

Locum Tenens Agreement

This Locum Tenens Agreement (“**Agreement**”), by and between Barton & Associates, Inc., a Delaware corporation having a location at 300 Jubilee Drive, Peabody, MA 01960 (“**Barton**”), and Solano County, a California political subdivision, on behalf of its Health and Social Services Department, having a location at 2101 Courage Dr., Fairfield, CA 94533 (“**Client**”), is effective as of July 1, 2024 (the “**Effective Date**”).

Section 1 | Overview of Services

This Agreement sets forth the terms and conditions under which Client will use Barton to coordinate the temporary placement (also colloquially referred to as an “**assignment**”) of contract locum tenens providers (each, a “**Provider**”) according to Client’s needs. Each assignment will be subject to the terms and conditions of this Agreement and the placement-specific confirmation(s) (each, a “**Placement Order**”) issued to Client setting forth the fees, expenses, dates, and other commercial terms of the placement.

Section 2 | Pre-Placement Activities

- (a) In response to Client’s requests, Barton agrees:
 - 1. to present information to Client regarding one or more available Providers for Client’s consideration for placement;
 - 2. if Client accepts a Provider for placement, to coordinate the placement and to memorialize its terms in a Placement Order; and
 - 3. once the terms of an assignment are agreed upon, to use its best efforts to support Client’s pre-assignment processes by helping Client obtain any required documents or other materials.
- (b) Client’s verbal or email acceptance under Section 2(a)-2 is valid and binding on the date of acceptance; however, a Placement Order must be signed or confirmed for Barton’s records.
- (c) Prior to any assignment, Client agrees to review the Provider information submitted by Barton and to notify Barton in writing within two business days if any submitted Provider was already known to Client. If Client fails to so notify Barton, Barton will be deemed to have introduced Client to the submitted Provider.

Section 3 | Insurance

- (a) Barton maintains a professional liability (medical malpractice) insurance policy with limits of \$1,000,000 per claim and \$3,000,000 in the annual aggregate covering itself and eligible Providers duly assigned under this Agreement. The malpractice coverage available under that insurance policy is subject to the policy’s terms, conditions, and limitations.
- (b) Client agrees to inform Barton of any incident that may result in a malpractice claim or other legal action against any Provider arising out of services rendered under this Agreement. This Section 3(b) survives termination of this Agreement.

Section 4 | Financial Terms

- (a) Each Barton invoice will be based on services provided and/or on the commercial terms contained in each Placement Order or, if applicable, any separate agreements between the parties.

Unless otherwise agreed, the rates included on each Placement Order are inclusive of Provider's services, Barton's services, and professional liability expenses. The total fees for services rendered pursuant to this Agreement for the Fiscal Year 2024-2025 will not exceed \$1,000,000.00

(b) Client will remit full payment to Barton of all invoiced amounts within 30 days of Barton's issuing an invoice. If Barton reasonably determines Client to be a credit or payment risk, Barton may require Client to prepay for services or to remit payment at shorter or different intervals.

(c) Upon submission of a Solano County vendor claim and invoice by Barton, and upon review and approval by Client's representative, Client will pay Barton monthly in arrears for fees and expenses incurred the prior month, or upon demonstrated completion of deliverables, as applicable, up to the maximum amount provided for in this Agreement. Each invoice shall specify services rendered, to whom, date of service and the incurred charges. In accordance with its internal policies and procedures, Barton will document all expenses submitted to Client for payment under this Agreement by maintaining complete and accurate records of all financial transactions related to the services performed under this Agreement including, but not limited to, invoices, receipts, time sheets, itemized cost lists, and other official documentation that sufficiently support all charges under this Agreement.

(d) The anticipated fee ranges for the below mentioned provider types are as follows and may amended from time to time at the sole discretion of Barton:

1. Family Practice: \$290.00 - \$340.00 per hour
2. Pediatricians: \$290.00 - \$340.00 per hour
3. General Dentistry: \$280.00 - \$340.00 per hour
4. Nurse Practitioner: \$230.00 - \$300.00 per hour
5. Physician Assistant: \$230.00 – \$300.00 per hour
6. Psychiatry: \$475.00 - \$600.00 per hour
7. Psychiatric Mental Health Nurse Practitioner: \$300.00 - \$340.00 per hour

For the avoidance of doubt, the aforementioned fees are anticipated fee ranges only, and if Barton determines, in its sole discretion, that Providers cannot be placed at the above fees then Providers with higher rates will be submitted to Client for consideration of an assignment. Nothing in this Agreement shall prevent Client from accepting Providers at rates outside of the anticipated fee ranges contemplated in this Agreement. Further, this Section 4(d) does not preclude other types of Providers not mentioned above from being placed with Client under this Agreement.

