

**ASSIGNMENT OF AGREEMENT CONCERNING
LEVEL II TRAUMA CENTER**


For value received, the Mountain Valley Emergency Medical Services Agency (“Assignor”) assigns, transfers, and conveys to the County of Stanislaus (“Assignee”), all of Assignor's right, title, and interest in, and the responsibility to perform all Assignor’s duties and obligations of, that certain contract between Assignor and Sutter Valley Hospitals, dba Memorial Medical Center (“Contractor”), effective January 1, 2021 (the “Contract”). A copy of the Contract is attached as **Exhibit A** and incorporated by reference. The effective date and time of this assignment is July 1, 2022, at 12:00 a.m.

Assignor warrants that the Contract is in full force and effect and that no party is in breach of the Contract. Assignor further warrants that Assignor is in full compliance with all the terms and conditions of the Contract, that Assignor has the right to assign the Contract, and that Assignor has not assigned or encumbered all or any part of Assignor's rights under the Contract.

Assignee agrees to indemnify, defend, and hold Assignor harmless from any and all liabilities, claims, causes of action, or expenses with respect to the Contract to the extent relating to or caused by acts, events, omissions, or conditions arising after the date of this assignment. Assignor agrees to indemnify, defend, and hold assignee harmless from any and all liabilities, claims, causes of action, or expenses with respect to the Contract to the extent relating to or caused by acts, events, omissions, or conditions occurring on or prior to the date of this assignment.

COUNTY OF STANISLAUS


MOUNTAIN VALLEY EMERGENCY
MEDICAL SERVICES AGENCY

By:  6.23.22
Richard Murdock
Chief of Emergency Services

By:  6/28/22
Cindy Murdaugh
Executive Director

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By:  6-23-22
Lori K. Sicard
Deputy County Counsel

By: 
Derek P. Cole
General Counsel

ACKNOWLEDGEMENT

I, _____, acknowledge and consent to the assignment of the Contract from Assignor to Assignee on behalf of the Contractor.

By: _____

Title: _____

Exhibit A

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**AGREEMENT BETWEEN
MOUNTAIN-VALLEY EMS AGENCY
AND
SUTTER VALLEY HOSPITALS, dba MEMORIAL MEDICAL CENTER, MODESTO
FOR DESIGNATION AS A
LEVEL II TRAUMA CENTER**

8 This Agreement ("Agreement") is made effective, by and between Mountain-Valley EMS Agency
9 ("AGENCY") and Sutter Valley Hospitals dba Memorial Medical Center ("HOSPITAL"), which
10 maintains an acute care hospital located at 1700 Coffee Rd, Modesto CA 95355-2869.

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12 WHEREAS, AGENCY has implemented a Regional Trauma Care System; and

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14 WHEREAS, The Trauma Care System plan developed by AGENCY has been approved by the
15 California Emergency Medical Services Authority ("EMSA"); and

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17 WHEREAS, Pursuant to the approved plan, AGENCY issued a Request for Proposals ("RFP") for
18 designation as a Level II trauma center, and subsequently received an application for designation
19 from HOSPITAL; and

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21 WHEREAS, AGENCY'S Trauma Center Site Visit Team recommended that HOSPITAL be
22 designated as a Level II trauma center conditional upon development of a work plan for correction
23 problems identified in the review.

24
25 NOW, THEREFORE, THE PARTIES, IN CONSIDERATION OF THE MUTUAL CONDITIONS,
26 COVENANTS, AND PROMISES SET FORTH BELOW, AGREE AS FOLLOWS:

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28 **1. Term**

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30 This Agreement shall begin January 1, 2021 and continue until December 31, 2023,
31 unless earlier terminated pursuant to this Agreement. AGENCY shall conduct a review of
32 HOSPITAL's performance under this contract and may, at its sole option, place
33 HOSPITAL on probation or discontinue HOSPITAL's designation as a trauma center if
34 HOSPITAL has materially breached this Agreement. These reviews will be scheduled in
35 coordination with the HOSPITAL'S American College of Surgeons (ACS) verification
36 schedule. The HOSPITAL agrees to maintain an ACS verification to demonstrate medical
37 care and quality review standards. The expense of conducting this outside review will be
38 at the expense of the designated facility. AGENCY shall have the option to extend the
39 term of this Agreement for an additional term of three (3) years, upon notice to and
40 agreement of HOSPITAL, under the terms and conditions provided herein.

