

AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND MOSS ADAMS LLP

This Agreement is entered into this _____ day of _____, 2024, by and between the County of San Mateo, a political subdivision of the state of California, hereinafter called "County," and Moss Adams LLP, hereinafter called "Contractor."

* * *

Whereas, pursuant to Section 31000 of the California Government Code, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof; and

Whereas, it is necessary and desirable that Contractor be retained for the purpose of providing financial and compliance related consulting services.

Now, therefore, it is agreed by the parties to this Agreement as follows:

1. Exhibits and Attachments

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

Exhibit A—Services
Exhibit B—Payments and Rates
Exhibit C—Performance Metrics
Exhibit E—Corporate Compliance SMMC Code of Conduct (Third Parties)
Attachment H—HIPAA Business Associate Requirements

2. Services to be performed by Contractor

In consideration of the payments set forth in this Agreement and in Exhibit B, Contractor shall perform services for County in accordance with the terms, conditions, and specifications set forth in this Agreement and in Exhibit A.

3. Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A, County shall make payment to Contractor based on the rates and in the manner specified in Exhibit B. County reserves the right to withhold payment if County determines that the quantity or quality of the work performed is unacceptable. In no event shall County's total fiscal obligation under this Agreement exceed FIVE MILLION DOLLARS (\$5,000,000). In the event that the County makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by the County at the time of contract termination or expiration. Contractor is not entitled to payment for work not performed as required by this agreement. All invoices must be approved by the respective Department Managers or their designee. Invoices must be sent to: SMMC-Accounts-Payable@smcgov.org. Processing time may be delayed if invoices are not submitted electronically.

4. Term

Subject to compliance with all terms and conditions, the term of this Agreement shall be from January 1, 2024, through December 31, 2028.

5. Termination

This Agreement may be terminated by Contractor or by the Chief of San Mateo County Health or his/her designee at any time without a requirement of good cause upon thirty (30) days' advance written notice to the other party. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that prorated portion of the full payment determined by comparing the work/services actually completed to the work/services required by the Agreement.

County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon the unavailability of Federal, State, or County funds by providing written notice to Contractor as soon as is reasonably possible after County learns of said unavailability of outside funding.

County or Contractor may terminate this Agreement for cause. In order to terminate for cause, the party wishing to terminate (the "Terminating Party") must first the other party ("Recipient") notice of the alleged cause. Recipient shall have five business days after receipt of such notice to respond and a total of ten calendar days after receipt of such notice to cure the alleged cause. If Recipient fails to cure the cause within this period, the Terminating Party may immediately terminate this Agreement without further action. The option available in this paragraph is separate from the ability to terminate without cause with appropriate notice described above. In the event that County provides notice of an alleged breach pursuant to this section, County may, in extreme circumstances, immediately suspend performance of services and payment under this Agreement pending the resolution of the process described in this paragraph. County has sole discretion to determine what constitutes an extreme circumstance for purposes of this paragraph, and County shall use reasonable judgment in making that determination.

6. Contract Materials

At the end of this Agreement, or in the event of termination, all finished reports or other completed deliverables, excluding any Contractor IP (defined below) (collectively referred to as "contract materials") prepared by Contractor under this Agreement shall become the property of County and shall be promptly delivered to County. Upon termination, Contractor may make and retain a copy of such contract materials if permitted by law. Contractor shall own its working papers and any engagement documentation and any general skills, know-how, expertise, ideas, concepts, methods, techniques, processes, software, materials or other intellectual property or information which may have been discovered, created, received, developed or derived by Contractor either prior to or as a result of providing services under this Agreement ("Contractor IP"). County shall have a non-exclusive, non-transferable license to use Contractor IP for County's own internal use and only for the purposes for which they are delivered to the extent that they form part of the work product. Notwithstanding anything to the contrary in this Agreement, Contractor and its personnel are free to use and employ their general skills, know-how, and expertise, and to use, disclose, and employ any generalized ideas, concepts, know-how, methods, techniques, or skills gained or learned during the course of this Agreement so long as they acquire and apply such information without any unauthorized use or disclosure of confidential or proprietary information of County.

7. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent contractor and not as an employee of County and that neither Contractor nor its employees acquire any of the rights, privileges, powers, or advantages of County employees.

8. Hold Harmless

a. General Hold Harmless

Contractor shall indemnify and save harmless County and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description resulting from this Agreement, the performance of any work or services required of Contractor under this Agreement, or payments made pursuant to this Agreement brought for, or on account of, any of the following:

(A) injuries to or death of any person, including Contractor or its employees/officers/agents;

(B) damage to any real property or tangible personal property of any kind whatsoever and to whomsoever belonging;

(C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply, if applicable, with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

In the event of a claim for which the County may seek indemnification hereunder, the County shall provide Contractor with prompt written notice of such claim and cooperate with Contractor in handling the claim. The Contractor shall be entitled to control the handling of such claim and to defend or settle any such claim, in its sole discretion, with counsel of its own choosing. Without the County's prior written consent, Contractor will not consent to the entry of any judgment or enter into any settlement that (a) would require the County to make any payment, (b) contains any admission of guilt or wrongdoing by the County, (c) would impose any equitable remedy upon the County, (d) purports to release any claims belonging to the County, or (e) does not include an unconditional release of the County from all liability with respect to claims that are the subject matter of such proceeding.

b. Intellectual Property Indemnification

Contractor hereby certifies that it owns, controls, and/or licenses and retains all right, title, and/or interest in and to any intellectual property it uses in relation to this Agreement, including the design, look, feel, features, source code, content, and/or other technology relating to any part of the services it provides under this Agreement and including all related patents, inventions, trademarks, and copyrights, all applications therefor, and all trade names, service marks, know how, and trade secrets (collectively referred to as "IP Rights") except as otherwise noted by this Agreement.

Contractor represents that the services it provides under this Agreement do not infringe, violate, trespass, or constitute the unauthorized use or misappropriation of any IP Rights of any third party. Contractor shall defend, indemnify, and hold harmless County from and against all liabilities, costs, damages, losses, and expenses (including reasonable attorney fees) arising out of or related to any claim by a third party that the services provided under this Agreement infringe or violate any third-party's IP Rights provided any such right is enforceable in the United States. Contractor's duty to defend, indemnify, and hold harmless under this Section applies only provided that: (a) County notifies Contractor promptly in writing

of any notice of any such third-party claim; (b) County cooperates with Contractor, at Contractor's expense, in all reasonable respects in connection with the investigation and defense of any such third-party claim; (c) Contractor retains sole control of the defense of any action on any such claim and all negotiations for its settlement or compromise (provided Contractor shall not have the right to settle any criminal action, suit, or proceeding without County's prior written consent, not to be unreasonably withheld, and provided further that any settlement permitted under this Section shall not impose any financial or other obligation on County, impair any right of County, or contain any stipulation, admission, or acknowledgement of wrongdoing on the part of County without County's prior written consent, not to be unreasonably withheld); and (d) should services under this Agreement become, or in Contractor's opinion be likely to become, the subject of such a claim, or in the event such a third party claim or threatened claim causes County's reasonable use of the services under this Agreement to be seriously endangered or disrupted, Contractor shall, at Contractor's option and expense, either: (i) procure for County the right to continue using the services without infringement or (ii) replace or modify the services so that they become non-infringing but remain functionally equivalent.