Section 5 | Term & Termination; Continuation & Cancellation

Term & Termination of Agreement.

(a) This Agreement is effective on the Effective Date and will remain in effect for one (1) year from July 1, 2024 to June 30, 2025 with the option of two (2) 1-year extensions, unless it is terminated under Section 5(b).

(b) Either party may terminate this Agreement, for any reason or no reason, upon 30 days' written notice to the other party. Either party may terminate this Agreement if any term or condition is materially breached by the other party, provided the breaching party fails to cure the breach within 15 days of receiving notice from the non-breaching party.

1. Termination of this Agreement automatically cancels all assignments and their Placement Orders according to the terms of Section 5(d) through Section 5(f).

Continuation & Cancellation of Assignments.

(c) If Client and Provider so agree, any assignment may be continued past its originally

anticipated end date. Client agrees to communicate these continuations to Barton so that the parties, if needed, may memorialize their understanding.

(d) Client may cancel any assignment: (i) for any reason by giving Barton at least 30 days' written notice that, (A) if the assignment has commenced, shall not be effective until 30 days from the date Barton receives such notice, or (B) if the assignment has not yet commenced, shall not be effective until 30 days from the date on which the assignment commences; or (ii) immediately upon notice to Barton if Client determines, in its discretion, that the Provider cannot conform or has failed to conform to prevailing standards of professional or clinical conduct.

1. If Client does not provide the notice required under Section 5(d), Client shall be responsible for promptly paying to Barton all fees and expenses that would reasonably have been payable to Barton had Client provided such notice. The parties agree that such payment is reasonable and constitutes compensation, not a penalty, and that Barton's right to such payment is Barton's exclusive remedy for Client's failure to comply with its notice obligations in Section 5(d).

(e) Barton may cancel any assignment: (i) for any reason upon 30 days' written notice to Client; or (ii) immediately if (A) Client fails to comply with any term or condition in Section 4 or (B) any Provider cancels or is unwilling or unable to perform such assignment. If Client requests, following any cancellation Barton will use its best efforts to present alternative available Providers to Client for Client's consideration of a new or continued assignment.

(f) Neither termination of this Agreement nor cancellation of any assignment shall release either party from any liability that has already accrued, comes into effect because of such termination or cancellation, or otherwise expressly or impliedly survives such termination or cancellation.

Section 6 | Confidentiality

Each party who receives Confidential Information (defined below) agrees to maintain all Confidential Information in confidence. The receiving party will also maintain reasonable safeguards to ensure the confidentiality of all Confidential Information and will not use any Confidential Information other than strictly as necessary to perform its obligations under this Agreement. The receiving party will not disclose any Confidential Information except: (a) with the prior written consent of the disclosing party; (b) if disclosure is made only to its directors, officers, employees, agents, or advisors who have a need to know the Confidential Information in order to fulfill the receiving party's obligations or to enforce the receiving party's rights under this Agreement; or (c) as required to comply with its legal obligations including the Client's obligation to disclose records that, to the extent required by applicable law, are necessary to be disclosed in response to valid California Public Records Act requests. "**Confidential Information**" includes the terms of this Agreement and each Placement Order, the identities of and other information relating to Providers, and all other non-public or proprietary business information owned or licensed by the disclosing party or any of its affiliates.

Section 7 | Conversion

(a) Before Client or any Client Affiliate (defined below) may engage or attempt to engage, other than under this Agreement, any Provider introduced to Client by Barton, one of the following conditions must be met. Client must either:

1. wait at least 24 months from the end of the Provider's most recent assignment, or, if only a submittal of the Provider's information and no assignment had been made, 12 months from the last submittal date; or

2. wait at least 12 months after the date the Provider first rendered services to Client and pay to Barton an amount equal to \$45,000.00 (the "**Conversion Fee**"); or

3. promptly pay to Barton an amount equal to three times the Conversion Fee, minus \$5,000.00 for each month in which the Provider renders services pursuant to this Agreement.

(b) The parties agree that the payment described in Section 7(a)-3 above is reasonable and constitutes compensation, not a penalty. Barton's right to such payment is Barton's exclusive remedy for any failure by Client to comply with Section 7(a)-1 or Section 7(a)-2. This Section 7 survives termination of this Agreement.