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42 **2. Designation**

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44 a. AGENCY hereby designates, subject to conditions set forth in Agreement,
45 HOSPITAL as a Level II Trauma Center.
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47 b. Designation will continue and be contingent on the following:
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- 49 i. Continued ability to meet Level II Trauma Standards as required by
50 California Code of Regulation, Title 22, Division 9 and The ACS
51 Committee on Trauma.
52

53 **3. Monitoring Fee**
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55 HOSPITAL agrees to pay AGENCY each year, for the term of this Agreement, an amount
56 established by the AGENCY Board of Directors as an annual trauma system monitoring
57 fee. The amount of this fee at the execution date of this agreement is One hundred
58 thousand dollars (\$100,000).
59

60 One-fourth (0.25) of the annual fee will be paid on the first day of July, October, January,
61 and April of each fiscal year.
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63 **4. Trauma Center Operations**
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65 HOSPITAL will provide trauma center services meeting the minimum standards for a
66 Level II Trauma Center as described in AGENCY's Request for Proposals for designation
67 of a Level II Trauma Center, dated May 1, 2003, which is made a part of this Agreement;
68 and as described in HOSPITAL's Proposal for Designation as a Level II Trauma Center,
69 dated June 24, 2003, submitted in response to said Request for Proposals for
70 designation of a Level II Trauma Center which is also made a part of this Agreement; and
71 as described in HOSPITAL's response to AGENCY's request for additional information
72 based on review of said proposal, dated July 15, 2003, which is made a part of this
73 Agreement; and as described in HOSPITAL's Trauma Designation Work plan, dated
74 December 2, 2003, based on recommendations of AGENCY's Trauma Center Site Visit
75 Team, which is also made a part of this Agreement.
76

77 HOSPITAL shall notify AGENCY in writing, in advance when possible, of any change in
78 any of the capabilities or resources, including personnel, described in the HOSPITAL's
79 Proposal. If advance notification is not possible, HOSPITAL shall notify AGENCY
80 immediately upon HOSPITAL having knowledge of any changes in any of the listed
81 capabilities and resources, and in all instances follow-up written notification shall be
82 required as soon as possible, but no later than ten (10) days from the time that
83 HOSPITAL becomes aware of said changes.
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85 AGENCY shall determine whether the change meets the minimum standards stated in
86 the RFP, or any later standards promulgated pursuant to Section 20. If AGENCY
87 determines that the change does not meet these standards, AGENCY shall so notify
88 HOSPITAL and HOSPITAL shall have thirty (30) days to comply with the standard before
89 AGENCY can declare a breach of the contract under Section 10.a. Where AGENCY
90 determines that a change has resulted in an immediate threat to the public health and
91 safety, AGENCY may declare an immediate breach of the contract.
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93 **5. Agency Responsibilities**
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- 95 a. Provide medical direction to and review of components of the prehospital Trauma
96 System of Care services.
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- b. Evaluate protocols, policies, and procedures for the EMS system, in compliance with the California Code of Regulations, Title 22, Division 9, and make appropriate changes as necessary. AGENCY shall notify HOSPITAL Trauma Program Manager when AGENCY desires to adopt, change or modify the protocols, policies and procedures which make up the prehospital Trauma System of Care. Prior to adopting any protocol, policy, and/or procedure or amendment to same, AGENCY shall meet and confer with HOSPITAL about its effect on HOSPITAL.
- c. Maintain an advisory committee to monitor, evaluate and report on the quality of the Trauma System of Care services.
- d. Provide leadership for continuous quality improvement focusing on optimizing the overall effectiveness of the Trauma System of Care and its individual components through the development of performance measurements and for the system function as a whole (both process and outcomes measures) and by employing continuous quality improvement strategies and collaboration with stakeholders