Notwithstanding anything in this Section to the contrary, Contractor will have no obligation or liability to County under this Section to the extent any otherwise covered claim is based upon: (a) any aspects of the services under this Agreement which have been modified by or for County (other than modification performed by, or at the direction of, Contractor) in such a way as to cause the alleged infringement at issue; and/or (b) any aspects of the services under this Agreement which have been used by County in a manner prohibited by this Agreement.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

9. Assignability and Subcontracting

Contractor shall not assign this Agreement or any portion of it to a third party or subcontract with a third party to provide services required by Contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without County's prior written consent shall give County the right to automatically and immediately terminate this Agreement without penalty or advance notice.

10. Insurance

a. General Requirements

Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this Section has been obtained and such insurance has been approved by County's Risk Management, and Contractor shall use diligence to obtain such insurance and to obtain such approval. Contractor shall furnish County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. Contractor shall provide thirty (30) days' notice must be given, in writing, to County of any pending decrease in the limits of liability or of any cancellation or modification of the policy.

b. Workers' Compensation and Employer's Liability Insurance

Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of

Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) it will comply with such provisions before commencing the performance of work under this Agreement.

c. Liability Insurance

Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Contractor and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amounts specified below:

(a) Comprehensive General Liability.....	\$1,000,000
(b) Professional Liability.....	\$1,000,000

Except for the Professional Liability policy, County and its officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance (blanket endorsement acceptable), which shall also contain a provision that (a) the insurance afforded thereby to County and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the County or its officers, agents, employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, County, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work and payment pursuant to this Agreement.

11. Compliance With Laws

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, regulations, and executive orders, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Regulations promulgated thereunder, as amended (if applicable), the Business Associate requirements set forth in Attachment H (if attached), the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in programs and activities receiving any Federal or County financial assistance, as well as any required economic or other sanctions imposed by the United States government or under state law in effect during the term of the Agreement. Such services shall also be performed in accordance with all applicable ordinances and regulations, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and any applicable State, Federal, County, or municipal law, regulation, or executive order, the requirements of the applicable law, regulation, or executive order will take precedence over the requirements set forth in this Agreement.

The parties agree that, pursuant to Section 70713 of Title 22 of the California Code of Regulations ("Title 22"), San Mateo Medical Center (SMMC) retains all professional and administrative responsibility for services rendered under this Agreement to the extent that such services are subject to Title 22 and are rendered by a "qualified professional person" as used in Section 70713, and the parties further agree in that instance that this Agreement is otherwise subject to any applicable requirements of Title 22.

Further, Contractor certifies that it and all of its subcontractors will adhere to all applicable provisions of Chapter 4.107 of the San Mateo County Ordinance Code, which regulates the use of disposable food service ware. Accordingly, Contractor shall not use any non-recyclable plastic disposable food service ware when providing prepared food on property owned or leased by the County and instead shall use biodegradable, compostable, reusable, or recyclable plastic food service ware on property owned or leased by the County.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

12. Non-Discrimination and Other Requirements

a. General Non-discrimination

No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.

b. Equal Employment Opportunity

Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County upon request.

c. Section 504 of the Rehabilitation Act of 1973

Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

d. Compliance with County's Equal Benefits Ordinance

Contractor shall comply with all laws relating to the provision of benefits to its employees and their spouses or domestic partners, including, but not limited to, such laws prohibiting discrimination in the provision of such benefits on the basis that the spouse or domestic partner of the Contractor's employee is of the same or opposite sex as the employee.

e. Discrimination Against Individuals with Disabilities

The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and Contractor and any subcontractor shall abide by the requirements of 41 C.F.R. 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

f. History of Discrimination

Contractor certifies that no finding of discrimination has been issued in the past 365 days against Contractor by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other investigative entity. If any finding(s) of discrimination have been issued against Contractor within the past 365 days by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or other investigative entity, Contractor shall provide County with a written explanation of the outcome(s) or remedy for the discrimination prior to execution of this Agreement. Failure to comply with this Section shall constitute a material breach of this Agreement and subjects the Agreement to immediate termination at the sole option of the County.

g. Reporting; Violation of Non-discrimination Provisions

Contractor shall report to the County Executive Officer the filing in any court or with any administrative agency of any complaint or allegation of discrimination on any of the bases prohibited by this Section of the Agreement or the Section titled "Compliance with Laws". Such duty shall include reporting of the filing of any and all charges with the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other entity charged with the investigation or adjudication of allegations covered by this subsection provided that such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include a general description of the circumstances involved and a general description of the kind of discrimination alleged (for example, gender-, sexual orientation-, religion-, or race-based discrimination).

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Executive Officer, including but not limited to the following:

- i. termination of this Agreement;
- ii. disqualification of the Contractor from being considered for or being awarded a County contract for a period of up to 3 years;
- iii. and/or
- iv. imposition of other appropriate contractual remedies, as determined by the County Executive Officer.

To effectuate the provisions of this Section, the County Executive Officer shall have the authority to offset all or any portion of the amount described in this Section against amounts due to Contractor under this Agreement or any other agreement between Contractor and County.

h. Compliance with Living Wage Ordinance

As required by Chapter 2.88 of the San Mateo County Ordinance Code, Contractor certifies all contractor(s) and subcontractor(s) obligated under this contract shall fully comply with the provisions of the County of San Mateo Living Wage Ordinance, including, but not limited to, paying all Covered

Employees the current Living Wage and providing notice to all Covered Employees and Subcontractors as required under the Ordinance.

