

**Professional Services Agreement  
Between the County of San Mateo and  
Galen Inpatient Physicians, Inc.  
For Hospitalist Services**

**THIS PROFESSIONAL SERVICES AGREEMENT** is entered into by and between the County of San Mateo, San Mateo Health System (“County”) and Galen Inpatient Physicians, Inc. (“Contractor”).

W I T N E S S E T H:

WHEREAS, County operates health care facilities collectively known as “San Mateo Medical Center” (SMMC); and

WHEREAS, it is necessary and desirable that Contractor be retained for the purpose of performing professional services described in this Agreement for SMMC; and

WHEREAS, pursuant to Government Code Section 31000, County may contract with independent contractors for the furnishing of such services to or for the County; and

WHEREAS, Contractor desires to provide such services all upon the terms and conditions stated below, and this Agreement is entered into for the purpose of defining the parties’ respective rights and responsibilities.

**NOW, THEREFORE**, in consideration of the mutual agreements set out below, the parties agree as follows:

**Section 1: Contractor’s Obligations**

**1.1 Organizational Status**

Contractor represents and warrants that Contractor is:

A partnership, professional services corporation, or association duly organized and validly existing under the laws of the State of California and authorized to engage in the profession of hospitalist services in the State of California.

**1.2 Contractor’s Representatives**

1.2.1 The term “Contractor” shall include all Contractor’s representatives, employees, shareholders, partners, subcontractors, and agents providing services in San Mateo County under this Agreement; i.e., every member of a medical group that contracts with the County shall be considered a “Contractor” for purposes of complying with this Agreement.

1.2.2 Where Contractor represents more than one individual, Contractor will designate a “Lead Contractor”. This Lead Contractor will be the contact person for the

County when dealing with issues affecting both parties, including but not limited to enforcement of this Agreement, in cases where direct discussion with the contractor fails to adequately resolve this issue.

### 1.3 **Qualifications**

The following indicate qualifications that must be satisfied by each Contractor as a condition of providing services under this Agreement:

- 1.3.1 Must be accepted by the Chief Executive Officer of SMMC or his/her designee; said acceptance may be withdrawn immediately at any time with written notice to Contractor at the reasonable discretion of the Chief Executive Officer of SMMC, his/her designee, the County's Chief, Health System, or his/her designee.
- 1.3.2 Shall at all times keep and maintain a valid license to engage in the practice of medicine in the State of California and active Medical Staff membership and/or privileges as may be required under the Bylaws of County for Contractor's representatives to provide the services contemplated by this Agreement.
- 1.3.3 Contractor's representatives shall be certified by the appropriate state-recognized board in California (or eligible for certification by such board by virtue of having successfully completed all educational and residency requirements required to sit for the board examinations).
- 1.3.4 Contractor is not currently excluded, debarred, or otherwise ineligible to participate in federal health care programs or in federal procurement or non-procurement programs; nor has Contractor been convicted of a criminal offense.
- 1.3.5 Contractor agrees to participate in the County's Organized Health Care Arrangement (OHCA), as described by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Contractors who choose to opt out of OHCA agree to advise the SMMC Medical Staff Office in writing and will provide their own Notice of Privacy Practice (NPP).

### 1.4 **Services to be Performed by Contractor**

In consideration of the payments hereinafter set forth, Contractor, under the general direction of the Chief Executive Officer of SMMC or his/her designee, with respect to the product or results of Contractor's services, shall provide medical services as described in Exhibit A, attached hereto and incorporated by reference herein. Such services shall be provided in a professional and diligent manner.

## 1.5 **Payments**

### 1.5.1 Maximum Amount

In full consideration of Contractor's performance of the services described in Exhibit A, the amount that County shall pay for services rendered under this Agreement shall not exceed FIVE MILLION SEVEN HUNDRED THOUSAND DOLLARS (\$5,700,000).

### 1.5.2 Rate of Payment

The rate and terms of payment shall be as specified in Exhibit B, attached hereto and incorporated herein. Any rate increase is subject to the approval of the Chief, Health System or his/her designee and shall not be binding on County unless so approved in writing. Each payment shall be conditioned on the Contractor's performance of the provisions of this Agreement, to the full satisfaction of the Chief, Health System, Chief Executive Officer of SMMC, or either of their designees.

### 1.5.3 Time Limit for Submitting Invoices

Contractor shall submit an invoice for services to County for payment in accordance with the provisions of Exhibit B. County shall not be obligated to pay Contractor for the services covered by any invoice if Contractor presents the invoice to County more than one hundred eighty (180) days after the date Contractor renders the services, or more than ninety (90) days after this Agreement terminates, whichever is earlier.

## 1.6 **Substitutes**

Contractor shall provide, at Contractor's sole cost and expense, a substitute for any Contractor who is unable to provide services required under this Agreement. As a condition of providing services under this Agreement, any such substitute shall first be approved by the Chief Executive Officer of SMMC or his/her designee and shall otherwise satisfy all qualification requirements applicable to the Contractor, including but not limited to being covered under Contractor's insurance or submitting separate insurance issued by a company under such terms and limitations as County shall reasonably approve.

## 1.7 **General Duties of Contractor**

### 1.7.1 Administrative and Miscellaneous Duties and Responsibilities

Contractor will cooperate with the administration of the Medical Center. Such cooperation shall include but not be limited to the following: maintaining medical records in a timely fashion (including the appropriate use of dictation or other technology, as required by County), billing, peer review, completing time studies as required by California and Federal reimbursement regulations, and County's compliance programs. To the extent applicable, Contractor shall provide appropriate supervision and review of services rendered by physician assistants and other non-physicians involved in the direct medical care of County's patients.

#### 1.7.2 Compliance

Contractor shall prepare such administrative and business records and reports related to the service in such format and upon such intervals as County shall reasonably require. Contractor agrees to keep accurate and complete records.

#### 1.7.3 Compliance with Rules and Regulations

Contractor agrees to abide by rules, regulations, and guidelines of County. County may from time to time amend, add, or delete rules, regulations, or guidelines at County's sole discretion, and such amendment will not affect the enforceability or terms of this Agreement.

#### 1.7.4 Managed Care Contracts

Contractor is obligated to participate in and observe the provisions of all managed care contracts which County may enter into on behalf of Contractor for health care services with managed care organizations, including but not limited to Health Maintenance Organizations (HMOs), Independent Practice Associations (IPAs), Preferred Provider Organizations (PPOs), Medical Service Organizations (MSOs), Integrated Delivery Systems (IDSs), and Physician-Hospital Organizations (PHOs).

#### 1.7.5 Requirement of Physician to Notify County of any Detrimental Professional Information or Violation of Contract Rules or Policies

During the term of this Agreement, Contractor shall notify County immediately, or as soon as is possible thereafter, in the event that:

- I. Contractor's license to practice in any jurisdiction is suspended, revoked, or otherwise restricted;



- II. A complaint or report concerning Contractor's competence or conduct is made to any state medical or professional licensing agency;
- III. Contractor's privileges at any hospital or health care facility or under any health care plan are denied, suspended, restricted, terminated, or under investigation for medical disciplinary cause or reason;
- IV. Contractor's controlled substance registration certificate (issued by the Drug Enforcement Administration), if any, is being or has been suspended, revoked, or not renewed;
- V. Contractor's participation as a Medicare or Medi-Cal provider is under investigation or has been terminated;
- VI. There is a material change in any of the information the Contractor has provided to County concerning Contractor's professional qualification or credentials; or
- VII. Contractor is convicted of a crime.