6. Hospital Responsibilities

- a. Maintain all services and personnel necessary to comply with the standards set forth in the California Code of Regulations, Title 22, Division 9.
- b. Maintain all services and personnel necessary to comply with the standards set forth in this Agreement and Standards set by the ACS Committee on Trauma for Level II Trauma Centers, and as subsequently amended or revised.
- c. HOSPITAL shall accept all Trauma patients regardless of patient's ability to pay for medical care or hospitalization. This requirement shall include, but is not limited to, unsponsored or medically indigent patients; patients who are insured under Medicare or Medi-Cal; other third party insurers; Covered California; or self-insurers.
- d. HOSPITAL shall assure no Trauma patient is transferred to another hospital based in whole or in part on the financial status of a patient or his or her ability to pay for care and services except as provided below:
 - i. Patients who are members of health maintenance organizations or managed care payers will be promptly transferred to a hospital of that organization when such transfer is deemed prudent and medically indicated by the physician in charge of the patient's medical care in consultation with a physician representing the health maintenance organization.
- e. HOSPITAL shall notify the AGENCY, in writing, within twenty-four (24) hours of becoming aware of any failure to meet the Trauma Standards in this Agreement or Standards set by The Committee on Trauma American College of Surgeons

- 146 for Level II Trauma Centers, and take corrective action within a reasonable
147 period of time determined by the AGENCY to correct the failure.
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- 149 f. HOSPITAL shall notify AGENCY immediately of any circumstance(s) that will
150 prevent HOSPITAL from providing trauma services.
151
- 152 g. HOSPITAL shall comply with any AGENCY plan of correction, regarding any
153 identified breach of this Agreement, within a reasonable timeline established by
154 the AGENCY.
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- 156 h. HOSPITAL shall maintain a designated telephone number to facilitate rapid
157 access to an on-site physician for consultation with community physicians and
158 other providers regarding care and transfer of trauma patients.
159
- 160 i. HOSPITAL shall actively and cooperatively participate as a member of the
161 Trauma Advisory Committee (TAC), and such other related committees that may,
162 from time to time, reasonably be named and organized by the AGENCY in
163 cooperation with, and subject to mutual agreement of, HOSPITAL and other
164 Trauma Specialty Centers.
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- 166 j. HOSPITAL shall participate in web-based patient outcome reporting in the
167 California EMS Information Systems (CEMSIS) database.
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- 169 k. HOSPITAL shall maintain a current Joint Commission Certification.
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- 171 l. HOSPITAL shall have a current Paramedic Base HOSPITAL agreement with
172 AGENCY.
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- 174 m. Abide by all pertinent AGENCY EMS Policies and Procedures and to participate
175 in the process by which those policies are created and amended.
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177 **7. Financial Responsibility**

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179 Except as provided in Section 16 (Indemnification), AGENCY shall not be liable for any
180 costs or expenses incurred by HOSPITAL to satisfy HOSPITAL's responsibilities under
181 this Agreement, including any costs or expenses incurred by HOSPITAL for services
182 provided to trauma patients lacking the ability to pay for services.
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184 **8. Audits and Inspections**

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186 With the provision of at least thirty (30) calendar days' written notice and to the extent
187 permitted by law, duly authorized representatives of AGENCY shall have right of access
188 during normal business hours to HOSPITAL's non-privileged files and records relating to
189 the services performed hereunder. AGENCY agrees to treat such files and records as
190 confidential information subject to Section 22 (Confidentiality) of this Agreement, and
191 shall not make copies or remove such files or records from HOSPITAL's premises.
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9. Entire Agreement; Changes and Amendments

This Agreement and the exhibits and references contained herein fully express all understandings of the parties concerning the matters covered herein. No addition to or alteration of the terms and conditions of this Agreement, and no verbal understanding of the parties, or their officers, agents or employees, shall be valid unless made in the form of a written amendment to this Agreement that is signed by all parties.

10. Termination for Cause

a. By AGENCY.

