SERIAL 06076 IGA BROADLANE "MASTER" AGREEMENT

DATE OF LAST REVISION: June 29, 2006 **CONTRACT END DATE: November 30, 2008**

CONTRACT PERIOD BEGINNING JUNE 29, 2006
ENDING NOVEMBER 30, 2009

TO: All Departments

FROM: Department of Materials Management

SUBJECT: Contract for **BROADLANE "MASTER" AGREEMENT**

Attached to this letter is a listing of vendors available to Maricopa County Agencies utilizing the Maricopa County Correctional Health System C-90-05-011-1. The using agency and other interested parties may access and electronic version of this contract from the Materials Management Web site at:
http://www.maricopa.gov/materials/Awarded_Contracts/search.asp.

Please note: Price Agreement Purchase Orders (PG documents) may be generated using the information from this list. Use Commodity Code(s)

All purchases of product(s) listed on the attached pages of this letter are to be obtained from the listed contractor(s).

EXHIBIT A-2
TO THE CONTRACT FOR GROUP PURCHASING ORGANIZATION (GPO) SERVICES
MARICOPA COUNTY CORRECTIONAL HEALTH SERVICES

This Exhibit A-2 is an exhibit to Amendment Number Two to the Contract for Group Purchasing Organization (GPO) Services between Broadlane, Inc. ("Contractor") and Maricopa County Special Healthcare District, d/b/a Maricopa Integrated Health System ("MIHS"), dated December 1, 2004 (the "Contract").

A. CUSTOMER RELATIONSHIP.

1. Relationship of the Parties. Maricopa County Correctional Health Services, with offices at 234 N Central Ave., Suite 500, Phoenix, AZ 85003 (MCCHS") is a Department of Maricopa County, Arizona. MCCHS represents and warrants that as a Department of Maricopa County, Arizona, MCCHS has the authority to enter into the agreement as set forth on this Exhibit A-2.

2. Acceptance. Contractor accepts MCCHS and Facilities (defined below) as health care providers that are customers of Contractor ("**Broadlane Customers**").

3. Facilities. MCCHS and MCCHS' subsidiaries and affiliates (**"Facilities"**) are listed on Attachment 1. All Facilities are wholly-owned or operated by County or MCCHS. The parties may add wholly-owned Facilities located within the United States as Broadlane Customers by MCCHS notifying Contractor of the addition of the Facility.

B. DESIGNATION OF CONTRACTOR AS CONTRACTING SERVICES AGENT.

1. Designation as Agent. MCCHS and Facilities designate Contractor as their primary contracting services agent: (i) to negotiate agreements with vendors or suppliers under which MCCHS and Facilities may purchase goods and services in all health care and related contracting areas, including, without limitation, medical-surgical, pharmacy, information technology, and capital equipment; and (ii) to collect certain rebates from contracted vendors or suppliers (**"Broadlane Suppliers"**).

2. Letter of Authorization. MCCHS will execute a Letter of Authorization, in substantially the form attached as Attachment 2, which may be provided to Broadlane Suppliers as evidence of Contractor's authority to represent MCCHS and Facilities in negotiating and purchasing matters.

C. BROADLANE SUPPLIER AGREEMENTS.

1. Title; Payment; Compliance. As the contracting services agent for Broadlane Customers, Contractor is acting as a negotiator and will neither take title to, nor be obligated to pay for, any products and/or services whatsoever by virtue of this Contract, any order placed by Broadlane Customers, or any goods and/or services received by Broadlane Customers.

All purchasing by MCCHS and Facilities under Contractor agreements with contracted suppliers (**"Broadlane Supplier Agreements"**) shall be in the name of the Broadlane Customer. The Broadlane Customer (and not Contractor) shall be solely responsible for compliance with applicable Broadlane Supplier Agreement terms and conditions, including, but not limited to, payment to the respective Broadlane Suppliers of amounts due for purchased goods and/or services, and different pricing levels. The provisions of this clause shall survive termination of this Contract.

2. Beneficiaries; Liability; Release. MCCHS understands that it and Facilities are third party beneficiaries of the Broadlane Supplier Agreements, which provide terms and conditions that apply to the individual contracts to purchase goods and/or services between the Broadlane Suppliers and the Broadlane Customers. Accordingly, MCCHS and Facilities shall look solely to the particular Broadlane Supplier and not to Contractor for any issue relating to the products or the purchase contract including, but not limited to, payment disputes, exchanges, returns, and refunds. To the extent permitted by applicable law, nothing in this Contract shall create any liability on the part of Contractor for the products and/or services furnished by a Broadlane Supplier under a Broadlane Supplier Agreement.

