

WELLNESS PROGRAM

MASTER SERVICES AGREEMENT

This Wellness Program Master Services Agreement (the “**Agreement**”) is effective as of November 15, 2022 (the “**Effective Date**”), and is by and between Hoag Outpatient Therapies LLC, a California limited liability City (“**Hoag**”), and the City of Costa Mesa, a municipal corporation (“**CityCity**”).

RECITALS

A. Hoag is a is an outpatient clinic enterprise which operates certain programs related to wellness and fitness.

B. City is an entity duly organized, validly existing and in good standing under the laws of California.

C. Hoag and City wish to set forth the terms under which they will, on a collaborative basis, offer to City employees the wellness and/or fitness services described herein.

AGREEMENT

For and in consideration of the mutual terms and provisions set forth herein including the foregoing recitals, the parties hereby mutually agree as follows:

1. **Services.** Hoag shall arrange to provide to City the services described in the Statement of Work (“SOW”) attached hereto as **Exhibit 1** and incorporated herein (“**Services**”). During the term of this Agreement, the parties may execute one or more SOWs which shall be numbered sequentially and appended to Exhibit 1. Each SOW shall set forth all the Services to be performed and the personnel, hours, location(s), commencement date, expiration date, timelines, fees and milestones, as applicable, for performance of the Services. Hoag may withhold the provision of Services to any employee of City for good cause, including without limitation, where in the professional judgment of a healthcare professional, the Services should not be provided, or the employee is disruptive or poses a threat to any person. City shall obtain for the benefit of Hoag a waiver and release of all claims from each person participating in Services provided hereunder.

2. **Independent Professional Judgment.** Notwithstanding anything to the contrary contained in this Agreement, Hoag and its affiliated providers shall retain full and free discretion, and may exercise professional judgment, with respect to Services rendered hereunder, and nothing in this Agreement shall be deemed or construed to influence, limit or affect a provider’s independent professional judgment with respect to the provision of Services.

3. **Fees.** As compensation for the Services, City shall pay to Hoag the fees set forth in the applicable SOW. Hoag shall submit an invoice to City for Services rendered on a monthly basis. Payment by City is due to Hoag upon receipt and shall be deemed late if not paid by the City within thirty (30) days after receipt of such invoice. If City disputes any portion of an invoice, City must pay the undisputed portion of the invoice in accordance with the terms and conditions of this Agreement and submit a written claim to Hoag for the disputed amount. All claims must

be submitted to Hoag within thirty (30) days from receipt of the invoice. City waives the right to dispute any charges not disputed within the time frame set forth above. Hoag acknowledges that the Hoag's annual compensation will not exceed ten thousand dollars (\$10,000.00).

4. Term and Termination. This Agreement commences on the Effective Date and continues for a period of two (2) years. Thereafter, this Agreement may be extended by up to three (3) additional one (1) year periods upon mutual written agreement of City and Hoag. Either party may terminate this Agreement at any time and for any reason upon at least thirty (30) days' prior written notice to the other party. If this Agreement is terminated in accordance with this Section, any existing SOWs will automatically terminate on the effective date thereof.

5. City's Duties and Responsibilities. City will be responsible to provide, without charge to Hoag, items and services of a nonmedical nature reasonably necessary to provide the Services, including without limitation, space, office furniture, fixtures, computer networking connections, and utilities such as electricity, water, heat, plumbing, and air conditioning.

6. Insurance. During the term of this Agreement, Hoag shall, at its own expense maintain in full force and effect, the following insurance policies with the following minimum coverage: (i) personal injury liability insurance, including contractual liability, with minimum limit of no less than two million dollars (\$2,000,000) per occurrence and three million dollars (\$3,000,000) in the annual aggregate; (ii) comprehensive commercial general liability insurance, including contractual liability, with minimum limit of no less than two million dollars (\$2,000,000) per occurrence and three million dollars (\$3,000,000) in the annual aggregate; business automobile liability insurance for owned vehicles, hired, and non-owned vehicles, with a minimum limit of no less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in the annual aggregate, and (iv) worker's compensation insurance with minimum limits in accordance to the limits required by law.

7. Compliance. The parties intend to comply with all laws, rules, and regulations, including without limitation state and federal anti-kickback and physician self-referral laws. No part of any compensation paid hereunder is a prohibited payment for the recommending or arranging for the referral of business or the ordering of items or services, nor are any payments intended to induce illegal referrals of business. The parties shall act in compliance with ERISA and related regulations and regulatory guidance, as well as Medicare and Medicaid program requirements, as applicable.

