson	29% - 50%
MedicalGPS	8%
MedKinetics	5%
MileStone Health	5% New, 3% on renewal, 1.5% on renewed prior to effective date.
MSN	4%
Novarad	4%
Pain Management Group (PMG)	4% on monthly set up fees
Passport Health Communications, Inc.	\$0.01 per transaction; 4% of license price, if required.
Prospective Payment Specialties	6%
PolicyTech	5%
Premier Anesthesia	Flat Fee based on anesthesia volume and number of hospital contracts
Revenue Source Group Inc.	5%

**Quorum Purchasing Advantage, LLC  
Strategic Service Partners - GPO Fee  
Exception List**

**July 2015**

Sammons Preston	3-5%
Specialists on Call	4%
SSI Group	7% for new service agreements
Sy.Med Development, Inc.	5%
Sheridan	Flat Fee based on anesthesia volume and number of hospital contracts
Southeast Reimbursement Group	Flat Fee of \$400 for each Medicare Transfer Claims Review contract
SwiftMD	6%
Thompson & Associates	5%
Touchpoint Care	10%
United On Call Laser	6%
United Shockwave Therapies	8%
Veridikal Healthcare Solutions	5% Consulting Services
Verisys	6%
VitalWare	4%
Weatherby Locums	5%
WellnessWorks	3-5%

## **ADDENDUM 2 - COMPENSATION**

This **Addendum 2** is attached to and made a part of that certain Advisory Services Agreement between the Parties, dated the 31<sup>st</sup> day of August, 2015.

**1. Initial Term Fee; Annual Fee.** In consideration for the Services to be provided by Quorum to the Hospital as outlined in this Agreement and **Addendum 1**, and in addition to any other amounts payable to, or reimbursable to, Quorum, the Hospital shall pay Quorum an Initial Term Fee of **\$300,000** (the "Initial Term Fee") for the Initial Term of eighteen (18) months and, thereafter, an annual fee of **\$200,000** (the "Annual Fee"), payable as set forth below, and subject to annual adjustment as set forth below.

**2. When Due and Method of Payment.** The Annual Fee shall be payable in advance, before the first (1<sup>st</sup>) day of each month, in equal monthly installments. The Annual Fee is in addition to, and not in lieu of, all other payments and reimbursements to be made by the Hospital to Quorum under the terms of this Agreement. Upon execution of this Agreement, the Hospital shall take all necessary steps to initiate and authorize payment of the Annual Fee through automatic withdrawal from the Hospital's account, and wire transfer each monthly installment to Quorum's account. Such automatic withdrawal and transfer shall occur before the first (1<sup>st</sup>) day of each month for Services to be rendered during the upcoming month.

**3. Annual Adjustment of Fees.** After the expiration of the Initial Term, on the first (1<sup>st</sup>) anniversary of each successive term, any and all fees outlined in this Agreement shall be increased by a factor equal to the greater of: (i) five percent (5%); or (ii) the percentage increase in the CPI (as hereafter defined) over the preceding twelve (12) months, up to and including, the latest prior month for which statistics are available (the most recent available month published). As used herein, the term "CPI" means the Medical Component of the Consumer Price Index for Urban Wage Earners and Clerical Workers, U.S. All City Average Report, published by the United States Department of Labor. If such an index shall no longer be published on an anniversary date, the substitute index (or similar measure) shall be used.

**4. Travel Expenses.** The Hospital agrees to reimburse Quorum for any and all travel-related expenses incurred by any and all Quorum employees and consultants in connection with providing any and all Services to the Hospital. Travel-related expenses will be invoiced to the Hospital, and the Hospital agrees to pay all invoices for travel-related expenses within thirty (30) days of its receipt of any Quorum invoice. Travel-related expenses will include transportation, lodging and meal expenses.

**5. Late Payments.** The Hospital shall pay Quorum interest on all payments hereunder that are not paid when due. Interest shall accrue from the date the original payment was due at a rate of one and one-half percent (1.5%) per month until the payment is made in full. The Hospital shall bear the costs of any and all legal or collection fees, costs and/or expenses, of any kind, incurred by Quorum in attempting to enforce the Hospital's payment obligations hereunder.



### ADDENDUM 3 – BUSINESS ASSOCIATE ADDENDUM

This **Addendum 3** is attached to and made a part of that certain Agreement for Hospital Administrative Services by and between the Parties, with an Effective Date of the 31<sup>st</sup> day of August of 2015.