AGENCY may terminate this Agreement upon written notice to HOSPITAL, subject to HOSPITAL's opportunity to cure as set forth below, upon the occurrence of any one or more of the following events:

- i. Any material breach of this Agreement by HOSPITAL;
- ii. Any violation by HOSPITAL of any applicable laws, regulations, or local ordinances;
- iii. Any failure to provide timely trauma surgeon coverage for trauma patients, causing unnecessary risk of mortality and/or morbidity for the trauma patient;
- iv. Any failure to make available sufficient personnel and HOSPITAL resources needed to provide the specialty care services required by California Code of Regulations, Title 22, Division 9 or ACS;
- v. Gross misrepresentation or fraud;
- vi. Loss or suspension of licensure as an acute care hospital, loss or suspension of any existing or future special permits required to perform HOSPITAL's obligations hereunder;
- vii. Repeated failure to submit specified reports, trauma-related data, or other information required under this Agreement; provided that such submission of data is clearly permitted by law.

b. By Hospital. HOSPITAL may terminate this Agreement upon written notice to AGENCY, subject to opportunity to cure as set forth below, upon the occurrence of any one or more of the following events:

- i. Any material breach of this Agreement by AGENCY

11. Termination without Cause

The AGENCY may terminate this Agreement without cause upon ninety (90) days written notice to HOSPITAL. HOSPITAL may terminate this Agreement without cause upon one hundred eighty (180) days written notice to the AGENCY.

12. Trauma Bypass

- a. The AGENCY enforces a "No diversion or bypass" policy for all hospitals within Stanislaus County except for the following unforeseen circumstances:

- 244 i. Internal Disaster
- 245 ii. Inoperable CT scan
- 246 iii. Inoperative Cardiac Cath Lab (STEMI Bypass only)
- 247 iv. More than 30 minutes is needed to obtain a backup trauma surgeon,
- 248 neurosurgeon, orthopedist, or anesthesiologist because the primary
- 249 physician is occupied with another trauma patient, or is unavailable
- 250 (trauma bypass only).
- 251 v. More than 1 hour is needed to identify a second operating room because
- 252 the primary room is being utilized and another is not readily available
- 253 (trauma bypass only).
- 254 vi. Two or more trauma patients with major injuries are being resuscitated in
- 255 the trauma room (trauma bypass only).
- 256

257 In the event HOSPITAL meets one of the three criteria above, the AGENCY Duty Officer
258 must be contacted immediately and an Unusual Occurrence Report (UOR) must be filed
259 with the AGENCY within 24 hours of event.

260 **13. Opportunity to Cure**

261 Prior to the exercise of any right to terminate for cause, the terminating party shall give
262 the other party at least thirty (30) days written notice ("Correction Period") specifying in
263 reasonable detail the grounds for termination and all deficiencies requiring correction,
264 and shall allow the other party the opportunity to cure. The AGENCY may shorten the
265 Correction Period to immediate suspension if the AGENCY determines that HOSPITAL's
266 action or inaction has seriously threatened, or will seriously threaten, public health and
267 safety. If HOSPITAL has not remedied each deficiency prior to the end of the Correction
268 Period to the satisfaction of the AGENCY, or the AGENCY has not approved a plan of
269 correction within the Correction Period, the AGENCY may terminate this Agreement upon
270 written notice to HOSPITAL, specifying the effective date of termination. No opportunity
271 to cure is required prior to the AGENCY's termination of this Agreement for failure by
272 HOSPITAL to complete any plan of correction imposed by the AGENCY.

273 **14. Maintenance of Records**

274 HOSPITAL shall maintain patient care records as required by law. Such records shall be
275 maintained in such a fashion as to be able to separately identify trauma patients from all
276 other patients.

277 **15. Reports, Evaluations and Research Studies**

278 HOSPITAL shall, as may be reasonably requested by the AGENCY, participate in
279 evaluations and/or research designed to show the effectiveness of the Trauma Care
280 System; and shall submit reports and materials on Trauma services as reasonably
281 requested by the AGENCY. These reports, evaluations and studies shall be used by the
282 AGENCY to analyze and generate aggregate statistical reports on the Trauma Care
283 system performance.