Contractor must also notify County within thirty (30) days of any breach of this Agreement, of violation of any of County's rules or regulations, whether by others or by the Contractor himself/herself, or if the Contractor is subject to or a participant in any form of activity which could be characterized as discrimination or harassment.

1.7.6 Compliance with Contractor 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 if this Agreement's total value listed in Exhibit B, is less than one-hundred thousand dollars (\$100,000), but Contractor acknowledges that Chapter 2.85's requirements will apply if this Agreement is amended such that its total value meets or exceeds that threshold amount.

#### 1.8 **Citizenship Duties of Contractor**

- A. Contractor will make all reasonable efforts to participate in co-ordination and optimization of services, including but not limited to participation in quality improvement and utilization management efforts.
- B. Contractor will make all reasonable efforts to communicate effectively and coordinate care and services with primary care providers, including but not limited to direct contact with individual providers where clinically indicated.
- C. Contractor will conduct himself/herself with professionalism at all times, which includes but is not limited to courteous and respectful conduct toward, and reasonable cooperation with, all County employees.
- D. To the extent that citizenship duties are discussed in more detail in Exhibits to this Agreement, Contractor shall comply with those additional duties and requirements.

#### 1.9 **Provision of Records for County**

Contractor shall furnish any and all information, records, and other documents related to Contractor's services hereunder which County may reasonably request in furtherance of its quality assurance, utilization review, risk management, and any other plans and/or programs adopted by County to assess and improve the quality and efficiency of County's services. As reasonably requested, Contractor shall participate in one or more of such plans and/or programs.

#### 1.10 **Cooperation with County in Maintaining Licenses**

Contractor shall assist County in obtaining, achieving, and/or maintaining any and all licenses, permits, other authorization, and/or accreditation standards which are dependent upon, or applicable to, in whole or in part, Contractor's services under this Agreement.

#### 1.11 **Contractor's Conflict of Interest**

Contractor shall inform County of any other arrangements which may present a professional, financial, Stark Law, or any other state or federal conflict of interest or **materially interfere in Contractor's performance of its duties under this Agreement.** In the event Contractor pursues conduct which does, in fact, constitute a conflict of interest or which materially interferes with (or is reasonably anticipated to interfere with) **Contractor's performance under this Agreement,** County may exercise its rights and privileges under Section 3 below.

1.12 **Non-Permitted Uses of County Premises**

Contractor agrees not to use, or permit any of Contractor's representatives to use, any County facility or service for any purpose other than the performance of services under this Agreement. Without limiting the generality of the foregoing, Contractor agrees that no part of the premises of County shall be used at any time as an office for private practice or delivery of care for non-County patients.

1.13 **No Contract in County Name**

Contractor shall not have the right or authority to enter into any contract in the name of County or otherwise bind County in any way without the express written consent of County.

1.14 **Regulatory Standards**

Contractor shall perform all services under this Agreement in accordance with any and all regulatory and accreditation standards applicable to County and the relevant medical service, including, without limitation, those requirements imposed by the Joint Commission, the Medicare/Medi-Cal conditions of participation, and any amendments thereto.

1.15 **Availability of Records for Inspection**

As and to the extent required by law, upon written request of the Secretary of Health and Human Services, the Comptroller General, 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 requirements of 42 U.S.C. Section 1395x(v)(1) and the regulations

thereto. 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.

#### 1.16 **Professional Standards**

Contractor shall perform his or her duties under this Agreement in accordance with the rules of ethics of the medical profession. Contractor shall also perform his/her duties under this Agreement in accordance with the appropriate standard of care for his/her medical profession and specialty.

### **Section 2: Change of Circumstances**

In the event either (i) Medicare, Medi-Cal, or any third party payor or any federal, state, or local legislative or regulative authority adopts any law, rule, regulation, policy, procedure, or interpretation thereof which establishes a material change in the method or amount of reimbursement or payment for services under this Agreement; or (ii) any or all such payors/authorities impose requirements which require a material change in the manner of either party's operations under this Agreement and/or the costs related thereto; then, upon the request of either party materially affected by any such change in circumstances, the parties shall enter into good faith negotiations for the purpose of establishing such amendments or modifications as may be appropriate in order to accommodate the new requirements and change of circumstance while preserving the original intent of this Agreement to the greatest extent possible. If, after thirty (30) days of such negotiations, the parties are unable to reach an agreement as to how or whether this Agreement shall continue, then either party may terminate this Agreement upon thirty (30) days prior written notice.

### **Section 3: Term and Termination**

#### 3.1 **Term**

Subject to compliance with all terms and conditions, the term of this Agreement shall be from October 1, 2017, through September 30, 2019.

#### 3.2 **Extension of Term**

The term of the Agreement may be extended by mutual written, signed agreement by both parties.

#### 3.3 **Termination**

##### 3.3.1 Termination By County

This agreement may be terminated by County at any time upon ninety (90) days written notice to the Contractor.

The County may immediately terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon (1) unavailability of Federal, State, or County funds or (2) closure of the County, SMMC, or the department of SMMC at which Contractor is to provide services, by providing written notice to Contractor as soon as is reasonably possible after the County learns of said unavailability of outside funding or closure.

### 3.3.2 Automatic Termination

This Agreement shall be immediately terminated as follows:

- A. Upon Contractor's loss, restriction, or suspension of his or her professional license to practice medicine in the State of California;
- B. Upon Contractor's suspension or exclusion from the Medicare or Medi-Cal Program;
- C. If the Contractor violates the State Medical Practice Act;
- D. If the Contractor's professional practice imminently jeopardizes the safety of patients;
- E. If Contractor is convicted of a crime;
- F. If Contractor violates ethical and professional codes of conduct of the workplace as specified under state and federal law;
- G. Upon revocation, cancellation, suspension, or limitation of the Contractor's medical staff privileges at the County;
- H. If Contractor has a guardian or trustee of its person or estate appointed by a court of competent jurisdiction;
- I. If Contractor becomes disabled so as to be unable to perform the duties required by this Agreement;
- J. If Contractor fails to maintain professional liability insurance required by this Agreement;
- K. Upon County's loss of certification as a Medicare and/or Medi-Cal provider; or

L. Upon the closure of the County, SMMC, or the medical service at SMMC in relation to which the Contractor is providing services.