A. **Definitions.** Unless otherwise provided in this **Addendum 3**, all capitalized terms in the Addendum will have the meaning set forth in the HIPAA Requirements. References to Protected Health Information (hereinafter “PHI”) shall be construed to include Electronic Protected Health Information, and references to PHI shall mean only the PHI that Business Associate uses, discloses, creates, receives, maintains and/or transmits for or on behalf of Covered Entity to perform the Services. For purposes of this Addendum, capitalized words shall have the definitions given or used by the HIPAA Requirements as of the compliance deadline established by such requirements. The Parties hereby acknowledge that the definition of PHI includes Genetic Information, as defined at 45 C.F.R. §160.103.

1. “Breach” is an impermissible use, access, acquisition or disclosure of PHI unless the Covered Entity or Business Associate, as applicable, demonstrates that there is a low probability that the PHI has been compromised.

However, a Breach does not include (after a complete and thorough risk assessment has been conducted as required by HHS to determine such falls within one of the following exceptions):

- a. an unintentional acquisition, access, or use of PHI by an employee or individual acting under the authority of a covered entity or business associate if such acquisition, access, or use was made in good faith and within the course and scope of the employment or other professional relationship of such employee or individual with the Covered Entity or Business Associate and that individual does not further use or disclose the PHI in violation of the HIPAA Privacy Rule; or
  - b. an inadvertent disclosure of PHI between employees of a Business Associate, if they are authorized to access PHI and do not further use or disclose the PHI in violation of the HIPAA Privacy Rule; or
  - c. Reasonable belief that an unauthorized recipient of PHI would not be able to retain the information.
  - d. The Parties intend that the definition of Breach be consistent with the Final Rule and HHS interpretation of that rule.
2. **Business Associate.** “Business Associate” shall mean Quorum.
  3. **Covered Entity.** “Covered Entity” shall mean the Hospital.
  4. **Designated Record Set.** “Designated Record Set” shall mean a group of records maintained by or for a Covered Entity that is: (i) the medical records and billing records about Individuals maintained by or for a covered health care provider; (ii) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or (iii) used, in whole or in part, by or for the covered entity to make decisions about Individuals. For purposes of this definition, the term “record” means any item, collection, or grouping of information that includes protected health information and is maintained, collected, used, or disseminated by or for a covered entity.
  5. **HIPAA Rules.** “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. parts 160 and 164. The Privacy and Security Rules are referred to collectively herein as “HIPAA Rules.”

6. Individual. “Individual” shall mean the person who is the subject of the PHI.
  7. Protected Health Information (“PHI”). “Protected Health Information” or PHI shall mean individually identifiable health information that is transmitted or maintained in any form or medium.
  8. Required by Law. “Required by Law” shall mean a mandate contained in law that compels a use or disclosure of PHI.
  9. Secretary. “Secretary” shall mean the Secretary of the Department of Health and Human Services or his or her Designee.
  10. Unsecured Protected Health Information (“unsecured PHI”). Unsecured PHI shall mean PHI that is not secured through the use of technologies or methodologies that render PHI unusable, unreadable, or indecipherable to unauthorized individuals, which technologies or methodologies are specified in guidance issued by the Secretary of HHS at 74 Fed. Reg. 42741-43 (August 24, 2009), and as updated from time to time.
- B. Purposes for which PHI May Be Disclosed to Business Associate. In connection with the services provided by Business Associate to or on behalf of Covered Entity described in this Agreement, Covered Entity may disclose PHI to Business Associate incidentally during the performance of service and support activities.
- C. Obligations of Covered Entity. Covered Entity shall:
1. provide Business Associate a copy of its Notice of Privacy Practices (“Notice”) produced by Covered Entity in accordance with 45 C.F.R. §164.520 as well as any changes to such Notice;
  2. provide Business Associate with any changes in, or revocation of, authorizations by Individuals relating to the use and/or disclosure of PHI, if such changes affect Business Associate’s permitted or required uses and/or disclosures;
  3. notify Business Associate of any restriction to the use and/or disclosure of PHI to which Covered Entity has agreed in accordance with 45 C.F.R. §164.522 as well as any changes thereto; and,
  4. notify Business Associate of any amendment to PHI to which Covered Entity has agreed in accordance with 45 C.F.R. §164.526 that affects a Designated Record Set maintained by Business Associate.
- D. Obligations and Activities of Business Associate. Quorum acknowledges and agrees it meets the definition of a “business associate” as defined at 45 C.F.R. §160.103. Business Associate shall only create, receive, use, disclose, maintain, and/or transmit PHI in compliance with this Agreement and the Confidentiality Requirements, including 45 C.F.R. §164.504(e). Business Associate agrees to comply with applicable federal and state laws, including but not limited to the HIPAA Requirements.
- E. Use of PHI. Except as otherwise permitted by law and this Addendum, Business Associate shall only create, receive, use, disclose, maintain, and/or transmit PHI in compliance with the Agreement, this Addendum and the HIPAA Requirements, whichever is more protective of patient confidentiality and patient rights. In accordance with the foregoing, Business Associate shall use PHI (i) to perform the Services, and (ii) as necessary for the proper management and administration of the Business Associate or to carry out Business Associate’s legal responsibilities, provided that such uses are permitted under federal and applicable state law. Additionally, Business Associate may use and disclose PHI for Data Aggregation purposes relating to the health care operations of the Covered Entity.