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16. Indemnification

Each party agrees to defend, indemnify, and hold harmless the other party and its directors, trustees, members, shareholders, partners, officers, employees and agents from and against any and all liability, loss, expense (including reasonable attorneys' fees) or claims for injury or damages arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense or claim for injury or damages is caused by or results from the negligent or intentional acts or omissions of the indemnifying party or its directors, trustees, members, shareholders, partners, officers, employees or agents.

17. Insurance

- a. HOSPITAL and AGENCY shall provide and maintain the following programs of insurance, as specified in this Agreement. Such insurance may include alternative risk management programs, including self-insurance or a combination of insurance and self-insurance, provided that such alternative risk management programs provide protection equivalent to that specified under this Agreement.
- b. During the term of this Agreement, HOSPITAL and AGENCY shall each at all times maintain, each at its sole cost and expense, commercial general liability insurance with per occurrence limits of not less than Two Million Dollars (\$2,000,000.00) and annual aggregate limits not less than Four Million Dollars (\$4,000,000.00). HOSPITAL and AGENCY shall each also arrange, each at its sole cost and expense, professional liability insurance, which includes coverage for each of their respective employees having limits of not less than Five Million Dollars (\$5,000,000.00) on a claims made basis and an annual aggregate limit of not less than Fifteen Million Dollars (\$15,000,000.00). The parties acknowledge and agree that physicians and other clinicians are not employees or agents of HOSPITAL by virtue of being on HOSPITAL's medical staff, and therefore such practitioners are not covered by HOSPITAL's professional liability insurance.
- c. Any policy of insurance that AGENCY or HOSPITAL is required to maintain pursuant to this section shall be reasonably acceptable to the other party provided that any such policy obtained from a company duly licensed to do business in the State of California and having a Standard and Poor's or A.M. Best rating of at least A (or an equivalent or comparable rating from another rating agency) shall be deemed acceptable. AGENCY and HOSPITAL shall each provide to the other evidence of coverage required by this section within thirty (30) days after execution of this Agreement and at least annually thereafter or more frequently upon request.
- d. Each Party shall maintain in full force and effect appropriate workers' compensation protection and unemployment insurance as required by law.

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18. Conflicts of Interest

Neither HOSPITAL nor the AGENCY shall exert any direct or indirect influence that would cause or contribute to the transport of Trauma patients to a facility other than the closest Trauma Receiving Facility, except as specifically authorized by AGENCY policies or procedures. HOSPITAL and AGENCY shall comply with all applicable federal, state, and local conflict of interest laws and regulations.

19. Conformance with Rules and Regulations

The parties shall comply with applicable federal, state, and local laws, rules and regulations; Emergency Medical Services Authority rules, regulations and guidelines; and AGENCY policies and procedures in effect at the inception of this Agreement or that become effective during the term of this Agreement. The covenant required by this section includes, but is not limited to, compliance with facility and professional licensing, and/or certifications laws and regulations, the Health Insurance Portability and Accountability Act (HIPAA) of 1996 (42 U.S.C. section 1320d et seq.), and the Emergency Medical Treatment and Active Labor Act (EMTALA) (42 U.S.C section 1395dd).

20. Nondiscrimination

HOSPITAL shall comply with all applicable federal, state, and local laws including AGENCY equal opportunity requirements. Such laws include but are not limited to the following: Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; The Rehabilitation Act of 1973 (Sections 503 and 504); California Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101 and 1102. HOSPITAL will not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status in the recruitment, selection for training including apprenticeship, hiring, employment, utilization, promotion, layoff, rates of pay other forms of compensation. Nor will HOSPITAL discriminate in the provision of services provided under this Agreement because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

21. Confidentiality

The parties agree to maintain the confidentiality of all patient information and records obtained in the course of providing services under this Agreement, in accordance with all applicable federal and state statutes and regulations and local ordinances. Such information shall be divulged only as provided by law. The AGENCY represents that it is a "Health Oversight AGENCY" under HIPAA and, therefore, a Business Associate Agreement is not necessary. Nothing in this agreement shall require HOSPITAL to provide or disclose to AGENCY, or anyone else, the following: (1) documents generated solely in anticipation of litigation, (2) privileged documents, and (3) documents by, or for the use of, any medical staff committee having the responsibility of evaluation and

391 improvement of the quality of care rendered in the hospital. Disclosure of any medical
392 staff document to AGENCY shall not constitute a waiver by HOSPITAL of the protections
393 afforded by California Evidence Code Section 1157 or any other protections. If any
394 disclosure of information contained in a medical staff committee document is sought from
395 the AGENCY by a third party, the AGENCY shall notify HOSPITAL and shall rise all
396 applicable objections or defenses to the demand for disclosure.