3. Remedies for Breach. MCCHS and Facilities understand that each Broadlane Supplier has the right to seek a remedy for breach (including nonpayment of amounts due and owing) directly against MCCHS and Facilities. The remedy for breach may include termination of access to discounted pricing or termination of MCCHS and Facilities from the list of Broadlane Customers entitled to access the respective Broadlane Supplier Agreement. The provisions of this clause shall survive termination of this Contract.

D. CONTRACTOR DISCLAIMERS.

1. No Warranty. CONTRACTOR DOES NOT MAKE ANY WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, AS TO GOODS AND SERVICES PURCHASED UNDER BROADLANE SUPPLIER AGREEMENTS.

2. Liability Limit. **WHILE CONTRACTOR WILL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING IN ANY WAY OUT OF THIS CONTRACT, WHETHER OR NOT CONTRACTOR HAS BEEN ADVISED OF THE POSSIBILITY OF THESE DAMAGES, CONTRACTOR MAY BE LIABLE FOR DIRECT DAMAGES ARISING OUT OF THIS AGREEMENT. THESE LIMITATIONS WILL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. EXCEPT IN THE EVENT OF INTENTIONAL MISCONDUCT OR VIOLATION OF LAW, IN NO EVENT WILL CONTRACTOR'S AGGREGATE LIABILITY ARISING UNDER THIS CONTRACT EXCEED $500,000.00.**

3. No Liability. **IN NO EVENT WILL CONTRACTOR HAVE ANY LIABILITY IN CONNECTION WITH MCCHS' OR FACILITIES' DECISION TO TERMINATE OR CURTAIL PURCHASES UNDER ANY AGREEMENTS OR PURCHASING ARRANGEMENTS THAT MAY FROM TIME TO TIME EXIST BETWEEN MCCHS OR FACILITIES ON THE ONE HAND AND SUPPLIERS ON THE OTHER.**

E. CONTRACT MANAGEMENT SYSTEM.

1. Contract Management System Basic Service. The following services will be provided to MCCHS and Facilities for no additional charge. Contractor will utilize Contractor's corporate contract management system basic service ("**CMS Basic Service**) for maintenance and management of Broadlane Supplier Agreement terms (pricing, terms and conditions, product codes and descriptions, etc.) for the purpose of volume and fee management. MCCHS and Facilities will have web-based viewing privileges to view the contract terms and generate standard reports remotely. Contractor will make viewing privileges available to MCCHS and Facility employees designated by MCCHS or Facility from time-to-time. In addition, Contractor will utilize Contractor's corporate supplier sales reporting system for electronic collection of sales and administrative fee data for the Broadlane Supplier Agreements.

To the extent permitted by law, MCCHS and Facilities consent to Contractor's use, sale, transfer, and transmission of non-confidential and non-proprietary aggregate data obtained by Contractor from MCCHS and Facilities, including demographic information, purchasing volumes, commitment rates, purchasing patterns, dollar volume of purchases, and items purchased; provided however, that the information may not identify MCCHS, nor any other hospital-specific information (address, HIN number, Medicare provider number, etc.) that may be used by a third party to identify MCCHS. Furthermore, MCCHS and Facilities consent to Contractor's sole use and transmission of all identifiable information regarding MCCHS and Facilities, as necessary for Contractor to perform its obligations set forth in this Contract and for its own internal business purposes; however, Contractor agrees that such information may not be transferred to any other entity, without the prior written consent of MCCHS or Facilities.

2. No Warranties. **CONTRACTOR PROVIDES CONTRACTOR'S CMS BASIC SERVICE "AS IS" AND MCCHS RECEIVES NO WARRANTIES FROM CONTRACTOR IN CONNECTION WITH CONTRACTOR'S CMS BASIC SERVICE. CONTRACTOR SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO CONTRACTOR'S CMS BASIC SERVICE; PROVIDED THAT THIS PARAGRAPH SHALL NOT LIMIT THE RIGHTS AND REMEDIES AVAILABLE TO MCCHS WITH RESPECT TO A BREACH OF CONTRACT CAUSE OF ACTION.**

F. ADMINISTRATIVE FEES; DISCOUNTS; REBATES.

Administrative Fees. Each Broadlane Supplier shall be required to pay an administrative fee to Contractor of (i) 3% or less of the purchase price of the goods and services sold to MCCHS (and its subsidiaries and controlled affiliates) or (ii) the amount (that is greater than 3%) set forth in a written notification to Broadlane Customers, which notification shall be incorporated as part of this Contract. In the event Contractor notifies Broadlane Customers in regard to any administrative fees that exceed 3%, the notice will specify the amount of administrative fees to be paid by the Broadlane Supplier(s) or, if the amount is not known, the notice will set forth the maximum amount.