8. Claims. Each party shall reasonably cooperate with the other in the defense of any and all claims arising out of acts or omissions within the scope of Services.

9. Warranty. HOAG WARRANTS TO CITY THAT ALL SERVICES PROVIDED HEREUNDER SHALL BE PERFORMED IN ACCORDANCE WITH ESTABLISHED STANDARD AND WITH REASONABLE CARE IN ACCORDANCE WITH APPLICABLE FEDERAL, STATE AND LOCAL LAWS. NO OTHER WARRANTIES ARE MADE BY HOAG.

10. No Consequential or Indirect Damages; Maximum Liability. EXCEPT FOR OBLIGATIONS TO MAKE PAYMENT UNDER THIS AGREEMENT, IN NO EVENT SHALL

(A) EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR ENHANCED DAMAGES, OR LOST PROFITS OR REVENUES ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH ANY BREACH OF THIS AGREEMENT, REGARDLESS OF (I) WHETHER SUCH DAMAGES WERE FORESEEABLE, (II) WHETHER OR NOT IT WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND (III) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND (B) EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO HOAG PURSUANT TO THIS AGREEMENT IN THE TWELVE MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

11. Indemnification. Except for City's willful misconduct or gross negligence, Hoag shall indemnify, hold harmless, and defend City and its officials, officers, employees and agents against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, that are incurred by City, arising out of or related to Hoag's performance of this Agreement.

12. Except for willful misconduct or gross negligence, City shall indemnify, hold harmless, and defend Hoag and its officers, directors, managers, members, partners, employees, agents, affiliates, successors, and permitted assigns against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, that are incurred by Hoag, arising out of or related to any third-party claim.

13. Medical Records. All medical records generated by Hoag are, and will remain, the property and Confidential Information of Hoag and its patients.

14. Independent Entities. Nothing in this Agreement is intended to create nor shall it be deemed or construed to create any legal or equitable relationship between the parties, other than that of independent entities contracting with each other solely for the purpose of affecting the provisions of this Agreement. Neither party, or any of their respective officers, directors, or employees, shall be construed to be the agent, employee or representative of the other.

15. Confidentiality. During the course of performance of the Agreement, it is expected that City will learn of certain confidential and proprietary information and/or trade secrets ("Confidential Information") of Hoag, including, but not limited to, information concerning Hoag business affairs and operations. All Confidential Information is and remains, Hoag property and City warrants that it will not, directly or indirectly, (a) use any Confidential Information for any purpose that is not directly and solely related to the performance of its obligations under the Agreement, (b) publish or disclose any Confidential Information to any third party, or (c) use the Confidential Information in any manner for its business development or any commercial purposes. City shall maintain the Confidential Information in a secure manner that is at least as protective as

that which City uses with respect to its own confidential and proprietary information, but in no event shall City provide Confidential Information less than reasonable protection.

16. Non-Solicitation. City acknowledges and agrees that the relationship between Hoag and its employees and its contractors' employees who work with City in providing the Services hereunder constitutes a valuable asset of Hoag. Therefore, during the term of this Agreement and for one (1) year following the expiration or termination of this Agreement for any reason, neither City nor any of its affiliates will directly or indirectly induce, or attempt to induce, or solicit any Hoag employee or Hoag-affiliated contractor employee to terminate his or her employment or in any way interfere with the relationship between Hoag or the Hoag-affiliated contractor and any employee thereof. This Section shall not preclude City from hiring or contracting with any person responding to a general advertisement for employment not directed at or targeted towards such person without having been directly solicited by a representative of City. Should City hire person in violation of this Section, City shall pay Hoag a placement fee an amount equal to person's annual gross compensation for the first year in the new position within thirty (30) days after the commencement of employment. This Section shall survive the termination or expiration of this Agreement.

17. Force Majeure. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make payments to the other party hereunder), when and to the extent such party's (the "Impacted Party") failure or delay is caused by or results from the following force majeure events: (a) acts of God; (b) flood, fire, earthquake, epidemic, or other potential disaster(s) or catastrophe(s); (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or action; (e) strikes, labor stoppages or slowdowns, embargoes or blockades; (f) national or regional emergency; (g) shortage of adequate power or transportation facilities; and (h) other similar events beyond the reasonable control of the Impacted Party.