### 3.3.3 Termination for Breach of Material Terms

Either party may terminate this Agreement at any time in the event the other party engages in an act or omission constituting a material breach of any term or condition of this Agreement. The party electing to terminate this Agreement shall provide the breaching party with no fewer than thirty (30) days advance written notice specifying the nature of the breach. The breaching party shall then have thirty (30) days from the date of the notice (or such longer period as is specified in the notice) in which to remedy the breach and conform its conduct to this Agreement. If such corrective action is not taken within the time specified, this Agreement shall terminate at the end of the notice and cure period (typically sixty (60) days) measured from the date of initial notice without further notice or demand. Upon breach of the terms of this Agreement by an individual contractor's representative, County shall have the option of withdrawing its acceptance of that individual contractor's representative, as described in Section 1.3.1, without terminating this Agreement. Upon withdrawal of acceptance, Contractor must replace said contractor representative as specified in Section 1.6 of this Agreement. Withdrawal of acceptance of an individual contractor's representative will not, of itself, constitute grounds for termination of this Agreement by either party.

### 3.3.4 Patient Records Upon Termination and Notice to Patients

All original patient records shall be property of the County. Upon termination of this Agreement, Contractor shall return any such records as may be in Contractor's possession to County, subject to Contractor's right to copies of records.

## **Section 4: Insurance and Indemnification**

### 4.1 **Insurance**

Contractor shall not commence work under this Agreement until all insurance required under this Section has been obtained and such insurance has been approved by the County. Contractor shall furnish County with Certificates of Insurance evidencing the required coverage, and there shall be a specific contractual endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These Certificates shall specify or be endorsed to provide that thirty (30) days notice must be given, in writing, to County of any pending change in the limits of liability or of any cancellation or modification of the policy.

#### 4.1.1 Violation of This Section or Decrease/Cancellation of Coverage

In the event of either (1) violation of any provision of Section 4 of this Agreement or (2) receipt of notice by the County that any insurance coverage required under Section is will be diminished or cancelled, 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 pursuant to this Agreement.

#### 4.1.2 Workers' Compensation and Employer Liability Insurance

Contractor shall have in effect during the entire life of this Agreement workers' compensation and employer liability insurance providing full statutory coverage. In signing this Agreement, Contractor makes the following certification, required by Section 1861 of the California Labor Code:

I am 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 Code, and I will comply with such provisions before commencing the performance of the work of this Agreement.

#### 4.1.3 Liability Insurance

Contractor shall take out and maintain during the life of this Agreement such bodily injury liability and property damage liability insurance as shall protect him or her, while performing work covered by this Agreement, from any and all claims for property damage which may arise from Contractor's operations or actions under this Agreement, whether such operations/ actions are done by himself or herself, any subcontractor, or anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage coverage for each occurrence and shall not be less than the amount specified below.

- A. Such insurance shall include: Comprehensive general liability insurance... \$1,000,000
- B. Motor vehicle liability insurance..... \$-0-
- C. Professional liability insurance.....\$1,000,000/\$3,000,000

#### 4.1.4 County Adjustment of Insurance Coverage



If this Agreement remains in effect more than one (1) year from the date of its original execution, County may, at its sole discretion, require an increase in the amount of liability insurance to the level then customary in similar County agreements by giving (60) days notice to Contractor. Contractor must obtain such increased amount of coverage by the end of that notice period.

#### 4.1.5 County as Certificate Holder

County and its officers, agents, employees, and servants shall be named as Certificate Holder on any such policies of general liability insurance. Such policies shall also contain a provision that 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 that if County or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only. Said certificate(s) of insurance is (are) attached hereto.

#### 4.2 **Tail Coverage**

If Contractor obtains one or more claims-made insurance policies to fulfill its obligations, Contractor will: (i) maintain coverage with the same company during the term of this Agreement and for at least three (3) years following termination of this Agreement; or (ii) purchase or provide coverage that assures protection against claims based on acts or omissions that occur during the period of this Agreement which are asserted after the claims-made insurance policy expired.

#### 4.3 **Hold Harmless**

Contractor shall indemnify and hold harmless County and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description brought for or on account of: (i) injuries or death of any person, including Contractor; (ii) damage to any property of any kind whatsoever and to whomsoever belonging; (iii) any failure to withhold and/or pay to the government income and/or employment taxes from earnings under this agreement; (iv) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply with the requirements set forth in the Health Insurance Portability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or (v) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County and/or its officers, agents, employees, or servants resulting from the performance of any work required of Contractor or payments made pursuant to this Agreement, provided that this shall not apply to injuries or damages for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of the Contractor to indemnify and save harmless as set forth herein shall include the duty to defend as set forth in Section 2778 of the California Civil Code. Contractor shall indemnify, defend, and hold County harmless from and against any and all claims for wages, salaries, benefits, taxes, and all other withholdings and charges payable to, or in respect to, Contractor's representatives for services provided under this Agreement.

## **Section 5: Miscellaneous Provisions**

### **5.1 Notice Requirements**

Any notice, request, demand, or other communication required or permitted hereunder shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below; and (2) either deposited in the United State mail, postage prepaid, certified or registered mail, return receipt requested -or- deposited for overnight delivery with an established overnight courier that provides a tracking number showing confirmation of receipt, for transmittal, charges prepaid, addressed to the address below. In the event that the facsimile transmission is not possible, notice shall be given both by United States mail and an overnight courier as outlined above.

If to County: Chief Executive Officer  
San Mateo Medical Center  
222 W 39<sup>th</sup> Avenue  
San Mateo, CA 94403  
Facsimile: 650/573-2950

With Copy to: County Counsel's Office  
400 County Center, 6<sup>th</sup> Floor  
Redwood City, CA 94063  
Facsimile: 650/363-4034

If to Contractor: Chief Operations Officer  
Galen Inpatient Physicians, Inc.  
2100 Powell Street, Suite 900  
Emeryville, CA 94608-1903  
Facsimile: 510/879-9112

With Copy to: Galen Inpatient Physicians, Inc.  
2100 Powell Street, Suite 900  
Emeryville, CA 94608  
Attn: Legal and Compliance Department

### **5.2 Merger Clause, Amendment, and Counterparts**

This Agreement, including the Exhibits and Attachments attached hereto and incorporated herein by reference, constitutes the sole Agreement of the parties hereto 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 this body of the 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 this body of the agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document, whether written or otherwise, are not binding. All subsequent modifications shall be in writing and signed by the parties.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

### 5.3 **Partial Invalidity**

In the event any provision of this Agreement is found to be legally invalid or unenforceable for any reason, the remaining provisions of the Agreement shall remain in full force and effect provided that the fundamental rights and obligations remain reasonably unaffected.

### 5.4 **Assignment**

Because this is a personal service contract, Contractor may not assign any of its rights or obligations hereunder without the prior written consent of County. County may assign this Agreement to any successor, to **all or substantially all of County's operating assets**, or to any affiliate of County. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

### 5.5 **Independent Contractor**

Contractor and all Contractor's representatives are performing services and duties under this Agreement as independent contractors and not as employees, agents, or partners of or joint ventures with County. County does retain responsibility for the performance of Contractor and Contractor's representatives as and to the extent required by law and the accreditation standards applicable to County. Such responsibility, however, is limited to establishing the goals and objectives for the service and requiring services to be rendered in a competent, efficient, and satisfactory manner in accordance with applicable standards and legal requirements. Contractor shall be responsible for determining the manner in which services are provided and ensuring that services are rendered in a manner consistent with the goals and objectives referenced in this Agreement.