Contractor discloses to Broadlane Customers in writing at least annually, and to the Secretary of Health and Human Services upon request, the amount of administrative fees received from each Broadlane Supplier with respect to purchases made by or on behalf of Broadlane Customers in accordance with the Medicare regulations applicable to group purchasing organizations. *See* 42 C.F.R. § 1001.952(j). Contractor shall send to MCCHS the administrative fee disclosure data for Facilities. MCCHS shall segregate administrative fee data applicable to the separate Facilities and forward that data to the respective Facilities with any notices sent to MCCHS for the benefit of Facilities.

The provisions of this clause shall survive termination of this Contract.

Discounts. MCCHS and Facilities shall disclose the amount of all discounts (including, but not limited to, price reductions, rebates, and receipt of free items) as required by applicable Medicare law and regulations. A copy of the Discount Safe Harbor to the Anti-Kickback Statute (the **"Discount Safe Harbor"**) is attached to this Contract as Attachment 3, and incorporated by reference, to provide MCCHS and Facilities notice of their reporting obligations. 42 C.F.R. § 1001.952(h). The provisions of this clause shall survive termination of this Contract.

Rebates. Contractor may collect certain rebates earned on MCCHS' and Facilities' purchases under Broadlane Supplier Agreements and, within a reasonable time following receipt of the rebates, forward them to MCCHS with the

information (from Broadlane Suppliers) necessary to properly allocate the rebates according to purchases of Facilities and account for the rebates pursuant to Medicare law and regulation. *See* 42 C.F.R. § 1001.952(h).

MCCHS shall apportion and distribute any rebates that MCCHS receives from Contractor among MCCHS and Facilities according to MCCHS' and Facilities' purchases made under agreements available through Contractor's contracting services program. MCCHS shall include with all rebate distributions any notices sent to MCCHS for the benefit of Facilities.

G. MISCELLANEOUS.

1. Successors and Assigns. This Contract shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns.

2. Access to Books and Records of Contractor by Secretary of HHS or Authorized Representative. Upon written request of the Secretary of Health and Human Services or the Comptroller General or any of their duly authorized representatives, Contractor or any other related organization providing services with a value or cost of $10,000.00 or more over a 12-month period, shall make available to the Secretary the contracts, books, documents, and records that are necessary to certify the nature and extent of the costs of providing the services. Inspection shall be available up to 4 years after the rendering of the services. This paragraph is not intended to prohibit or impede any state audits pursuant to state law. The provisions of this clause shall survive termination of this Contract.

3. Remedies. Contractor understands that MCCHS and the Facilities have a right to seek any and all applicable legal and equitable remedies for breach by Contractor of the terms of the Contract.

4. Additional Terms and Conditions. All terms and conditions in Section I (General Provisions), Section II (Special Provisions), Section III (Work Statement), and Section IV (Compensation) of the Contract that reference MIHS or the parties to the Contract apply to MCCHS as if "MCCHS" were to replace each reference to "MIHS." For the avoidance of doubt: MIHS remains a party to the Contract, and all provisions that actually reference MIHS or the parties to the Contract remain applicable to MIHS (as if no supposed replacement of entity names occurred).

5. Notices. Any notice under this Agreement shall be in writing and shall be deemed to have been given on the earlier of (i) the date on which it is delivered personally or (ii) 4 days after it is deposited in the U.S. mail, postage prepaid, certified with return receipt requested. Notices must be addressed to Broadlane or Company at its address as set forth here:

Notice to Contractor: Broadlane, Inc.
13727 Noel Road, Suite 1400
Dallas, Texas 75240

Notice to MCCHS: Maricopa County Correctional Health Services
ATTN: Dennis Flynn
234 N Central Ave., Suite 500
Phoenix, AZ 85003

BROADLANE, INC.

By: [signature]
Printed Name: Steve Pfeil
Title: SVP Am
Date: 5/31/06

MARICOPA COUNTY CORRECTIONAL HEALTH SYSTEM

By: [signature]
Printed Name: Wesley L. Baysinger
Title: Dir. Mat. Mgmt.
Date: 6/5/06

[signature]
Deputy County Attorney

Attachment 1 to Exhibit A

FACILITIES

Maricopa County Correctional Health Services
Durango Clinic
3225 West Gibson Lane
Phoenix, AZ 85009

Maricopa County Correctional Health Services
Estrella Clinic
2939 West Durango
Phoenix, AZ 85009

Maricopa County Correctional Health Services
Estrella Support Clinic
2939 West Durango
Phoenix, AZ 85009

Maricopa County Correctional Health Services
Towers Clinic
3127 West Durango
Phoenix, AZ 85009

Maricopa County Correctional Health Services
Lower Buckeye Jail
3250 Lower Buckeye Road
Phoenix, AZ 85009

Maricopa County Correctional Health Services
4th Avenue Jail
201 S. 4th Avenue
Phoenix, AZ 85003

Maricopa County Correctional Health Services
4th Avenue Intake and Assessment
201 S 4th Avenue
Phoenix, AZ 85003

Attachment 2 to Exhibit A

LETTER OF AUTHORIZATION

To all Broadlane Suppliers:

Maricopa County Correctional Health System (**"MCCHS"**) entered into a contracting services agreement with Broadlane, Inc. (**"Contractor"**), effective April 1, 2006, in which MCCHS and MCCHS' subsidiaries and affiliates (**"Facilities"**) appointed Contractor as their primary contracting services agent. This letter is to inform Broadlane Suppliers that Contractor is MCCHS' and Facilities' primary contracting services agent.

As MCCHS' and Facilities' primary contracting services agent, Contractor is authorized to collect detailed information on MCCHS' and Facilities' purchases made under agreements available through Contractor's contracting services.

Maricopa County Correctional Health System

By:_____

Title:_____

Printed Name:_____

Date:_____

broadlane

Attachment 3 to Exhibit A

Notification of Obligations to Report Discounts
(Attach 42 C.F.R. § 1001.952(h))

Discount Safe Harbor

(h) Discounts. As used in section 1128B of the Act, ``remuneration'' does not include a discount, as defined in paragraph (h)(5) of this section, on an item or service for which payment may be made, in whole or in part, under Medicare or a State health care program for a buyer as long as the buyer complies with the applicable standards of paragraph (h)(1) of this section; a seller as long as the seller complies with the applicable standards of paragraph (h)(2) of this section; and an offer or of a discount who is not a seller under paragraph (h)(2) of this section so long as such offeror complies with the applicable standards of paragraph (h)(3) of this section:

(1) With respect to the following three categories of buyers, the buyer must comply with all of the applicable standards within one of the three following categories—

(i) If the buyer is an entity which is a health maintenance organization (HMO) or a competitive medical plan (CMP) acting in accordance with a risk contract under section 1876(g) or 1903(m) of the Act, or under another State health care program, it need not report the discount except as otherwise may be required under the risk contract.

(ii) If the buyer is an entity that reports its costs on a cost report required by the Department or a State health care program, it must comply with all of the following four standards—

(A) The discount must be earned based on purchases of that same good or service bought within a single fiscal year of the buyer;

(B) The buyer must claim the benefit of the discount in the fiscal year in which the discount is earned or the following year;

(C) The buyer must fully and accurately report the discount in the applicable cost report; and

(D) The buyer must provide, upon request by the Secretary or a State agency, information provided by the seller as specified in paragraph (h)(2)(ii) of this section, or information provided by the offeror as specified in paragraph (h)(3)(ii) of this section.

(iii) If the buyer is an individual or entity in whose name a claim or request for payment is submitted for the discounted item or service and payment may be made, in whole or in part, under Medicare or a State health care program (not including individuals or entities defined as buyers in paragraph (h)(1)(i) or (h)(1)(ii) of this section), the buyer must comply with both of the following standards—

(A) The discount must be made at the time of the sale of the good or service or the terms of the rebate must be fixed and disclosed in writing to the buyer at the time of the initial sale of the good or service; and

(B) The buyer (if submitting the claim) must provide, upon request by the Secretary or a State agency, information provided by the seller as specified in paragraph (h)(2)(iii)(B) of this section, or information provided by the offeror as specified in paragraph (h)(3)(iii)(A) of this section.

(2) The seller is an individual or entity that supplies an item or service for which payment may be made, in whole or in part, under Medicare or a State health care program to the buyer and who permits a discount to be taken off the buyer's purchase price. The seller must comply with all of the applicable standards within the following three categories—

(i) If the buyer is an entity, which is an HMO or a CMP acting in accordance with a risk contract under section 1876(g) or 1903(m) of the Act, or under another State health care program, the seller need not report the discount to the buyer for purposes of this provision.