18. Attorney's Fees. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the substantially prevailing party shall be entitled to reasonable attorney's fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled.

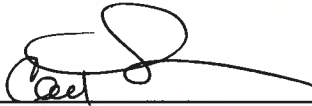
19. Miscellaneous. This Agreement and any dispute related or arising therefrom shall be construed under the laws of the State of California, excluding its choice-of-law principles. This Agreement contains the entire agreement and understanding among the parties with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter hereof. No amendment, modification, or waiver of any term of this Agreement will be effective unless in writing and signed by the party against whom enforcement of such amendment, modification, or waiver is sought. If there is a conflict between terms this Agreement and the terms and conditions included within an applicable SOW, this Agreement controls unless explicitly stated otherwise in the applicable SOW, and in that case the conflicting terms and conditions in such SOW apply to that SOW only. All rights and remedies of each party to the Agreement are cumulative, and the exercise of one or more rights or remedies will not preclude the exercise of any other right or remedy available under the Agreement or applicable

law. No assignment of this Agreement or the rights and obligations hereunder by either party City shall be valid without the written consent of the other party. All notices permitted or required under this Agreement shall be given in writing to the party's address on the signature page hereto, and shall be sent by email and (i) registered or certified mail, or (ii) a nationally recognized overnight delivery service, in each with return receipt requested. The Agreement may be executed in two or more counterparts, each of which shall be deemed an original but both of which together shall constitute one and the same instrument.

Signature Page Follows

IN WITNESS WHEREOF, the parties hereto, each acting under due and proper authority, HAVE EXECUTED THIS AGREEMENT AS OF THE EFFECTIVE DATE ABOVE.

CITY:
City of Costa Mesa

Signature: 

Print: Carol Molina

Title: Finance Director

Date: 12/11/22

Address:
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Attn: Ellen Medalle
Email: ellen.medalle@costamesaca.gov

HOAG:
Hoag Outpatient Therapies LLC

Signature: 

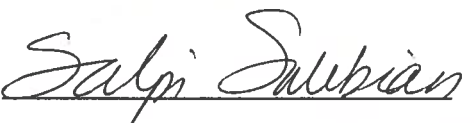
Print: Dori Hblnagel

Title: VP Cancer + Women's OP

Date: 12/13/22

Address:
Hoag Outpatient Therapies
1 Hoag Drive
Newport Beach, CA 92663
Attn: Service Contract Administration
Email: contractadministration@hoag.org

HOAG:
Hoag Outpatient Therapies, LLC

Signature: 

Print: SALPI SALIBIAN

Title: Executive Director

Date: 12/13/22

EXHIBIT 1

Statement of Work No. 1

Virtual Wellness Class Offerings (1hr each)

1. Virtual wellness classes including fitness and educational formats, led by certified wellness providers. Class topics include yoga, Pilates, fitness, reiki, stretching, acupressure, meditation and mindfulness, and nutrition.
2. Virtual clinical classes include educational content led by licensed clinicians including pelvic floor physical therapists, marriage and family therapists and social workers.

In Person Wellness Services

1. Classes upon request (yoga, Pilates)
2. Chair Massage – massage therapist will provide chair, massage lotion and cleaning supplies.

Fees for In Person & Virtual Classes

Services	Service Rates
Chair Massage (in person & per hour; - 3 - 4 massages per hour)	\$150
Virtual Classes (Wellness - Pilates, Yoga, Educational)	\$200
Virtual Classes (Clinical - Pelvic Health; Mental Health)	\$300
In person classes (Wellness - fitness/yoga/pilates)	\$500

- Fees are subject to change upon renewal of the contract.

Schedule of Services

Services will be provided at dates and times agreed to by City and Hoag.

IN WITNESS WHEREOF, the parties hereto, each acting under due and proper authority, HAVE EXECUTED THIS SOW AS OF THE EFFECTIVE DATE ABOVE.

CITY:
City of Costa Mesa

HOAG:
Hoag Outpatient Therapies, LLC

Signature: Carol L

Signature: [Handwritten Signature]

Print: Carol Molina

Print: Dori Hahnage

Title: Finance Director

Title: VP Cancer & OP Womens

Date: 12/15/22

Date: 12/13/22

HOAG:
Hoag Outpatient Therapies, LLC

Signature: Saji Salibian
Print: SAJI SALIBIAN
Title: Executive Director
Date: 12/13/22