### 5.6 **Regulatory Requirements**

The parties expressly agree that nothing contained in this Agreement shall require Contractor or Contractor's representatives to refer or admit any patients to or order any goods or services from County. Notwithstanding any unanticipated effect of any provision of this Agreement, neither party will knowingly or intentionally conduct himself or herself in such a manner as to violate the prohibition against fraud and abuse in connection with the Medicare and Medi-Cal programs.

5.7 **Alternate Dispute Resolution and Venue**

The parties firmly desire to resolve all disputes arising hereunder without resort to litigation in order to protect their respective reputations and the confidential nature of certain aspects of their relationship. Accordingly, any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be mediated. If mediation is unsuccessful, the parties may take the dispute to Superior Court in San Mateo County.

5.8 **Third Party Beneficiaries**

This Agreement is entered into for the sole benefit of County and Contractor. Nothing contained herein or in the parties' course of dealings shall be construed as conferring any third party beneficiary status on any person or entity not a party to this Agreement, including, without limitation, any Contractor's representative.

5.9 **Governing Law**

This Agreement shall be governed by the laws of the State of California.

5.10 **Non-Discrimination**

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.

Contractor shall assure compliance with Section 504 of the Rehabilitation Act of 1973 by submitting as part of this Agreement a signed letter of assurance of compliance (Attachment I to this Agreement). Contractor shall be prepared to submit a self-evaluation and compliance plan to County upon request within one (1) year of the execution of this Agreement.

**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.

Contractor shall comply with the County admission and treatment policies, which provide that patients are accepted for care without discrimination on the basis of race, color, religion, sex, sexual orientation, national origin, age, handicap, or political affiliation.

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.

Violation of Non-Discrimination Provisions. Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject Contractor to penalties to be determined by the County Manager, including but not limited to:

- A. Termination of this Agreement;
- B. Disqualification of Contractor from bidding or being awarded a County contract for a period of up to three (3) years;
- C. Liquidated damages of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500) per violation; and/or
- D. Imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of these paragraphs, the County Manager shall have the authority to:

- A. Examine Contractor's employment records with respect to compliance with this paragraph; and
- B. Offset all or any portion of the amount described in this paragraph against amounts due to Contractor under this Agreement or any other agreement between Contractor and County.

Within thirty (30) days, Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission, or any other entity charged with the investigation of allegations, provided that within such thirty (30) days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such

notifications shall include the name of the complainant, a copy of such complaint, and description of the circumstance. Contractor shall provide County with a copy of its response to the complaint when filed/submitted.

Compliance with 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.

Compliance with Federal Regulations. Contractor shall comply fully with the non-discrimination requirements required by 41 CFR 60-741.5(a), which is incorporated herein as if fully set forth.

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.

#### 5.11 **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.

#### 5.12 **General Standards**

Contractor shall maintain its operations in compliance with all applicable laws and rules relating to licensure and certification, including but not limited to: Title XXII of the California Administrative Code; those necessary to participate in the Medicare and Medi-Cal programs under Title VIII and Title XIX, respectively, of the Social Security Act; and those required by the Joint Commission. Contractor shall provide satisfactory evidence of such licenses and certificates. Contractor shall inform County of any notice



of any incident within its operations which may affect any license or certification held by Contractor.

5.13 **Confidentiality of Patient Information and Compliance With Laws**

Contractor shall keep in strictest confidence and in compliance with all applicable state and federal laws any patient information. Contractor shall not disclose such information except as permitted by law.

All services to be performed by Contractor pursuant to this Agreement shall be performed (1) in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Regulations promulgated thereunder, as amended, the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended and attached hereto and incorporated by reference herein as Attachment I, which prohibits discrimination on the basis of handicap in programs and activities receiving any federal or county financial assistance and, if applicable, (2) in compliance with the Business Associate requirements set forth in Attachment H, if attached hereto. 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 State, Federal, County, or municipal law or regulations, the requirements of the applicable law will take precedence over the requirements set forth in this Agreement.

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

5.14 **Non-Disclosure of Names**

Notwithstanding any other provision of this Agreement, names of patients receiving public social services hereunder are confidential and are to be protected from unauthorized disclosure in accordance with Title 42, Code of Federal Regulations, Section 431.300 *et seq.* and Section 14100.2 of the California Welfare and Institutions Code and regulations adopted thereunder.

For the purpose of this Agreement, all information, records, data, and data elements collected and maintained for the operation of the Agreement and pertaining to patients shall be protected by Contractor from unauthorized disclosure.



With respect to any identifiable information concerning a Medi-Cal patient that is obtained by Contractor, Contractor: (i) will not use any such information for any purpose other than carrying out the express terms of this Agreement; (ii) will promptly submit to California Department of Public Health (CDPH) and the applicable Medi-Cal plan all requests for disclosure of such information; (iii) will not disclose, except as otherwise specifically permitted by this Agreement, any such information to any party other than CDPH and the applicable Medi-Cal plan without prior written authorization specifying that the information is releasable under Title 42, CFR, Section 431.300 *et seq.*, under Section 14100.2 of the Welfare and Institutions Code and regulations adopted thereunder, or as ordered by a court or tribunal of competent jurisdiction; and (iv) will, at the expiration or termination of this Agreement, return all such information to CDPH and the applicable Medi-Cal Plan or maintain such information according to written procedures sent to health plan by CDPH and the applicable Medi-Cal plan for this purpose.

#### 5.15 **Disclosure of Records**

Contractor agrees to provide upon reasonable notice to County, to any federal or state **department having monitoring or reviewing authority, to County's authorized representatives, and/or to their appropriate audit agencies** access to and the right to examine and audit all records and documents necessary to determine compliance with this Agreement, to determine compliance with relevant federal, state, and local statutes, ordinance, rules, and regulations, and to evaluate the quality, appropriateness, and timeliness of services performed under this Agreement. Contractor shall comply with all provisions of the Omnibus Budget Reconciliation Act of 1980 regarding access to books, documents, and records.

Without limiting the foregoing, Contractor shall maintain such records and provide such information to County and to government officials as may be necessary for compliance by County with all applicable provisions of all state and federal laws governing County. Upon request, County and government officials shall have access to and be given copies of, **at reasonable times at the Contractor's place of business (or such other mutually agreeable location in California), the medical records, books, charts, business records, and papers relating to the Contractor's provision of health care services to patients, the cost of such services, payments received by the Contractor from patients (or from others on their behalf), and the financial condition of Contractor.** Such records described herein shall be maintained at least four (4) years from the end of the contract term.

All records of Contractor shall be maintained in accordance with the general standards applicable to such book or record keeping and shall be maintained during any governmental audit or investigation.

5.16 **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.

5.17 **Exhibits and Attachments**

The following exhibits and attachments are included hereto and incorporated by reference herein:

Exhibit A—Services

Exhibit B—Payments


Exhibit C—Metrics

Exhibit E—Corporate Compliance SMMC Code of Conduct (Third Parties)

Attachment I—§ 504 Compliance

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

For Contractor: Galen Inpatient Physicians, Inc.