13. Compliance with County Employee Jury Service Ordinance

Contractor shall comply with Chapter 2.85 of the County's Ordinance Code, which states that Contractor shall have and adhere to a written policy providing that its employees, to the extent they are full-time employees and live in San Mateo County, shall receive from the Contractor, on an annual basis, no fewer than five days of regular pay for jury service in San Mateo County, with jury pay being provided only for each day of actual jury service. The policy may provide that such employees deposit any fees received for such jury service with Contractor or that the Contractor may deduct from an employee's regular pay the fees received for jury service in San Mateo County. By signing this Agreement, Contractor certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if Contractor has no employees in San Mateo County, it is sufficient for Contractor to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Contractor certifies that it has no full-time employees who live in San Mateo County. To the extent that it hires any such employees during the term of its Agreement with San Mateo County, Contractor shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code." The requirements of Chapter 2.85 do not apply unless this Agreement's total value listed in the Section titled "Payments", exceeds two-hundred thousand dollars (\$200,000); Contractor acknowledges that Chapter 2.85's requirements will apply if this Agreement is amended such that its total value exceeds that threshold amount.

14. Access and Retention of Books and Records

Upon written request of the Secretary of Health and Human Services, the Comptroller General, or County, or any of their duly authorized representatives, Contractor shall make available those contracts, books, documents, and records necessary to verify the nature and extent of the costs of providing services under this Agreement. Such inspection shall be available for up to four (4) years after the rendering of such services. If Contractor carries out any of the duties of this Agreement through a subcontract with a value of \$10,000 or more over a twelve (12) month period with a related individual or organization, Contractor agrees to include this requirement in any such subcontract. This section is included pursuant to and is governed by the Social Security Act's requirements pertaining to "reasonable costs" set forth in 42 U.S.C. Section 1395x(v)(1)(I) and related regulations. No attorney-client, accountant-client, or other legal privilege will be deemed to have been waived by County, Contractor, or any Contractor's representative by virtue of this Agreement.

15. Merger Clause; Amendments

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated by reference, constitutes the sole Agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

16. Controlling Law; Venue

The validity of this Agreement and of its terms, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

17. Notices

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of County, to:

Name/Title: San Mateo Medical Center
Attn: Chief Operations Officer
222 W 39th Ave
San Mateo, CA 94403[insert]

In the case of Contractor, to:

Name/Title: Moss Adams LLP
Address: 999 Third Avenue, Suite 2800, Seattle, WA 98104
Email: chris.pritchard@mossadams.com

18. Electronic Signature

Both County and Contractor wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County's Electronic Signature Administrative Memo. Any party to this Agreement may revoke such agreement to permit electronic signatures at any time in relation to all future documents by providing notice pursuant to this Agreement.

19. Payment of Permits/Licenses

Contractor bears responsibility to obtain any license, permit, or approval required from any agency for work/services to be performed under this Agreement at Contractor's own expense prior to commencement of said work/services. Failure to do so will result in forfeit of any right to compensation under this Agreement.

20. Disentanglement

Contractor shall cooperate with County and County's other contractors to ensure a smooth transition at the time of termination of this Agreement, regardless of the nature or timing of the termination. Contractor shall cooperate with County's efforts to effectuate such transition with the goal of minimizing or eliminating any interruption of work required under the Agreement and any adverse impact on the

provision of services or the County's activities; provided, however, that County shall pay Contractor on a time and materials basis, at the then-applicable rates, for all additional services performed in connection with such cooperation. Contractor shall deliver to County or its designee, at County's request, all documentation and data (excluding Contractor's working papers) related to County, including, but not limited to, patient files, held by Contractor, and after return of same, Contractor shall destroy all copies thereof still in Contractor's possession, at no charge to County. Such data delivery shall be in an electronic format to facilitate archiving or loading into a replacement application. County and Contractor shall mutually agree to the specific electronic format. Notwithstanding the foregoing, or anything to the contrary in this Agreement, Contractor shall be permitted to retain copies of County documentation and data to the extent incorporated into its working papers supporting its services.

Upon any termination of the Agreement, regardless of the nature or timing of the termination, County shall have the right, for up to twelve (12) months (the "Transition Period"), at County's option and request, to continue to receive from Contractor all maintenance and support services, at the then-applicable rates provided, however, that the annual support and maintenance fee shall be prorated and paid in advance on a monthly basis during such time, and the amount of such support and maintenance fee shall remain subject to the limitations set forth in the Agreement regarding any increase in such fee.

21. Disaster and Emergency Response Plan

Contractor will maintain a disaster recovery plan intended to prevent an unreasonable delay of services in the event of a national, state or local disaster or emergency. Upon written request, Contractor will provide information regarding the plan to SMMC.

22. Hospital and Clinics Credentialing Program

Contractor and Contractor representatives visiting or entering the San Mateo Medical Center (SMMC) main campus or any of its satellite clinics are required to register with SMMC's Vendor Credentialing Program prior to conducting business onsite. It is important that each Contractor representative registers individually in order to maintain the confidentiality of their personal credentials and to ensure ongoing access to our facilities. More information regarding SMMC's updated credentialing and on-site visit requirements can be found on SMMC's profile page through <https://login.ghx.com>

23. No Third Party Beneficiaries

All services shall be solely for County's informational purposes and internal use, and this Agreement creates no privity between Contractor and any person or party other than County ("third party"). None of Contractor's services are intended for the express or implied benefit of any third party, and no third party is entitled to rely on Contractor's services, including without limitation, any advice, opinions, or reports.

Notwithstanding County's provision of Contractor's report to regulatory or governmental bodies, in the event County desires to provide Contractor's report to a third party, County shall obtain Contractor's prior written approval and Contractor shall require that any such third party execute an access letter as prepared by Contractor.

24. Limitation

Each party's total liability to the other party for any and all damages whatsoever arising out of or in any way related to this Agreement from any cause, including but not limited to contract liability, negligence, errors, omissions, strict liability, breach of contract or breach of warranty shall not, in the aggregate,

exceed (A) for claims against Contractor, the amount of one million dollars (\$1,000,000); and (B) for claims against County, the amount of five hundred thousand dollars (\$500,000). In no event will either party be liable to the other for any special, indirect, incidental, exemplary, punitive or consequential damages in connection with or otherwise arising out of this Agreement even if advised of the possibility of such damages.

* * *

In witness of and in agreement with this Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures:

For Contractor: Moss Adams LLP



Contractor Signature

December 14, 2023

Date

Chris Pritchard

Contractor Name (please print)

COUNTY OF SAN MATEO

By:

President, Board of Supervisors, San Mateo County

Date:

ATTEST:

By:

Clerk of Said Board

Exhibit A

In consideration of the payments set forth in Exhibit B, Contractor shall provide the following services upon request by SMMC:

I. Financial Related Services – Financial Strategy

- Contractor will conduct process evaluation, design and implementation, and review performance metrics development by reviewing existing SMMC Finance documentation, interviewing SMMC Finance personnel, and performing walkthroughs of processes where necessary.
- Contractor will support technology tools implementation by providing project management support with regards to implementation and will review processes to determine any impacts that should be taken into consideration. Contractor will provide suggestions with regards to tools that may be useful to current processes as a result of Contractor's walkthroughs mentioned above.
- Contractor will support staff augmentation as needed and as available.
- Contractor will provide suggestions for best practices related to SMMC's Finance department. Contractor will also benchmark SMMC's Finance Business Operating Systems and service delivery by reviewing internal deadlines for month-end and other key reporting that comes out of the department compared to other organizations of a similar size.