- F. Disclosure of PHI. Business Associate may disclose PHI if required to do so by law. In addition to regarding Business Associate Agreements with Subcontractors, Business Associate may disclose PHI to a third party, including any Subcontractor, as necessary for such third party to assist Business Associate in performance of the Services; provided, however, that prior to any such disclosure Business Associate: (a) obtains reasonable written assurances from the third party, including any Subcontractor, to whom the PHI is disclosed that the third party will hold such PHI confidentially and will use or disclose such PHI only as Required by Law or for the purpose(s) for which the PHI was disclosed to the third party; and (b) requires the third party, including any Subcontractor, to agree to notify the Business Associate promptly, but in no event later than five (5) business days, following any instance of which such third party is aware that PHI has been used or disclosed for a purpose that is not permitted by this Addendum or the HIPAA Requirements. Business Associate further agrees that any disclosures of PHI made by Business Associate to any third party, including Subcontractors, shall comply with the HIPAA Requirements, including but not limited to the Security Standards.
1. Data Aggregation. In the event that Business Associate works for more than one Covered Entity, Business Associate is permitted to use and disclose PHI for data aggregation purposes, however, only in order to analyze data for permitted health care operations, and only to the extent that such use is permitted under the Privacy Rule.
  2. De-identified Information. Business Associate may use and disclose de-identified health information if (i) the use is disclosed to Covered Entity and permitted by Covered Entity in its sole discretion and (ii) the de-identification is in compliance with 45 C.F.R. §164.502(d), and the de-identified health information meets the standard and implementation specifications for de-identification under 45 C.F.R. §164.514(a) and (b) and the dates of birth and zip codes of individuals in the de-identified population are also excluded.
  3. Safeguards. Business Associate shall maintain appropriate safeguards to ensure that PHI is not used or disclosed other than as provided by this Agreement or as required by Law. Business Associate shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any electronic PHI it creates, receives, maintains, or transmits on behalf of Covered Entity.
  4. Minimum Necessary. Business Associate shall attempt to ensure that all uses and disclosures of PHI are subject to the principle of “minimum necessary use and disclosure,” *i.e.*, that only PHI that is the minimum necessary to accomplish the intended purpose of the use, disclosure, or request is used or disclosed.
  5. Disclosure to Agents and Subcontractors. If Business Associate discloses PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, to a subcontractor, Business Associate shall require the subcontractor to agree to the same restrictions and conditions as apply to Business Associate under this Agreement. In accordance with 45 C.F.R. §164.502(e)(1)(ii) and §164.308(b)(2), if applicable, Business Associate shall ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of the Business Associate enter into an agreement with Business Associate that is substantially similar to the agreement between Business Associate and Covered Entity and agrees to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information. Business Associate shall ensure that any subcontractor agrees to implement reasonable and appropriate safeguards to protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
  6. Individual Rights. Business Associate agrees as follows:

- (a) Individual Right to Copy or Append PHI in the Designated Record Set. In the event Business Associate maintains a Designated Record Set on behalf of Covered Entity, Business Associate shall promptly take all actions necessary for Covered Entity to comply with 45 C.F.R. §§164.524 and 164.526. Business Associate shall provide any request it (or its Subcontractors) receives from an Individual for access or amendment under such regulations to Covered Entity within five (5) business days of receipt. Business Associate agrees that only Covered Entity shall respond to requests received by Business Associate (or its Subcontractors) from Individuals.
- (b) Accounting of Disclosures. Business Associate agrees to maintain documentation of the information required to provide an Accounting of Disclosures of PHI in accordance with 45 C.F.R. §164.528, and to make this information available to Covered Entity within fifteen days of Covered Entity's request, in order to allow Covered Entity to respond to an Individual's request for Accounting of Disclosures. Such accounting is limited to disclosures that were made in the six (6) years prior to the request (not including disclosures prior to the compliance date of the Privacy Rule) and shall be provided for as long as Business Associate maintains the PHI. If an Individual requests an Accounting of Disclosures directly from Business Associate, Business Associate will forward the request and its Disclosure record to Covered Entity within five (5) business days of Business Associate's receipt of the Individual's request. Covered Entity will be responsible for preparing and delivering the Accounting to the Individual. Business Associate will not provide an Accounting of its Disclosures directly to any Individual.
7. Internal Practices, Policies and Procedures. Except as otherwise specified herein, Business Associate shall make available its internal practices, policies and procedures relating to the use and disclosure of PHI, received from or on behalf of Covered Entity to the Secretary or his or her authorized agents for the purpose of determining Business Associate and/or Covered Entity's compliance with the HIPAA Rules, or any other health oversight agency,. Records requested that are not protected by an applicable legal privilege will be made available in the time and manner specified by Covered Entity or the Secretary.
8. Notice of Privacy Practices. Business Associate shall abide by the limitations of Covered Entity's Notice of which it has knowledge. Any use or disclosure permitted by this Agreement may be amended by changes to Covered Entity's Notice; provided, however, that the amended Notice shall not affect permitted uses and disclosures on which Business Associate relied prior to receiving notice of such amended Notice.
9. Withdrawal of Authorization. If the use or disclosure of PHI in this Agreement is based upon an Individual's specific authorization for the use or disclosure of his or her PHI, and the Individual revokes such authorization, the effective date of such authorization has expired, or such authorization is found to be defective in any manner that renders it invalid, Business Associate shall, if it has notice of such revocation, expiration, or invalidity, cease the use and disclosure of the Individual's PHI except to the extent it has relied on such use or disclosure, or if an exception under the Privacy Rule expressly applies.
10. Security Incident. Business Associate agrees to report to the Covered Entity any Security Incident of which Business Associate becomes aware.
- i. Attempted incidents, *i.e.*, those incidents that are unsuccessful, shall be reported to the Covered Entity within thirty (30) days of the Covered Entity's written request. The Covered Entity will not make such a request more frequently than quarterly.

- ii. Successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operation shall be reported to the Covered Entity promptly and in no case greater than 3 business days.
  11. **Breaches of Unsecured PHI.** Business Associate will report in writing to Covered Entity any Breach of Unsecured Protected Health Information, as defined in the Breach Notification Regulations, 45 C.F.R. §§164.400 *et seq.* (each a “HIPAA Breach”), within five (5) business days of the date Business Associate Discovers the Breach, and shall provide Covered Entity with all information required by 45 C.F.R. §164.410 that Business Associate has or may obtain without unreasonable difficulty. Business Associate will provide such information to Covered Entity in the manner required by the Breach Notification Regulations, and as promptly as is possible. Business Associate will reimburse Covered Entity for any reasonable expenses Covered Entity incurs in notifying Individuals of such Breach experienced by Business Associate or Business Associate’s Subcontractors, and for all reasonable expenses Covered Entity incurs in mitigating harm to those Individuals as well as Covered Entity. This Section shall survive the expiration or termination of this Addendum and shall remain in effect for so long as Business Associate maintains PHI.
- G. **Term and Termination.**
1. **Term.** This Agreement shall be effective as of the Effective Date and shall be terminated when all PHI provided to Business Associate by Covered Entity, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity.
  2. **Termination for Breach.** Either Party may terminate the Agreement (the “Terminating Party”) upon written notice to the other Party (the “Terminated Party”) if the Terminating Party determines that the Terminated Party has breached a material term of this Addendum. The Terminating Party will provide the Terminated Party with written notice of the breach of this Agreement and afford the Terminated Party the opportunity to cure the breach to the satisfaction of the Terminating Party within thirty (30) days of the date of such notice. If the Terminated Party fails to timely cure the breach, as determined by the Terminating Party in its sole discretion, the Terminated Party may terminate the Agreement.
  3. **Effect of Termination.** Upon termination of this Agreement for any reason, Business Associate agrees to return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, maintained by Business Associate in any form. If Business Associate determines that the return or destruction of PHI is not feasible, Business Associate shall inform Covered Entity in writing of the reason thereof, and shall agree to extend the protections of this Agreement to such PHI and limit further uses and disclosures of the PHI to those purposes that make the return or destruction of the PHI not feasible for so long as Business Associate retains the PHI.
- H. **Mitigation.** If Business Associate violates this **Addendum 3** or either of the HIPAA Rules, Business Associate agrees to mitigate, to the extent practicable, any direct damage caused by such breach.
- I. **Rights of Proprietary Information.** Covered Entity retains any and all rights to the proprietary information, confidential information, and PHI it releases to Business Associate.
- J. **Survival.** The respective rights and obligations of Business Associate under **Section D** of this Agreement shall survive the termination of this Agreement.