      6/6/17      David Birdsell, MD  
Contractor Signature                      Date                      Contractor Name (please print)

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COUNTY OF SAN MATEO

By:

— President, Board of Supervisors, San Mateo County

Date:

ATTEST:

By:

Clerk of Said Board

## EXHIBIT A

### SERVICES

In consideration of the payments specified in Exhibit B, Contractor shall perform the services described below under the general direction of the Medical Director of Specialty Services or designee.

Overview: Under this Agreement, Contractor will provide hospitalist services at San Mateo Medical Center (SMMC). The intent is for Contractor to provide a mix of staff to meet the SMMC's hospitalist needs, including the ability to flexibly schedule some resources while having others on-site at all times. In general, this Agreement requires that Contractor provide round-the-clock on-site coverage 24 hours a day, seven days a week, 365 days a year by a Board Certified/Board Eligible Internal Medicine hospitalist physicians, with one such provider always being present on-site. In addition, Contractor will provide another 1.0 Full Time Employee (FTE) equivalent, as defined below, of Board Certified/Board Eligible Internal Medicine hospitalist physician(s) in a role that is 70% clinical (scheduled any time during the week, including evenings, weekends, and holidays as appropriate) and 30% administrative/management (such administrative/management services to be provided during normal business hours Monday through Friday as outlined below). Contractor will also provide other supporting staff and services as detailed below. The services outlined by this Agreement (the "Program") will be provided at a fixed monthly fee regardless of patient volume, and after the first quarter Contractor must meet certain quarterly metrics in order for the Contractor to be paid the full monthly fee (as outlined in Exhibits B & C). County acknowledges that Contractor is organized based on a Professional Corporation structure, and accordingly any references to "employees" of Contractor in this Agreement refers to individuals who are partners or members of the Professional Corporation (PC) or who are employees of the PC.

- I. Hospitalist Coverage. Contractor will provide in-person coverage by Board Certified/Board Eligible Internal Medicine hospitalist physicians 24 hours a day, seven days a week, 365 days a year during the term of this Agreement to ensure that one qualified hospitalist is always present at SMMC regardless of time of day or day of the week. This always-present hospitalist role shall be staffed by Contractor using a team model as determined by Contractor and consistent with this Agreement, and the intent is to have multiple qualified hospitalists fill this role to ensure that one hospitalist is always present at SMMC in this role. In addition to this always-on hospitalist role, Contractor shall provide an additional 1.0 FTE equivalent Board Certified/Board Eligible Internal Medicine hospitalist physician(s) to fill the role of Medical Director of Hospitalist Services as outlined below. For purposes of this Agreement, "FTE equivalent" means 2,080 hours of work per year so that a 1.0 FTE equivalent is a role that provides 2,080 hours of work during the year. Contractor will ensure clinical staffing of the Program is sufficient to maintain quality and safety. To facilitate care of patients in the Hospital, Contractor shall hire or retain physician assistants (PAs) and/or nurse practitioners (NPs) in addition to the Contractor's physicians. These

physician assistants and nurse practitioners, referred to as the “Advanced Practitioner” team, shall be supervised at all times by a qualified physician employed by the Contractor. Contractor shall comply with written guidelines, approved by County, which limit the scope of services performed by a the Advanced Practitioner team to those which may be performed permissibly by PAs and NPs. Contractor shall observe the requirement (except in emergencies) that patients be informed that medical services shall be rendered by PAs or NPs. Members of the Advanced Practitioner team shall apply to and be approved by the medical staff of SMMC before providing services under this Agreement and shall comply with the medical staff bylaws and related hospital policies governing physician assistants or nurse practitioner. **All salaries, wages, taxes, insurance, workers’ compensation insurance, retirement and other fringe benefits, and expenses of any kind or character incident to their employment shall be, and remain, the responsibility and obligation of Contractor.**

Members of the Advanced Practitioner team shall have appropriate training and skills to meet the needs outlined by this Agreement. Under this Agreement, County retains the right to confer with Contractor regarding any member of the hospitalist team (whether physician or member of the Advanced Practitioner team) to address any concerns, including but not limited to competence, courtesy, patient satisfaction, compliance with SMMC policies and state and federal laws and regulations, and expertise. In the event such concerns are not adequately addressed by contractor, County shall have the right under this Agreement to require Contractor to replace any specific member of the hospitalist team as soon as is reasonably feasible within 10 business days. County shall have the ability to immediately prohibit any member of Contractor’s team from performing work under this Agreement in the event of an emergency or serious issue that poses risks to SMMC, its staff, its patients, and/or the Program.

**Contractor staff shall provide hospitalist services at SMMC’s main campus with the focus being the Medical Unit (2AB) and the Intensive Care Unit (ICU) and with additional support to the Inpatient Psychiatric Unit (3AB), on-site skilled nursing unit (1A), manage admitted patients still housed in the ED, and, as needed, consult to the Emergency Department (ED),**

Around the time of the execution of this Agreement, Contractor shall conduct an intensive on-site assessment in order to structure how Contractor shall provide services under this Agreement. It is anticipated that Contractor shall utilize two teams of between 10-15 physicians and other providers to meet the staffing requirements listed in this Agreement. The specific implementation plan for providing Program services shall be developed by Contractor after the on-site assessment and may evolve over time but must meet the requirements of this Agreement. Contractor shall present its Program staffing proposal(s) and any changes to its accepted staffing plan(s) to County for acceptance prior to implementing any proposed staffing structure or changes. Although members of the staffing teams may change over time, Section I.6 of this Agreement, outlines some

limitations on the staffing of such teams.

II. Clinical Management Services. Contractor shall provide management services and oversight of the Program. As noted above, the person(s) filling the role of Medical Director shall engage in both clinical work (70%, including weekends and evenings in order to most appropriately staff SMMC's hospitalist needs, as approved by County) and management services (30%, to be provided during normal business hours Monday through Friday). The Medical Director's obligations, as outlined in more detail in Section XI, below, may be split between the Medical Director and Assistant Medical Director(s) such that collectively those roles meet the 1.0 FTE equivalent requirement for the Medical Director role. In addition to the 0.3 FTE equivalent of management services provided by the Medical Director, Contractor shall also provide other Management Services Organization ("MSO") services by other members of its broader off-site team. Collectively, such management services provided by the Medical Director and MSO team will support the following goals for the Program:

1. Ensuring that Program staff promptly responds to the emergency department, medical and nursing staff, case management, referring physicians, and other clinical departments when services are requested.
2. Ensuring that Program staff practice medicine using evidence-based practices; standardized protocols and order sets; appropriate utilization of resources; and coordination of care to achieve the most appropriate length of stay.
3. Planning and coordinating care with all members of the health care team to assure maximum quality and efficiency.
4. Participating in care-related activities designed to improve quality, ensure compliance, support patient transition, and support programmatic efficiencies.
5. Ensuring appropriate supervision of resident physicians. Contractor understands that the San Mateo County Health System supports a training program for psychiatrists. As part of this program, first year trainees shall rotate through the inpatient internal medicine service approximately eight (8) months of the year. Contractor agrees to work with the residence program director to provide adequate supervision of and teaching to these trainees.
6. Ensuring hospitalist coverage as follows: In addition to the standard Program coverage of the Medical Unit (2AB) and the Intensive Care Unit (ICU) outlined above, Contractor will also ensure the following coverage:
  - a. For the Medical Consult service, which provides support for surgical and other patients at SMMC, provide coverage when Medical Director of Inpatient

Services is not available, including during normal business hours as well as evenings, nights, weekends, and County holidays.