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398 **22. Mutual Cooperation**

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400 It is agreed that mutual non-competition among the designated Trauma Receiving
401 Facilities, as well as their associated helicopter services, is vital to providing optimal
402 medical care under the Trauma Care System. In furtherance of such cooperation,
403 HOSPITAL agrees to provide access to the helipad, if any, located at HOSPITAL to all
404 helicopter services, to the extent necessary to triage and/or transport Trauma patients to
405 HOSPITAL. HOSPITAL will not charge helicopter services for such landing privileges.

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407 **23. Notices**

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409 Any notice or notices required or permitted to be given pursuant to this Agreement may
410 be personally served on the other party by giving the party such notice, or may be served
411 by certified mail, postage prepaid, return receipt requested, or by national overnight
412 delivery service to the following representatives at the addresses cited below:

413
414 To HOSPITAL: Eugene Patrizio, CEO Memorial Medical Center, 1700 Coffee
415 Rd., Modesto CA 95355-2869

416
417 To AGENCY: Laurence Doyle, Executive Director Mountain-Valley EMS
418 Agency, 1101 Standiford Ave, Suite D-1, Modesto CA 95350

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420 **24. Governing Law**

421
422 This Agreement has been executed and delivered in, and will be construed and enforced
423 in accordance with, the laws of the State of California.

424
425 **25. Ownership, Publication, Reproduction and Use of Material**

426
427 Subject to the confidentiality provision of Section 22 above, AGENCY and HOSPITAL
428 shall have unrestricted authority to publish, disclose, distribute and otherwise use,
429 copyright or patent, in whole or in part, any such reports, studies, data, statistics, forms or
430 other materials or properties produced under this Agreement. HOSPITAL shall have the
431 right to review and approve, comment on, or reject (i.e. identify as confidential and not
432 subject to disclosure per Section 22 (Confidentiality) of this Agreement) any hospital
433 specific data prior to public dissemination of the data, unless the data is otherwise
434 deemed public information. AGENCY shall acknowledge HOSPITAL's contribution and
435 HOSPITAL shall acknowledge AGENCY's contribution in any materials published or
436 issued as a result of this Agreement unless either AGENCY or HOSPITAL request not to
437 be so acknowledged or identified.

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26. Assignment

HOSPITAL shall not delegate its duties and responsibilities or assign its rights hereunder, or both, either in whole or in part, without the prior written consent of the AGENCY. This provision shall not be applicable to service agreements or contracts or similar arrangements usually and customarily entered into by medical facilities to obtain or arrange for professional medical services, administrative support, equipment, supplies or technical support.

27. No Third Party Beneficiaries

The parties do not intend to confer and this Agreement shall not be construed to confer any rights to any person, group, corporation, or entity other than the parties.

28. Severability

If any provision of this Agreement is found by a court of competent jurisdiction to be void, invalid or unenforceable, the same will either be reformed to comply with applicable law or stricken if not so conformable, so as not to affect the validity or enforceability of this Agreement.

29. Waiver

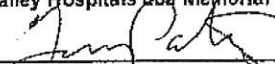
No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a party must be in writing, and shall apply to the specific instance expressly stated.

30. Surviving Obligations

All obligations under this Agreement which are continuing in nature shall survive the termination or conclusion of this Agreement, including but not limited to, the provisions concerning indemnification and confidentiality.

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Sutter Valley Hospitals dba Memorial Medical Center

BY  _____

Name: Eugene Patrizio

Title: Chief Executive Officer

Date 11/13/20

Mountain-Valley EMS Agency

BY  _____

Name: Lance Doyle

Title: Executive Director

Date 12-9-2020