Section 8 | Acknowledgements

The parties agree that, despite anything that may be stated or implied differently:

(a) Neither Barton nor any of its directors, officers, employees, representatives, or agents is licensed to practice medicine or to provide medical services. Each Provider, for all purposes, is an independent contractor, not an employee, agent, representative, or partner, of Barton. Barton does not and will not control, direct, or attempt to control or direct any Provider's services or compliance with professional or legal obligations. All medical, clinical, and other decisions and actions, including when, where, and how to render services, are solely those of each respective Provider;

(b) Barton's services with respect to screening or prescreening any Provider shall be limited to the assistance described in Section 2(a)-3 above. Client shall have the sole and complete authority and responsibility for reviewing, processing, credentialing, and approving each Provider according to applicable law and Client's policies and bylaws;

(c) Client's obligation to make payments is independent and is not conditioned upon or subject to anything, including Client's satisfaction with any Provider's performance;

(d) If Barton provides its services to any affiliate of Client, including any facility, entity, or organization controlling, controlled by, or under common control with Client through a group, hospital system, or contractual or other arrangement (each, a "**Client Affiliate**"), that signs or is identified on a Placement Order, such Client Affiliate, together with Client jointly and severally, shall be responsible for all of Client's obligations under this Agreement; and

(e) Because Barton does not use or disclose "protected health information," as defined in the Health Insurance Portability and Accountability Act of 1996 (as amended, and including its regulations, "**HIPAA**"), for or on behalf of Client, Barton is not Client's "business associate" under HIPAA.

(f) Client shall comply with all laws, rules, regulations, guidelines, and directives applicable to Client's business and its representations, warranties, and obligations hereunder.

Section 9 | Miscellaneous

(a) This Agreement, together with all Placement Orders, is the sole and entire agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous agreements, statements, understandings, and representations (whether oral or written) regarding its subject matter. This Agreement and all Placement Orders shall control over any different or additional terms in any purchase order or non-Barton ordering document, and no terms included in any such purchase order or other document shall apply to or be binding on the parties.

(b) Neither this Agreement nor any Placement Order may be amended or modified except by a writing signed by each party. However, the dates set forth in Placement Orders may be modified via email. Handwritten changes made to any term or condition of this Agreement or any Placement Order are void and are not binding on either party. Nothing in any Placement Order shall modify or be construed to modify any term, condition, or provision of this Agreement, unless it is explicitly identified as a modification to this Agreement.

(c) No waiver of any right under this Agreement is effective unless in writing signed by the waiving party. Either party's failure to exercise its contractual rights shall not be deemed to be a waiver of the same. If any term of this Agreement is held invalid or void, the court may modify this Agreement as necessary to cure the invalidity and to effect the original intentions of the parties.

(d) With the exception of Barton's rights to compensation under Section 5(d)-1 and Section 7(a)-3, the rights and remedies provided in this Agreement are cumulative, not exclusive.

(e) Intentionally Omitted.

(f) Each party (as "**Indemnifying Party**") will indemnify, hold harmless and defend the other (the "**Indemnified Party**") from all claims, losses, and damages that are awarded against Indemnified Party (collectively, "**Losses**"), that directly arise from third-party claims alleging the sole negligence or willful misconduct of the Indemnifying Party in connection with the performance of its obligations under this Agreement.

(g) *Neither party will be liable or responsible under any circumstances for any consequential, incidental, special, exemplary, punitive, or indirect damages of any kind, regardless of whether they arise in breach of contract, tort, or otherwise, or whether their possibility was advised. In addition, Barton shall not be responsible or liable to Client or any third party in connection with any act, omission, or occurrence that is beyond Barton's control, which includes the acts and omissions of Providers. Notwithstanding the foregoing, nothing in this Section 9(g) shall be construed to limit Barton's obligations arising from Section 9(f). This Section 9(g) survives termination of this Agreement.*

This Agreement is effective as of the Effective Date and may be executed in counterparts.

Barton & Associates, Inc.

Client: Solano County

Signature: _____

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Name: Michael Pizzo
Title: Director, Sales & Recruiting

Signature: Bill Emlen



07/12/2024
05:15 PM EDT

Name: Bill Emlen
Title: County Administrator

Approved as to Form:

Signature: Lori Mazzella



05/29/2024
02:30 PM EDT

Name: Lori Mazzella
Title: County Counsel, Deputy