- b. For SMMC's 30-bed in-house Skilled Nursing Facility unit (1A), which has on-call coverage from 8 a.m. to 8 p.m. seven (7) days a week but which can require urgent response any time of day or night, provide coverage for urgent clinical issues that cannot wait until the next business day or until another internal medicine specialist is available, including but not limited to evenings, weekends, and County holidays.
- c. For SMMC's 30-bed in-house acute locked psychiatric unit (3AB), provide coverage for urgent clinical issues that cannot wait until the next business day or until another internal medicine specialist is available, including but not limited to evenings, weekends, and County holidays, as well as during normal business hours.

- 7. Ensuring that Program coverage outlined above shall include transfer of the patient to the Medical Unit or ICU when medically necessary.

Contractor's management of the Program will not include management of County-employed personnel, except when a clinical individual provides hospitalist services.

- III. Clinical Model. Contractor will utilize a clinical design range where each physician FTE is assigned approximately 12 to 15 patients at approximately 7:00 a.m. each day, including weekends and County holidays (the "Target Patient Load"). In addition, Contractor may utilize a coverage model which includes PAs, NPs and/or Scribes. This will allow Contractor to "flex-up" to a maximum census of 50 patients per day or "flex-down" to a census of 20 patients per day, depending on seasonality.
- IV. Recruiting. Contractor will recruit and retain qualified physicians as hospitalists to staff the program, subject to the limitation listed in Section 1.6 of this Agreement. Contractor will involve County in its physician recruitment process. County shall use all possible means to expedite credentialing and the granting of privileges to hospitalists, including the use of temporary privileges and special meetings of the SMMC's credentialing committee. In furtherance of Section 1.3.1 of the Agreement, the Chief Executive Officer, Chief of Health System or their designee withdraws acceptance of any contracted physician, Contractor will remove physician immediately if such physician is in violation of the items listed in 1.7.5 of the Agreement and if not in violation of any such section, within 90 days of receipt of notice from County.
- V. Contractor will comply with reasonable rules and regulations of Health Plan of San Mateo, where such rules and regulations apply to a hospitalist and have been communicated to Contractor reasonably in advance of when compliance is expected to begin. Contractor and County will mutually review any additional Health Plan regulations with County, as listed in Section 1.7.4, to understand requirements that flow through to the hospitalists in their professional practice. It is understood by Contractor that County will be solely responsible for the billing and collection of all hospitalist services rendered by Contractor under



County's payor agreements, through County's provider and taxpayer identification numbers.

- VI. Training and Development. Contractor will review documentation and coding as a part of its compliance plan and provide training to physicians on such topics. In furtherance thereof, Contractor will have electronic remote read-only access to SMMC's EMR for chart review to include a review of progress notes, history and physical, discharge summary, etc. (i.e. all clinical documentation) promptly upon request. Such access will continue for at least thirty (30) days following termination of the Agreement. County shall continue for at least a twelve (12) month period following termination of this Agreement to provide clinical documentation in paper record format upon request within five (5) business days of such request.
- VII. Performance Reporting and Recordkeeping. Contractor will develop and monitor a comprehensive quarterly dashboard of core metrics (the "Dashboard") as agreed upon between Contractor and County and set forth in Exhibit C. Contractor will track performance quarterly metrics affecting quality, patient satisfaction and efficiency. Contractor will analyze drivers that affect such outcomes and will develop action plans for improvement.
- VIII. Trauma Assistance. In the event of a County Emergency, when Disaster Service Workers are activated, Contractor will adhere to the guidelines of the San Mateo County Trauma System by being immediately available by telephone and will make every reasonable effort to support SMMC in-person, beyond those providers scheduled to work that day and for the duration of the emergency.
- IX. Active Staff Membership. Contractor will fulfill those requirements for active staff membership set forth in Articles 3 and 4.2 of the SMMC Medical Staff Bylaws, Rules and Regulations and will maintain such active staff status as a condition of the Agreement.
- X. Committee Participation. Contractor will attend regularly and serve without additional compensation on committees responsible for peer review activities, quality assurance, and utilization review as outlined in the SMMC Medical Staff Bylaws, Rules and Regulations.
- XI. Program Leadership. Contractor shall designate a Contractor Physician acceptable to the SMMC Chief Executive Officer as the Medical Director of Hospitalist Services to serve as Contractor's on-site team leader and representative in clinical matters. The Medical Director shall be responsible for the overall quality of the Program and for ensuring that the Site Team performs according to the terms of this Agreement. Hospitalists will report to the Medical Director. The Medical Director will have a 0.7 FTE (70%) clinical work load in addition to administrative responsibilities and report to the Medical Director of Specialty Services or their designee. As noted above, the person(s) filling the role of Medical

Director may complete their clinical load any time, including weekends and evenings, in order to most appropriately staff SMMC's hospitalist needs, as approved by County. The management services (0.3 FTE, or a minimum of 12 hours per week or 52 hours per month) shall be provided during normal business hours Monday through Friday.

The duties of the Medical Director and Assistant Medical Director(s) shall include, but are not limited to, the following:

1. Participate in monthly meetings with the Medical Director of Specialty Services, and/or designee, to discuss ongoing patient flow issues, standard of care, quality assurance initiatives, diagnostic imaging and other testing, utilization review, patient transfer criteria, patient grievances, maintenance of electronic medical records (EMRs), review charge description master (CDM), compliance, policy issues, productivity, and other topics, as appropriate.
2. Account for all professional and administrative activities within the scope of the Hospitalist Program.
3. Conduct ongoing monitoring of the professional performance of all individuals who have clinical hospitalist privileges, as well as the scribes.
4. Assure the quality and appropriateness of patient care provided is monitored daily and evaluated quarterly through a mechanism on the metrics described in Exhibit C. This will be accomplished through the collection of information about key aspects of patient care provided by the hospitalists.
5. Respond in writing to issues raised by SMMC administration within a reasonable period of time commensurate with the nature of the issue. Where there is a question of quality assurance raised by SMMC administration, Contractor will provide a written response within seven (7) calendar days.
6. Attend and/or delegate attendance at meetings in compliance with SMMC Medical Staff Bylaws, Rules, and Regulations.
7. Be available by pager or telephone, or designate "on-call" alternative when necessary.
8. Assist SMMC administration in developing and updating departmental rules, policies, and regulations.
9. Complete Quality Assurance and SAFE report review and respond within seven (7) calendar days of receipt.