(ii) If the buyer is an entity that reports its costs on a cost report required by the Department or a State agency, the seller must comply with either of the following two standards—

(A) Where a discount is required to be reported to Medicare or a State health care program under paragraph (h)(1) of this section, the seller must fully and accurately report such discount on the invoice, coupon or statement submitted to the buyer; inform the buyer in a manner that is reasonably calculated to give notice to the buyer of its obligations to report such discount and to provide information upon request under

paragraph (h)(1) of this section; and refrain from doing anything that would impede the buyer from meeting its obligations under this paragraph; or

(B) Where the value of the discount is not known at the time of sale, the seller must fully and accurately report the existence of a discount program on the invoice, coupon or statement submitted to the buyer; inform the buyer in a manner reasonably calculated to give notice to the buyer of its obligations to report such discount and to provide information upon request under paragraph (h)(1) of this section; when the value of the discount becomes known, provide the buyer with documentation of the calculation of the discount identifying the specific goods or services purchased to which the discount will be applied; and refrain from doing anything which would impede the buyer from meeting its obligations under this paragraph.

(iii) If the buyer is an individual or entity not included in paragraph (h)(2)(i) or (h)(2)(ii) of this section, the seller must comply with either of the following two standards—

(A) Where the seller submits a claim or request for payment on behalf of the buyer and the item or service is separately claimed, the seller must provide, upon request by the Secretary or a State agency, information provided by the offer or as specified in paragraph (h)(3)(iii)(A) of this section; or

(B) Where the buyer submits a claim, the seller must fully and accurately report such discount on the invoice, coupon or statement submitted to the buyer; inform the buyer in a manner reasonably calculated to give notice to the buyer of its obligations to report such discount and to provide information upon request under paragraph (h)(1) of this section; and refrain from doing anything that would impede the buyer from meeting its obligations under this paragraph.

(3) The offeror of a discount is an individual or entity who is not a seller under paragraph (h)(2) of this section, but promotes the purchase of an item or service by a buyer under paragraph (h)(1) of this section at a reduced price for which payment may be made, in whole or in part, under Medicare or a State health care program. The offeror must comply with all of the applicable standards within the following three categories—

(i) If the buyer is an entity, which is an HMO or a CMP acting in accordance with a risk contract under section 1876(g) or 1903(m) of the Act, or under another State health care program, the offeror need not report the discount to the buyer for purposes of this provision.

(ii) If the buyer is an entity that reports its costs on a cost report required by the Department or a State agency, the offeror must comply with the following two standards—

(A) The offeror must inform the buyer in a manner reasonably calculated to give notice to the buyer of its obligations to report such a discount and to provide information upon request under paragraph (h)(1) of this section; and

(B) The offeror of the discount must refrain from doing anything that would impede the buyer's ability to meet its obligations under this paragraph.

(iii) If the buyer is an individual or entity in whose name a request for payment is submitted for the discounted item or service and payment may be made, in whole or in part, under Medicare or a State health care program (not including individuals or entities defined as buyers in paragraph (h)(1)(i) or (h)(1)(ii) of this section), the offeror must comply with the following two standards—

(A) The offeror must inform the individual or entity submitting the claim or request for payment in a manner reasonably calculated to give notice to the individual or entity of its obligations to report such a discount and to provide information upon request under paragraphs (h)(1) and (h)(2) of this section; and

(B) The offeror of the discount must refrain from doing anything that would impede the buyer's or seller's ability to meet its obligations under this paragraph.

(4) For purposes of this paragraph, a rebate is any discount the terms of which are fixed and disclosed in writing to the buyer at the time of the initial purchase to which the discount applies, but which is not given at the time of sale.

(5) For purposes of this paragraph, the term discount means a reduction in the amount a buyer (who buys either directly or through a wholesaler or a group purchasing organization) is charged for an item or service based on an arms-length transaction. The term discount does not include—

(i) Cash payment or cash equivalents (except that rebates as defined in paragraph (h)(4) of this section may be in the form of a check);

(ii) Supplying one good or service without charge or at a reduced charge to induce the purchase of a different good or service, unless the goods and services are reimbursed by the same Federal health care program

using the same methodology and the reduced charge is fully disclosed to the Federal health care program and accurately reflected where appropriate, and as appropriate, to the reimbursement methodology;

(iii) A reduction in price applicable to one payer but not to Medicare or a State health care program;

(iv) A routine reduction or waiver of any coinsurance or deductible amount owed by a program beneficiary;

(v) Warranties;

(vi) Services provided in accordance with a personal or management services contract; or

(vii) Other remuneration, in cash or in kind, not explicitly described in paragraph (h)(5) of this section.