II. Reimbursement Services

- Annual AB915 Cost Filing – In advance (approximately one month prior) of the AB915 filing, Contractor will expect to review SMMC's draft AB915 report and offer a list of recommendations setting forth any review concerns. Contractor will review the AB915 report a second time immediately prior to its filing to verify implementation of recommended improvements. Contractor will confirm the initial filing of the AB915 is compliant with Department of Health Care Services (DHCS) regulations.
- DSH Eligibility Filing (Medicare) Support – Due to the State of CA final Medi-Cal eligibility restrictions, not earlier than 13 months following the end of the cost reporting period, Contractor will review the DSH Medicaid eligibility list(s) prepared by SMMC to confirm it is accurately stated and compliant with Medicare regulations. If contractor identifies any inaccuracies, errors, or issues, Contractor will bring them to SMMC's attention and communicate Contractor's recommendation for a solution. If Contractor finds improvements can be made, Contractor will communicate these to SMMC. Contractor will also assist SMMC by reviewing proposed audit adjustments to prior-year DSH eligible day lists, communicating any disagreements to the auditors and providing general audit support, as needed.
- FQHC Annual PPS Payment Reconciliation – In advance (approximately one month prior) of the annual FQHC payment reconciliation form filings, Contractor will expect to review SMMC's draft FQHC reconciliation reports and supporting documentation. Contractor will offer a list of recommendations as a result of Contractor's review. Contractor will review the FQHC reconciliation reports a second time immediately prior to their filing to verify

implementation of recommended improvements. Contractor will confirm the initial filing of the FQHC payment reconciliation reports are compliant with DHCS regulations.

- P-14 Workbook and Audit Support – Contractor will work closely with SMMC staff to confirm the current year P-14 workbook is prepared in an accurate, robust, and compliant manner. Contractor will also work with SMMC staff and the P-14 auditors to establish a communication protocol that is intended to resolve any P-14 audit issues on the front end of the audit. Contractor will be engaged in preparation for the audit, review of the filed P-14 workpaper support, facilitating the transmission of audit support, following up on any audit discrepancies that may be discovered, summarizing issues, and recommending correction plans, if necessary.
- To the extent an appeal of the P-14 report is deemed necessary, Contractor will assist in filing the P-14 and handling the appeal process through the hearing process, if requested by SMMC. Contractor expect SMMC will be an active participant in any appeal activity and will have an adequate opportunity to provide input and review all appeal documents before they are furnished to the opposing party(ies).
- Global Payment Pool (GPP) – In advance (approximately one month prior) of the GPP filing, Contractor will expect to review SMMC's draft GPP data and offer a list of recommendations setting forth any review concerns. Contractor will review the GPP information a second time immediately prior to its filing to verify implementation of recommended improvements. Contractor will confirm the initial filing of the GPP is compliant with DHCS regulations.
- Enhanced Payment Program (EPP) – Contractor will expect to review SMMC's draft EPP information and offer a list of recommendations setting forth any review concerns. Contractor will review this information a second time immediately prior to its filing to verify implementation of recommended improvements. Contractor will confirm the initial filing of the EPP information is compliant with DHCS regulations.
- Quality Incentive Program (QIP) – Contractor will work with SMMC's staff to confirm QIP measures are being reported accurately and in compliance with DHCS requirements.
- AB85 Realignment – Contractor will review in a timely manner AB85 realignment reports furnished by SMMC staff and conduct a peer review to verify they're accurate, complete, and compliant with all DHCS regulations. Contractor will offer a list of recommendations setting forth any review concerns and will review this information a second time immediately prior to its filing and/or amendment to verify implementation of recommended improvements.
- OSHPD Filing – In advance (approximately one month prior) of the OSHPD annual report filing deadline, Contractor will expect to review SMMC's draft OSHPD report and offer a list of recommendations setting forth any review concerns. Contractor will review this report a second time immediately prior to its filing to verify implementation of recommended improvements. Contractor will confirm the initial filing of the cost reports is compliant with OSHPD annual report filing instructions. If Contractor find internal improvements can be made to the information used to prepare the OSHPD annual report, Contractor will communicate Contractor's recommendation to SMMC. Contractor will also review prior period OSHPD reports to assess whether any errors exist. To the extent Contractor identifies errors

and SMMC concurs with the findings, Contractor will seek to amend the OSHPD report(s) if requested by SMMC.

- Medicare Cost Report Preparation and Review – During the preparation phase, Contractor will work with SMMC staff to prepare sections of the Medicare cost report as mutually agreed. These sections may include IRIS, IME/GME, Bad Debt, DSH, Worksheet S-10, and Wage Index. Contractor's work will be available for SMMC staff to review and will also be subjected to Contractor's internal peer review process.
- In advance (approximately one month prior) of the Medicare cost report filing, Contractor will expect to review SMMC's draft Medicare cost report in its entirety and offer a list of recommendations setting forth any review concerns. Contractor will review the draft Medicare cost report a second time immediately prior to its filing to verify implementation of recommended improvements. Contractor will confirm the initial filing of the Medicare cost report is compliant with CMS regulations.
- Medi-Cal Cost Report Preparation and Review – In conjunction with the Medicare cost report preparation and review above, Contractor will apply the same preparation and review standards and timeline to the Medi-Cal cost report filing. To the extent there are differences between the Medicare and Medi-Cal cost report filings, Contractor will confirm these differences are reported accurately in the Medi-Cal cost report and in compliance with DHCS requirements.

III. Disbursement & Accounting Services

Moss Adams will provide the following service in support of SMMC's desired disbursement and accounting services outcomes:

- Project management of key process improvement initiatives, to include reviewing, evaluating, and developing recommendations for processes in their current state. Contractor will coordinate with management on its disbursement and accounting improvement initiatives to understand the objectives and goals of the initiatives. Contractor will evaluate the initiatives and develop recommendations to enhance the procure-to-pay process.
- Project management of implementation of future state processes. Contractor will assist management to develop policies and procedures for future state processes. This will involve analyzing the future state processes in regard to people, processes, and technology in order to execute industry best practices.
- Development and implementation of automated tools to support future state processes. Contractor will evaluate accounting- and finance-related manual procedures to determine the ability and improvements to gain efficiency by automating. Contractor will assist management in identifying opportunities to leverage automation and in developing the tools and training necessary to automate the processes. Contractor will assist management in testing the automation tools to confirm accuracy and completeness of the end results.
- Provide staff augmentation and support services. Contractor will coordinate with management to evaluate the responsibilities and workload for each position in the accounting department. Contractor will also assist management prepare for the annual audit by providing

additional support in the accounting department to assist in the completion of reconciliations, data entry, and account analysis under the supervision of management.