10. Provide other administrative services not directly related to the medical care of patients as reasonably requested by Contractor and the SMMC CEO, CMO, or designee. Such administrative services may include, but are not limited to, teaching, administrative supervision of professional or technical staff, quality control activities, committee work, and attending conferences.
- XII. Contractor will provide the following administrative services for its own personnel, and County shall have no responsibility for these matters or functions:
1. Recruiting of its own physicians, PAs, NPs, and scribes to ensure its ability to provide staff needed to comply with the terms of this Agreement.
  2. Ensuring candidates presented to SMMC Medical Staff Office have a completed application, including employee health requirements, and meet the SMMC credentialing requirements.
  3. Orientating clinical staff to clinical operations and use of the SMMC EMR's, including, but not limited to, Cerner Soarian, eCW, and Pulse Check.
  4. Providing and managing of Hospitalist Program staff benefit programs (i.e. medical, dental, life and disability insurance; retirement benefits).
  5. Providing payroll services and withholding taxes for its employees/agents.
  6. Scheduling.
  7. Providing backup for sick call and vacation for its employees/agents.
  8. Conducting leadership training.
  9. Participating in patient satisfaction surveys, in consultation with the SMMC Medical Director for Specialty Services and/or his/her designees.
- XIII. Both County and Contractor acknowledge the need for performance assessment and associated potential financial penalties described in Exhibit B and Exhibit C, based on mutually acceptable units of measurement. To the extent of any conflict between the description of the metrics in this Exhibit, Exhibit B, and/or Exhibit C, the text of Exhibit C shall control. As discussed in Exhibits A, B, and C to this Agreement, the Base Fee partial risk based on performance metrics will be determined quarterly and deducted from the Base Fee payment for the month following each quarter.
- XIV. Scribe Services

1. Contractor will provide 2.0 FTE equivalent annually of scribe services using an assignment schedule designed after the on-site assessment (and modified from time to time as appropriate) as is agreed upon by County.
2. Under the direct supervision of the Contractor, Scribe will:
  1. Document the history of the patient's present illness
  2. Document the review of systems and physician examination
  3. Enter vital signs and reported lab values
  4. Look up pertinent past medical records
  5. Track and enter the results of studies
  6. Type progress notes
  7. Enter the patient's discharge plan
  8. Document physician consultations with a patient
  9. Notify physicians when studies results are available, thus assisting with timely disposition of the patient.

## EXHIBIT B

### PAYMENTS

In consideration of the services specified in Exhibit A and subject to the Base Fee partial withhold outlined in Exhibit C, County will pay Contractor based on the following:

- A. **Base Fee.** For the period October 1, 2017 through September 30, 2019, Contractor shall provide County with the Board Certified/Board Eligible Internal Medicine hospitalist physicians, Advanced Practitioners, Scribes, and other necessary service providers as outlined by this Agreement. Services include those described in Exhibit A and meeting or exceeding the five (5) metrics for the Contractor outlined in Exhibit C. The Base Fee is based on Contractor serving 2,184 SMMC inpatients per year (the total number of patients served in 2016) and 12,833 projected patient encounters per year (the total number of patient encounters in 2016), but the Base Fee specifically contemplates fluctuation in these numbers as large as fifteen percent (15%) higher or lower. No change in the Base Fee shall occur within this range or otherwise. Should the actual number of patients served and/or number of patient encounters in a year differ from these amounts by more than fifteen percent (15%) in either direction, Contractor shall confer with SMMC regarding the reasons for said fluctuation(s). Regardless, the fiscal provisions of this Agreement shall not be subject to change absent a written amendment. In consideration for the delivery of the services described in this Agreement, County shall pay Contractor a monthly base fee of TWO HUNDRED THIRTY SEVEN THOUSAND SIX DOLLARS (\$237,006) (the "Base Fee") reflecting the FTEs constituting the on-site hospitalist team, less any quarterly partial withhold outlined in Exhibit C. The "Base Fee" includes physician, Advanced Practitioner, scribe, Medical Directorship, and MSO Services. The amount of each category of provider is listed in the Financial Summary Table below.
- B. **Medical Directorship (Administrative services only)** will be paid at a rate of FIVE THOUSAND DOLLARS (\$5,000) per month for 52 hours per month of administrative services detailed in Exhibit A, with no additional compensation for addition hours necessitated in a particular month.
- C. County will reimburse the actual cost of professional liability (malpractice) insurance up to \$30,000 per year for all Program providers as defined in Section 4 of the Agreement in the amounts of \$1,000,000 per occurrence/claim and \$3,000,000 aggregate limit per year and the appropriate tail coverage for Contractor providing services under this Agreement. Contractor will invoice the County for such professional liability reimbursement on a quarterly (3 month) basis. Contractor shall provide County evidence of the actual cost on at least an annual basis and otherwise as requested by the County. The amount listed in this section shall be the sole amount paid by County for professional liability (malpractice) expenses for all types of

providers, including but not limited to physicians, Advanced Practitioners, and scribes.

D. Financial Summary Table (Annual Costs):

<b>Practice Expenses</b>	<b>Annual Cost per FTE</b>	<b>Number of FTEs</b>	<b>Annual Total</b>
Physicians (includes 0.7 FTE for clinical aspect of Medical Directorship)	\$ 287,711	6.7	\$ 1,927,664
Advanced Practitioners	\$ 160,000	2.0	\$ 320,000
Scribes	\$ 31,200	2.0	\$ 62,400
Administrative services (Medical Directorship – 0.3 FTE)			\$ 60,000
MSO Services and Other Site Expenses* (20% of above-listed amounts)			\$ 474,012
Malpractice (up to \$30,000 annually based on actual expenses)			\$ -
Total Annual Practice Expenses (maximum)			\$ 2,844,076
Total two-year maximum amount			\$ 5,688,152

\* Contractor will provide the MSO administrative services for its own personnel, and County shall have no responsibility for these matters or functions. See Exhibit A, XII for details.

E. Contract has been advised that the amounts above include a base pay rate for scribes of at least \$15/hour, which comports with the County’s living wage ordinance. Contractor is obligated to meet the requirements of the County’s living wage ordinance, which is subject to adjustment annually. In no event shall the Base Fee or the total amount of this Agreement increase based on the living wage ordinance. Contractor agrees that it shall comply with the requirements of that ordinance and is fully compensated for doing so for the duration of this Agreement.

F. The amount that County shall be obligated to pay for all services rendered under this Agreement shall not exceed FIVE MILLION SEVEN HUNDRED THOUSAND DOLLARS (\$5,700,000) for the Agreement term of October 1, 2017 through September 30, 2019.