- K. Notices. Any notices pertaining to this **Addendum 3** shall be given in writing and shall be deemed duly given when personally delivered to a Party or a Party's authorized representative as listed below or sent by means of a reputable overnight carrier, or sent by means of certified mail, return receipt requested, postage prepaid. A notice sent by certified mail shall be deemed given on the date of receipt or refusal of receipt. All notices shall be addressed to the appropriate Party as follows:

If to Covered Entity:  
Cordova Community Medical Center  
602 Chase Avenue  
Cordova, AK 99574  
Attn: City Manager

If to Business Associate:  
Quorum Health Resources, LLC  
105 Continental Place  
Brentwood, TN 37027  
Attn: President and CEO

With Copy to:  
Legal Department  
4000 Meridian Boulevard  
Franklin, TN 37064  
Attn: General Counsel

- L. Amendments. This **Addendum 3** may not be changed or modified in any manner except by an instrument in writing signed by a duly authorized officer of each of the Parties hereto. The Parties, however, agree to amend this Addendum 3 from time to time as necessary, in order to allow Covered Entity's to comply with the requirements of the HIPAA Rules.
- M. Choice of Law. This Agreement and the rights and the obligations of the Parties hereunder shall be governed by and construed under the laws of the state of Tennessee, without regard to applicable conflict of laws principles.
- N. Assignment of Rights and Delegation of Duties. This **Addendum 3** is binding upon and inures to the benefit of the Parties hereto and their respective successors and permitted assigns. However, neither Party may assign any of its rights or delegate any of its obligations under this Addendum without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding any provisions to the contrary, however, Covered Entity retains the right to assign or delegate any of its rights or obligations hereunder to any of its wholly owned subsidiaries, affiliates or successor companies. Assignments made in violation of this provision are null and void.
- O. Nature of Addendum. Nothing in this **Addendum 3** shall be construed to create (i) a partnership, joint venture or other joint business relationship between the Parties or any of their affiliates, (ii) any fiduciary duty owed by one Party to another Party or any of its affiliates, or (iii) a relationship of employer and employee between the Parties.
- P. No Waiver. Failure or delay on the part of either Party to exercise any right, power, privilege or remedy hereunder shall not constitute a waiver thereof. No provision of this Agreement may be waived by either Party except by a writing signed by an authorized representative of the Party making the waiver.
- Q. Severability. The provisions of this **Addendum 3** shall be severable, and if any provision of this **Addendum 3** shall be held or declared to be illegal, invalid or unenforceable, the remainder of this **Addendum 3** shall continue in full force and effect as though such illegal, invalid or unenforceable provision had not been contained herein.

- R. No Third Party Beneficiaries. Nothing in this **Addendum 3** shall be considered or construed as conferring any right or benefit on a person not party to this Addendum nor imposing any obligations on either Party hereto to persons not a party to this Agreement.
- S. Headings. The descriptive headings of the articles, sections, subsections, exhibits and schedules of this Addendum are inserted for convenience only, do not constitute a part of this **Addendum 3** and shall not affect in any way the meaning or interpretation of this **Addendum 3**.
- T. Entire Agreement. This Agreement, together with all Exhibits, Riders and amendments, if applicable, which are fully completed and signed by authorized persons on behalf of both Parties from time to time while this Agreement is in effect, constitutes the entire Agreement between the Parties hereto with respect to the subject matter hereof and supersedes all previous written or oral understandings, Agreements, negotiations, commitments, and any other writing and communication by or between the Parties with respect to the subject matter hereof. In the event of any inconsistencies between any provisions of this Agreement in any provisions of the Exhibits, Riders, or amendments, the provisions of this Agreement shall control.
- U. Interpretation. Any ambiguity in this **Addendum 3** shall be resolved in favor of a meaning that permits Covered Entity to comply with the HIPAA Rules and any applicable state confidentiality laws. The provisions of this **Addendum 3** shall prevail over the provisions of any other Agreement that exists between the Parties that may conflict with, or appear inconsistent with, any provision of this Addendum or the HIPAA Rules.
- V. Regulatory References. A citation in this Agreement to the Code of Federal Regulations shall mean the cited section as that section may be amended from time to time.