IV. Other Reimbursement Filings

To the extent SMMC requires assistance with additional reimbursement tasks not listed above, Contractor will furnish these services to SMMC upon request. Additional services may include, but are not limited to the following:

- Annual PIP Payment Survey Review
- Bi-Annual CRRP Cost Filing
- Ongoing CMS and DHCS Time Study Questions
- Quarterly LT Supplemental Claims
- Annual MUR and LIUR DSH Eligibility Filing
- OBRA Limit, CAP Day and Managed Care Day Filing
- Occupational Mix
- SB1115 Waiver Requests
- Wage Index
- Prime
- IME/GME
- EPP/GPP/QIP

V. Other Management Services

Contractor will assess the accounting processes and patient financial systems related to revenue to determine accuracy and effectiveness and make any recommendations. Contractor will assist management to develop or otherwise enhance monitoring processes to improve oversight of revenue and related reporting. Contractor will also review any existing reporting mechanism to determine accuracy and effectiveness and assist you in enhancing existing reporting mechanisms and/or creating new reporting mechanisms. Should SMMC elect to change its systems such as patient management or electronic health record systems, it may require more extensive assistance than is currently considered in this scope. Contractor will work with Management to address an appropriate modification/change order if additional services are requested.

VI. Pro Forma Analysis

Contractor will work with you as needed to develop appropriate internal-use pro forma analysis and related scope(s) of work depending on needs that arise and related circumstances. Contractor will provide guidance and/or assist with development of the analyses including hypothetical assumptions and scenarios for management decision-making purposes.

VII. COVID-19 Pandemic Related Assistance

Federal Funding (COVID Funding Consulting and FEMA Applications)

Contractor will continue to support SMMC compliance with HRSA Provider Relief Fund payments. This may include controls related to funding, and a review of cost management based

on terms and conditions. Additionally, Contractor will support SMMC with timely and accurate response if selected for review by government agencies.

Contractor will provide FEMA application oversight, including identifying eligible expenses, gathering documentation, conducting analyses (as needed), drafting application narratives, and liaising with FEMA and California Office of Emergency Services (CalOES) representatives.

Other COVID-19 Pandemic-Related Services

Contractor may also provide the following, as requested by SMMC:

- Philanthropic and grant funding – identification of funding opportunities, oversight of applications, accounting process improvement. In addition, Contractor can assist with review of internal controls related to grants and philanthropic fundraising.
- Efficiency and operational improvement – focus on labor optimization and ability to flex staff up or down in response to surge.
- Operational strategy – planning to capitalize on legal waivers, telehealth billing opportunity.
- Reopening strategy – planning & prioritization of service line reopening, community relations.
- Quality reporting and performance improvement – increasing Medicare Merit-Based Incentive Payment System score performance by evaluating historical performance, performing opportunity analysis, measure selection support, and providing guidance on best practices and clinical/administrative workflows to optimize scores.
- Alternative Payment Model expertise – including the Medicare Shared Savings Program, Accountable Care Organization Realizing Equity, Access, and Community Health (ACO REACH), and other value-based or pay-for-performance contracts with governmental and commercial payors.

Revenue Cycle Optimization

As needed by SMMC, Contractor will work with you to identify revenue cycle impacts of the PHE wind down and coordinate the related operational changes. These may include areas such as virtual supervision, telehealth, and remote patient monitoring. Contractor can also help you to navigate the patient coverage changes driven by the Medicaid redetermination process and changes in patient cost sharing.

Additionally, Contractor will work with SMMC's revenue cycle team on holistic opportunities, such as the following on request:

- Labor cost: evaluate vendor strategy; develop strategy to prioritize highest value work; identify technology / outsource options
- Technology: Identify business processes that can benefit from increased automation, AI, expected reimbursement

- No Surprises Act / Price Transparency: Evaluate technology and integration with core processes; design & implement systems and processes; use data to improve CDM and payer contracting strategy
- Self-Pay: Improve revenue cycle process to document Uncompensated Care and Medicare Bad Debt; streamline self-pay collection process to improve yield; transform to be patient centric
- Improve yield: Assist in understanding root causes; identify and implement process and technology to improve yield across all financial classes

VIII. Compliance Related Services

Moss Adams will complete an assessment of SMMC's compliance program. Contractor's assessment will include a review of the seven elements of an effective compliance program, identification of tools or innovation to streamline current tasks and staffing.

In addition to assessing SMMC's compliance program against the OIG and DOJ, Contractor will:

- Assess the culture of the compliance program and how the CCO has been integrated into strategic decisions, implementation or termination of new services, due diligence and revenue cycle or revenue integrity department work plans. In addition, Contractor will assess the reporting structure of the CCO with management and committees (board and operating).
- Review the Compliance Department structure and program to determine the current state, scope, structure, and independence of the oversight function. Contractor will interview each Compliance Department team member to walk through responsibilities and to complete an assessment of knowledge, skill set, and approach to the core elements of a compliance program.
- Identify and assess the collaboration between Corporate Compliance and Audit Services including sharing of information, utilization of team members for cross scoped audits, and regular update and management of annual work plans.
- Assess the interaction between Corporate Compliance and the OGC to determine how matters are reviewed, assessed for risks to organization, privileging of audits, legal guidance or advice and responses to government agencies are co-managed.
- Complete a detail review of Code of Conduct and Compliance policies, procedures and protocols against industry and regulatory guidance. Contractor will assess quality and the content of the documents. In addition, request and review expected or linked policies not owned by compliance to ascertain if conflict or communication is consistent and understandable.
- Assess current tools and methods for management of the compliance program including software, manual procedures, and use of organizational tools. Contractor's team will assess how the compliance team utilizes compliance owned tools as well as discuss how the tools allow for management team members to easily access status of items such as corrective action plans or due dates.

- Complete a detail review of training material related to compliance including materials presented related to key policies, procedures, and Code of Conduct. In addition, Contractor will assess training related to follow up or corrective action plans as required from audits internally and externally. Contractor will test a sample of the workforce for completion of required training.
- Test and validate the communication program by validating the effectiveness of published and non-published methods for communication of concerns, tracking of reported instances, case management, corrective action plans and the steps for closure.
- Complete a review of all internal audits and monitoring programs within the organization in order to determine what is in place related to accountability, corrective action plan monitoring and audit techniques. Contractor will also review the approach to the annual risk assessment by assessing the steps to complete, process for prioritizing and the documentation of the mitigation of risks.
- Review the approach to assessing, mitigating, and correcting detected or reported offenses including the process for identifying corrective action plans with management or disciplinary actions. Contractor will trace a sample of corrective action plans from initiation to closure.
- This type of assessment is designed to verify program development but also to evaluate how effectively the program is operating throughout the organization. It is designed to measure outcome rather than output. It does not focus solely on what documents, systems and processes support the program, but how well they achieve the desired goals and demonstrate effectiveness.

Compliance Program Gap Assessment Project Steps

Contractor will:

- Assess Compliance Program Materials. Review current policies and procedures, the compliance plan, investigation protocols, workflows related to incidents, corrective action plans, operational policies and procedures, general and specific education, auditing and monitoring, and other documents.
- Interview SMMC's Team. Interview key individuals in the organization to assess compliance effectiveness and gaps.

- **Verify Compliance Program Elements.** Contractor will conduct controls testing, including a review of issue tracking and resolution, including status, completion date and verification of actions taken, audit work papers, hotline logs, reports and monitoring.
- **Assess Structure and Effectiveness.** Once data gathering activities have been completed, the Moss Adams team will identify and determine gaps in how SMMC approaches compliance in its policies and procedures as well as business practices and implementation of safeguards. Contractor will compare the current organizational structure to best practice and assess resources committed to compliance for SMMC, including compliance staffing, committee structure and reporting relationship.
- **Project Wrap Meeting.** Contractor will hold a project wrap meeting with management at the end of fieldwork to discuss any findings, open items, or other issues.
- **Present Draft Deliverable for Review.** A meeting will be scheduled to present the results of the report. Prior to meeting, Contractor will distribute the draft report to SMMC's project team for review and vetting of the findings to correct any inaccuracies or provide additional information that will further clarify the report.
- **Incorporate Client Feedback and Finalize.** Comments and modifications received from SMMC stakeholders will be considered and incorporated into the final report deliverable. Corrections to factual accuracy will be made within the document to confirm accuracy before its final form. Once additions and changes have been made, the final version of the report will be developed and sent to SMMC's stakeholder team.
- **Present Deliverable Executive Summary to Management.** Moss Adams will present an executive-level summary of Contractor's findings and recommendations to SMMC's management team. The presentation will be tailored to the audience and communicated at a high level. Focus may be on the high-risk areas and the corresponding recommended remediation steps. Final format and means of delivery are subject to discussions between SMMC and the Moss Adams project team.

Deliverable – Compliance Program Gap Assessment

The report will focus on crucial requirements that need to be added or strengthened in compliance program plans, activities, or policies and procedures. Contractor's findings and recommendations will be documented in a customized report with observations and recommendations including the following:

- Current compliance program strengths.
- Maturity scale result for each of the Seven Essential Elements of an effective compliance program recommended by the Office of Inspector General (OIG).
- Summary of opportunities for compliance program improvement in accordance with the Seven Essential Elements. Contractor will include the proposed eighth and ninth elements related to risk assessment and data mining.

- Detailed Compliance State, Gaps and Recommendations with regulatory guidelines, gap, risk rating and rationale for recommendation.

Revenue Integrity Gap Assessment Contractor will complete an assessment of the current revenue integrity program to determine the gaps in the program such as how RI manages the work related to process efficiency and effectiveness, training and monitoring of workflow redesigns or new processes.

Ad-hoc Compliance and Internal Audits

Moss Adams will assist the SMMC Compliance Department with ad-hoc compliance and internal audits, as may be requested. For each request, Contractor will prepare a proposed work plan based on the understanding of assistance desired, develop a budget, and present the work plan and pricing for review and approval.

Policy and Procedure Development Assistance

Contractor will assist in reviewing and / or developing policies and procedures surrounding regulatory compliance topics, as may be requested. Contractor may review existing policies and procedures to provide feedback and suggested updates or modifications or develop proposed policies and procedures. Upon request, Contractor's team will determine the work plan necessary to complete the work, develop a budget, and present the work plan and pricing for review and approval.

Regulatory Interpretation and Implementation Assistance

Contractor's team will assist SMMC Compliance Department with regulatory interpretation and regulatory compliance implementation assistance, as may be requested. Depending on the request, Contractor may issue a memorandum, verbal discussion, or report. Upon request, Contractor's team will determine the work plan necessary to complete the work, develop a budget, and present the work plan and pricing for review and approval.

Ad-hoc Compliance Consultation

Contractor's team will assist SMMC Compliance Department on compliance projects, research, and questions, as requested. Depending on the request, Contractor may issue a memorandum, verbal discussion or report. Upon request, Contractor's team will determine the work plan necessary to complete the work, develop a budget, and present the work plan and pricing for review and approval.

Exhibit B

In consideration of the services provided by Contractor described in Exhibit A and subject to the terms of the Agreement, County shall pay Contractor based on the following fee schedule and terms:

The fee schedules below are based on an estimated annual cost.

Reimbursement Services Description	
Management and Other Reimbursement Services - \$150,000 Annual Estimate	
Review Annual AB915 Report Prepared by SMMC	\$4,000
Review Medicare DSH Eligible Days Listing Prepared by SMMC	\$8,000
Review FQHC Annual PPS Payment Reconciliations Prepared by SMMC	\$9,000
Review P-14 Workbook Prepared by SMMC	\$15,000
Review of Global Payment Pool Prepared by SMMC	\$3,000
Review of Enhanced Payment Program Prepared by SMMC	\$3,000
Review of Quality Incentive Program Measures Prepared by SMMC	\$3,000
Review AB85 Realignment Report Prepared by SMMC	\$5,000
Review Annual OSHPD Report Prepared by SMMC	\$8,000
Medicare Cost Report Preparation Support and Review	\$20,000
Medi-Cal Cost Report Preparation Support and Review	\$5,000
Annual PIP payment survey	\$2,500
Bi-annual CRRP cost filing	\$2,500
CMS and DHCS time study support	\$4,000
Quarterly LTC supplemental claims	\$2,000
Annual MUR and LIUR DSH eligibility filing	\$3,000
OBRA Limit, CAP Day, and Managed Care Day Filing	\$2,000
Occupational mix review	\$6,000
SB1115 Waiver requests	\$5,000
Wage index review and improvements	\$15,000
Other Reimbursement Filings Not Listed Above (including IME / GME / EPP/ GPP / QIP)	\$25,000
Preparation and Presentation of Reviews to Administration	Included

Finance Services Description	
Operational Improvement, Strategic and Other Services - \$750,000 Annual Estimate	
Assessment of Finance Operational Areas and Implementation Support	\$224,000
Staff Augmentation	\$165,000
Financial Statement Improvement and Analysis Support	\$26,000
Strategy Support Including No Surprises Act and Other Requirements	\$92,000
Revenue Cycle Operational Assessments, Improvement Support and EMR Planning Support	\$121,000
Health Plan Strategy, Capitation, ACO and Risk Operational Readiness	\$40,000
Project Feasibility, Market and Pro Forma Analysis	\$62,000
Physician Strategy and Related Analyses	\$20,000

Compliance Services Description	
Regulatory Compliance and Related Services - \$100,000 Annual Estimate	
Ad-hoc compliance audits	\$15,000
Policy and procedure development assistance	\$5,000
Regulatory interpretation and implementation assistance (e.g., price transparency, good faith estimate and other No Surprises Act regulatory compliance, telehealth, and other emerging regulations)	\$10,000
Ad-hoc compliance consultation	\$10,000
Physician agreement adherence	\$20,000
Compliance program assessment	\$15,000
Revenue integrity program assessment	\$15,000
Philanthropic and grant funding compliance assistance	\$ 10,000

	Standard	Standard	Standard	Standard	Standard	Standard
Staff Level	Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate
	1/1/2024 - 6/30/2024	7/1/2024 - 6/30/2025	7/1/2025- 6/30/2026	7/1/2026- 6/30/2027	7/1/2027- 6/30/2028	7/1/2028- 12/31/2028

Partner/Managing Director	\$760 to \$885	\$780 - \$905	\$800 - \$925	\$820 - \$945	\$840 - \$965	\$860 - \$985
Director/Senior Manager	\$605 to \$760	\$625 - \$780	\$645 - \$800	\$665 - \$820	\$685 - \$840	\$705 - \$860
Manager	\$340 to \$580	\$360 - \$600	\$380 - \$620	\$400 - \$640	\$420 - \$660	\$440 - \$680
Senior	\$280 to \$380	\$300 - \$400	\$320 - \$420	\$340 - \$440	\$360 - \$460	\$380 - \$480
Staff	\$225 to \$275	\$245 - \$295	\$265 - \$315	\$285 - \$335	\$305 - \$355	\$325 - \$375

In addition to fees, Contractor will charge for expenses. Contractor invoices include a flat expense charge, calculated as five percent (5%) of fees, to cover expenses such as copying costs, postage, administrative billable time, report processing fees, filing fees, and technology expenses. Out of pocket travel expenses, if any, will be billed separately and are not included in the 5% charge.

Exhibit C
Performance Metrics

County will measure Contractor performance of the services in accordance with the procedures set forth by the performance indicators below. Contractor acknowledges that the performance indicators are a reasonable minimum standard by which to measure Contractor performance of the services.

Performance will be measured by delivering documents according to pre-determined timelines. These timelines will be determined during meets with the appropriate individuals and adjusted as needed based on the availability of information.

EXHIBIT E

CORPORATE COMPLIANCE SMMC CODE OF CONDUCT (THIRD PARTIES)

Contractor recognizes and is fully dedicated to advancing San Mateo Medical Center's (SMMC) commitment to full compliance with all Federal, State, and other governmental health care program requirements, including its commitment to prepare and submit accurate claims consistent with such requirements.

Contractor will comply with all applicable Federal, State or other governmental health care program requirements.

Contractor, to the extent its contractual duties require it to submit the reports covered in this paragraph, will promptly submit accurate information for Federal health care cost reports including, but not limited to, the requirement to submit accurate information regarding acute available bed count for Disproportionate Share Hospital (DSH) payment.

Contractor will report to the SMMC Compliance Officer any suspected violation of any applicable Federal health care program requirements within fifteen (15) days of discovery of the violation.

Contractor has the right to use the SMMC Disclosure Program by calling the Compliance Hotline at (800) 965-9775 or reporting incidents directly to the Compliance Officer. SMMC is committed to non-retaliation and will maintain, as appropriate, confidentiality and anonymity with respect to such disclosures.

Contractor understands that non-compliance with applicable Federal and State health care program requirements, and failing to report any such violations, could result in termination of the Agreement and/or any other penalties as permitted by law.

Contractor is responsible for acquiring sufficient knowledge to recognize potential compliance issues applicable to the duties outlined in the Agreement and for appropriately seeking advice regarding such issues.

Contractor will not offer, give, or accept any "kickback," bribe, payment, gift, or thing of value to any person or entity with whom SMMC has or is seeking any business or regulatory relationship in relation to said business or regulatory relationship (other than payments authorized by law under such relationships). Contractor will promptly report the offering or receipt of such gifts to the SMMC Compliance Officer.

Contractor will not engage in any financial, business, or other activity which may interfere or appear to interfere with the performance of the duties under the Agreement or that involve the use of SMMC/County property, facilities, or resources.

Contractor will cooperate fully and honestly in the event that SMMC and/or County is audited by an outside agency including, but not limited to, compliance audits regarding enforcement of Federal and State regulations, any applicable accreditation standards, and/or SMMC system-wide policies.

***TO REPORT VIOLATIONS,
CALL THE COMPLIANCE HOT LINE: (800) 965-9775***

Contractor, in executing this Agreement, certifies that an authorized representative has received this Code of Conduct, understands it, has authority to commit Contractor to this Code of Conduct, and has committed Contractor to comply with this Code of Conduct.

Attachment H

Health Insurance Portability and Accountability Act (HIPAA) Business Associate Requirements

DEFINITIONS

Terms used, but not otherwise defined, in this Schedule shall have the same meaning as those terms are defined in 45 Code of Federal Regulations (CFR) sections 160.103, 164.304, and 164.501. All regulatory references in this Schedule are to Title 45 of the Code of Federal Regulations unless otherwise specified.

- a. **Business Associate.** "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the parties to this agreement shall mean Contractor.
- b. **Covered Entity.** "Covered entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this agreement shall mean County.
- c. **HIPAA Rules.** "HIPAA rules" shall mean the Privacy, Security, Breach Notification and Enforcement Rules at 45 CFR part 160 and part 164, as amended and supplemented by Subtitle D of the Health Information Technology for Economic and Clinical Health Act provisions of the American Recovery and Reinvestment Act of 2009.
- d. **Designated Record Set.** "Designated Record Set" shall have the same meaning as the term "designated record set" in Section 164.501.
- e. **Electronic Protected Health Information.** "Electronic Protected Health Information" (EPHI) means individually identifiable health information that is transmitted or maintained in electronic media; it is limited to the information created, received, maintained or transmitted by Business Associate from or on behalf of Covered Entity.
- f. **Individual.** "Individual" shall have the same meaning as the term "individual" in Section 164.501 and shall include a person who qualifies as a personal representative in accordance with Section 164.502(g).
- g. **Privacy Rule.** "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
- h. **Protected Health Information.** "Protected Health Information" (PHI) shall have the same meaning as the term "protected health information" in Section 160.103 and is limited to the information created or received by Business Associate from or on behalf of County.
- i. **Required By Law.** "Required by law" shall have the same meaning as the term "required by law" in Section 164.103.
- j. **Secretary.** "Secretary" shall mean the Secretary of the United States Department of Health and Human Services or his or her designee.
- k. **Breach.** The acquisition, access, use, or disclosure of PHI in violation of the Privacy Rule that compromises the security or privacy of the PHI and subject to the exclusions set

forth in Section 164.402. Unless an exception applies, an impermissible use or disclosure of PHI *is presumed* to be a breach, unless it can be demonstrated there is a low probability that the PHI has been compromised based upon, at minimum, a four-part risk assessment:

1. Nature and extent of PHI included, identifiers and likelihood of re-identification;
 2. Identity of the unauthorized person or to whom impermissible disclosure was made;
 3. Whether PHI was actually viewed or only the opportunity to do so existed;
 4. The extent to which the risk has been mitigated.
- l. **Security Rule.** "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 160 and Part 164, Subparts A and C.
- m. **Unsecured PHI.** "Unsecured PHI" is protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in relevant HHS guidance.
- n. **Security Incident.** "Security Incident" shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system. "Security Incident" includes all incidents that constitute breaches of unsecured protected health information.

OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE

- a. Business Associate agrees to not use or further disclose Protected Health Information other than as permitted or required by the Agreement or as permitted or required by law.
- b. Business Associate agrees to use appropriate safeguards to comply with Subpart C of 45 CFR part 164 with respect to EPHI and PHI, and to prevent the use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- c. Business Associate agrees to make uses and disclosures requests for Protected Health Information consistent with minimum necessary policy and procedures.
- d. Business Associate may not use or disclose protected health information in a manner that would violate subpart E of 45 CFR part 164.504 if used or disclosed by Covered Entity.
- e. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- f. Business Associate agrees to report to County any use or disclosure of Protected Health Information not authorized by this Agreement.
- g. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of County, agrees to adhere to substantially the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.

- h. If Business Associate has Protected Health Information in a Designated Record Set, Business Associate agrees to provide access, at the request of County, and within 30 days of such request by County, to Protected Health Information in a Designated Record Set, to County or, as directed by County, to an Individual in order to meet the requirements under Section 164.524.
- i. If Business Associate has Protected Health Information in a Designated Record Set, Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the County directs or agrees to make pursuant to Section 164.526 at the request of County or an Individual, within 30 days of such request by County.
- j. Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of County, available to the Secretary, within 30 days of a request by the Secretary, for purposes of the Secretary determining County's compliance with the Privacy Rule.
- k. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.
- l. Business Associate agrees to provide to County or an Individual within 30 days of a request by County, information collected in accordance with Section (k) of this Schedule, in order to permit County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.
- m. Business Associate shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that Business Associate creates, receives, maintains, or transmits on behalf of County.
- n. Business Associate shall conform to generally accepted system security principles and the requirements of the final HIPAA rule pertaining to the security of health information.
- o. Business Associate shall ensure that any agent to whom it provides EPHI, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect such EPHI.

Business Associate shall report to County any Security Incident within three (3) business days of becoming aware of such incident. Business Associate shall also facilitate breach notification(s) to the appropriate governing body (i.e. HHS, OCR, etc.) as required by law. As appropriate and after consulting with County, Business Associate shall also notify affected individuals and the media of a qualifying breach. Notwithstanding the foregoing, the parties acknowledge that probes and

reconnaissance scans are commonplace in the industry and, as such, the parties

- p. acknowledge and agree that, to the extent such probes and reconnaissance scans constitute Security Incidents, this section constitutes notice by Business Associate to County of the ongoing existence and occurrence of such Security Incidents for which no additional notice shall be required. Probes and reconnaissance scans include, without limitation, pings and other broadcast attacks on firewalls, port scans, and unsuccessful log-on attempts, as long as such probes and reconnaissance scans do not result in unauthorized use or disclosure of PHI, or otherwise violate HIPAA or other legal requirements for patient confidentiality.
- q. Business Associate understands that it is directly liable under the HIPAA rules and subject to civil and, in some cases, criminal penalties for making uses and disclosures of Protected Health Information that are not authorized by this Attachment, the underlying contract as or required by law.

PERMITTED USES AND DISCLOSURES BY CONTRACTOR AS BUSINESS ASSOCIATE

Except as otherwise limited in this Schedule, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, County as specified in the Agreement; provided that such use or disclosure would not violate the Privacy Rule if done by County.

OBLIGATIONS OF COUNTY

- a. County shall provide Business Associate with the notice of privacy practices that County produces in accordance with Section 164.520, as well as any changes to such notice.
- b. County shall provide Business Associate with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses and disclosures.
- c. County shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that County has agreed to in accordance with Section 164.522.

PERMISSIBLE REQUESTS BY COUNTY

County shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if so requested by County, unless the Business Associate will use or disclose Protected Health Information for, and if the Agreement provides for, data aggregation or management and administrative activities of Business Associate.

DUTIES UPON TERMINATION OF AGREEMENT

- a. Upon termination of the Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from County, or created, maintained, or received by Business Associate on behalf of County, that Business Associate still

maintains in any form. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

- b. In the event that Business Associate determines that returning or destroying Protected Health Information is infeasible, Business Associate shall provide to County notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of the Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information. Notwithstanding the foregoing, the parties agree that it is infeasible for Business Associate to return or destroy Protected Health Information to the extent incorporated into its working papers supporting its professional services for Covered Entity, and no further notice shall be required as to such working papers.

MISCELLANEOUS

- a. **Regulatory References.** A reference in this Schedule to a section in the HIPAA Privacy Rule means the section as in effect or as amended, and for which compliance is required.
- b. **Amendment.** The Parties agree to take such action as is necessary to amend this Schedule from time to time as is necessary for County to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191. Amendments must be in writing and be signed by both parties.
- c. **Survival.** The respective rights and obligations of Business Associate under this Schedule shall survive the termination of the Agreement.
- d. **Interpretation.** Any ambiguity in this Schedule shall be resolved in favor of a meaning that permits County to comply with the Privacy Rule.
- e. **Reservation of Right to Monitor Activities.** County reserves the right to request and receive from Business Associate, within a reasonable time of such request, information regarding the security policies and procedures of Business Associate.