## EXHIBIT C

### PERFORMANCE METRICS

- A. Both County and Contractor acknowledge the need for a partial withhold reimbursement model based on mutually acceptable units of measurement. As discussed in Exhibits A and B to this Agreement, funds at risk will be paid quarterly on the basis of the following metrics:
1. Hospitalist providers will meet with at least one Specialty group monthly or have a Specialist presentation at the monthly Hospitalist staff meeting to improve communication, referral patterns, and manage specialty relationships in serving our patients. Hospitalist Service Medical Director and Specialty Services Medical Director will work together to prioritize specialty meetings/presentations.
  2. Press Ganey rolled-up quarterly Hospitalist Provider score will be above 90% each quarter or improve 2.5% over previous quarter.
  3. Continuity Score will be 2.0 or lower for the first year of the contract and decrease to 1.8 or lower for the second year of the contract.
  4. Hospitalist Locums use: no more than 20% of the total hospitalist physicians during first three months, no more than 15% of the total hospitalist physicians shall be locums during the fourth (4<sup>th</sup>) through the ninth (9<sup>th</sup>) month of the contract and no more than ten percent (10%) of the total physician hospitalist shifts shall be locums after the tenth (10<sup>th</sup>) month of the contract. After six (6) months of contract start date, eighty-five (85%) or more of shifts will be filled by "Galen Inpatient Physicians, Inc. Hospitalist SMMC Core Team". Galen Inpatient Physicians, Inc. Hospitalist SMMC Core Team is defined as providers who staff at least ten (10) shifts per month for the previous three (3) months.
  5. All cause SMMC ED return rate, for patients discharged from the Hospitalist Service at thirty (30) days, will be less than ten percent (10%) or two and a half percent (2.5%) improvement over prior quarter (current rate is 15%).
- B. Both the County and Contractor acknowledge Contractor cannot achieve metrics detailed in this Agreement, without assistance and cooperation from the County and at times there are conditions present the Contractor has no control over. Therefore, the County must meet the following operational conditions, and failure to do so will have the consequences described below:
1. **SMMC will facilitate remote EMR access to 100% of "Galen Inpatient Physicians, Inc. Hospitalist SMMC Core Team", within four (4) weeks of provider submitting all necessary paperwork required for access to EMR.**



2. Soarian trainer will be available to any hospitalist that requires training within three (3) business days of hospitalist starting.
3. Specialty Care Medical Director will organize and facilitate discussions within (10) working days of receiving the issue in writing from the Hospitalist Services Medical Director when the Hospitalist Services Medical Director and a specialist/specialty group are not able to come to an agreement regarding patient care.
4. Press Ganey scores for Satisfaction with nurse communication will be ninety percent (90%) or better each quarter or improve 2.5% over previous quarter.
5. SMMC will provide assigned Case Management support /services for patients who are admitted to the hospitalist' services for care.

C. In the event that the County or Contractor fails to meet any of the conditions listed in Subsections A, 1 – 5 through B, 1 – 5, of this Exhibit C during any quarterly period during the term of this Agreement, Contractor shall be entitled to a credit of \$9,600 for that quarter for each condition that the County failed to achieve during that quarter which may be offset **against any amounts to which the County would otherwise be entitled due to the Contractor's failure to meet performance metrics during the same quarter.** Thus, whether the County is entitled to amounts because of Contractor's failure to meet performance metrics is affected by whether Contractor actually meets or failed to meet the metrics described in Section I of this Exhibit C to the Agreement, as well as whether County meets the conditions set forth in Section II of this Exhibit C to the Agreement. By way of example, the calculation each quarter will follow this logic:

If Contractor failed to achieve 2 out of 5 metrics during a given quarter Contractor's compensation will be reduced by two fifths (2/5th) of the \$48,000 total that is at risk for failure to meet all five of the metrics set forth in this Exhibit C (i.e. \$19,200). Contractor would however, be entitled to retain the three fifths (3/5th) of the \$48,000 that corresponds to the three (3) performance metrics achieved during that quarter (i.e. \$28,800). If, however, in the same quarter the County fails to achieve one of its five operational conditions, Contractor shall be entitled to receive an additional amount equal to one-fifth (20%) of the \$48,000 performance incentive amount at risk during the quarter (i.e. \$9,600). Therefore, in this example, where Contractor has failed to achieve two of the five performance operational conditions, the Contractor shall be subject to a reduction in compensation corresponding to the two performance metrics that the Contractor failed to achieve, less the amount corresponding to the one operational condition that the County failed to achieve.

**The County's failure to achieve operational conditions in any given quarter shall only be considered in determining whether the Contractor is entitled to an offset for the Contractor's**

failure to achieve performance metrics under this Agreement and under no circumstances shall County's failure to achieve operational standards result in Contractor receiving compensation beyond that set forth in Exhibit B to this Agreement.

As stated above, under no circumstances shall Contractor ever receive during a quarter any amount greater than the total quarterly incentive amount of \$48,000. Once the calculation of Contractor compliance with performance metrics is complete following each quarter, any "reduction" assessed from the calculation of the quarter will be withheld from the monthly payment immediately following the date upon which County informs Contractor of the extent of its compliance with the performance metrics for the preceding quarter.

Contractor's contractual compensation will be reduced up to a maximum of FORTY EIGHT THOUSAND DOLLARS (\$48,000) for not meeting or exceeding any of the five (5) metrics set forth in Exhibit C to this Agreement each quarter. Each metric is valued at \$9,600 each quarter.

However, under no circumstances shall Contractor ever receive during a quarter any amount greater than the total quarterly "withhold" amount of \$48,000.

## EXHIBIT E

### CORPORATE COMPLIANCE SMMC CODE OF CONDUCT (THIRD PARTIES)

The person/entity listed below (the "Undersigned") recognizes and is fully dedicated to advancing SMMC's 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.

The Undersigned will comply with all Federal, State or other governmental health care program requirements.

The Undersigned, 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.

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

The Undersigned 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.

The Undersigned understands that non-compliance with 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.

The Undersigned 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.

The Undersigned 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). The Undersigned will promptly report the offering or receipt of such gifts to the SMMC Compliance Officer.

The Undersigned 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.

The Undersigned 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**

The Undersigned hereby certifies by signing below that an authorized representative has received this Code of Conduct, understands it, has authority to commit the Undersigned to this Code of Conduct, and hereby commits the Undersigned to comply with this Code of Conduct.

## ATTACHMENT I

### Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973, as Amended

The undersigned (hereinafter called "Contractor(s)") hereby agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended, all requirements imposed by the applicable DHHS regulation, and all guidelines and interpretations issued pursuant thereto.

The Contractor(s) gives/give this assurance in consideration of for the purpose of obtaining contracts after the date of this assurance. The Contractor(s) recognizes/recognize and agrees/agree that contracts will be extended in reliance on the representations and agreements made in this assurance. This assurance is binding on the Contractor(s), its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Contractor(s).

The Contractor(s): (Check a or b)

a. Employs fewer than 15 persons.

b. Employs 15 or more persons and, pursuant to section 84.7 (a) of the regulation (45 C.F.R.

84.7 (a), has designated the following person(s) to coordinate its efforts to comply with the DHHS regulation.

Name of 504 Person:

David Birdsall, MD

Name of Contractor(s):

Galen Inpatient Physicians, Inc.

Street Address or P.O. Box:

2100 Powell Street, Suite 900

City, State, Zip Code:

Emeryville, CA 94608

I certify that the above information is complete and correct to the best of my knowledge

Signature:



Title of Authorized Official:

Chief Operations officer / VP

Date:

6/6/17

\*Exception: DHHS regulations state that: "If a recipient with fewer than 15 employees finds that, after consultation with a disabled person seeking its services, there is no method of complying with (the facility accessibility regulations) other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible."