

Agreement No. _____

AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND TOTAL RENAL CARE, INC.

This Agreement is entered into this _____ day of _____, 2025 (the “Effective Date”), by and between the County of San Mateo, a political subdivision of the state of California, hereinafter called “County,” and Total Renal Care, Inc., hereinafter called “Contractor.” Contractor and County may each be referred to herein individually as a “Party” and collectively as the “Parties.”

* * *

Whereas, Contractor is engaged in the business, among other things, of providing hospitals with certain services, including providing necessary non-physician professional personnel, including registered nurses and patient care technicians, for certain in-patient and out-patient services that treat blood, such as hemodialysis, peritoneal dialysis (“PD”), continuous renal replacement therapies (“CRRT”), apheresis, and isolated ultrafiltration therapies for renal failure and non-renal failure patients (collectively, and as applicable, the “Treatment Services”); and

Whereas, County has requested that Contractor provide County with the specific Treatment Services listed in the fee schedule set forth on Exhibit B (the “Fee Schedule”) and to provide related supplies, equipment and general administrative services in accordance with the operational processes and responsibilities set forth on Exhibit A (together with the Treatment Services, collectively, the “Services”); and

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 acute care dialysis, continuous ambulatory peritoneal dialysis, continuous cyclic peritoneal dialysis, and clinical apheresis 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. The Services shall not include the provision of medical director oversight services.

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. On each anniversary of the Effective Date during the Term, the Fee Schedule shall be increased by three and a half percent (3.5%). Payment must be received by Contractor within thirty (30) calendar days from the date of invoice. In no event shall County's total fiscal obligation under this Agreement exceed THREE MILLION ONE HUNDRED TWENTY THOUSAND DOLLARS (\$3,120,000). 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. 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 September 1, 2025, through August 31, 2028.

5. Termination

This Agreement may be terminated by either Party 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. 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.

Contractor may terminate the Agreement upon ninety (90) days' Notice that, in Contractor's reasonable determination, the continuation of Services is financially untenable for Contractor. "Financially untenable" means that Contractor has determined that the last twelve (12) months of profitability with respect to this Agreement is less than the minimum margin that is fair market value as set by a third-party valuation firm for similar hospital services arrangements.

Either Party may terminate this Agreement for cause. In order to terminate for cause, the terminating Party must first give the other Party notice of the alleged breach. The breaching

Party shall have five (5) business days after receipt of such notice to respond and a total of thirty (30) calendar days after receipt of such notice to cure the alleged breach. If the breaching Party fails to cure the breach 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.

6. Contract Materials

At the end of this Agreement, or in the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and other written materials (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.

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

Each Party shall indemnify and save harmless the other Party 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 under this Agreement, or payments made pursuant to this Agreement brought for, or on account of, any of the following and which result from the negligent, reckless, or willful acts or omissions of the indemnifying Party and/or their officers, employees, agents, or servants, providing that this shall not apply to injuries or damages to the extent that the indemnified has been found in a court of competent jurisdiction to be liable by reason of its own negligence or willful misconduct:

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

(B) damage to any property of any kind whatsoever and to whomsoever belonging;

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

(D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of the indemnifying Party and/or its officers, agents,

employees, or servants. However, a Party's duty to indemnify and save harmless under this Section shall not apply to injuries or damage for which the other Party 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 each Party 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.

b. Intellectual Property Indemnification

Each Party 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.

Each Party warrants 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. Each Party shall defend, indemnify, and hold harmless the other Party 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. The indemnifying Party's duty to defend, indemnify, and hold harmless under this Section applies only provided that: (a) the indemnified Party notifies the indemnifying Party promptly in writing of any notice of any such third-party claim; (b) the indemnified Party cooperates with the indemnifying Party, at the indemnifying Party's expense, in all reasonable respects in connection with the investigation and defense of any such third-party claim; (c) the indemnifying Party retains sole control of the defense of any action on any such claim and all negotiations for its settlement or compromise (provided the indemnifying Party 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 The indemnified Party, impair any right of he indemnified Party, or contain any stipulation, admission, or acknowledgement of wrongdoing on the part of The indemnified Party without The indemnified Party's prior written consent, not to be unreasonably withheld); and (d) should services under this Agreement become, or in The indemnifying Party'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 The indemnified Party's reasonable use of the services under this Agreement to be seriously endangered or disrupted, The indemnifying Party shall, at The indemnifying Party's option and expense, either: (i) procure for The indemnified Party 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, The indemnifying Party will have no obligation or liability to The indemnified Party 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 The indemnified Party (other than modification performed by, or at the direction of, The indemnifying Party) 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 The indemnified Party in a manner prohibited by this Agreement.

The duty of each party 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. These certificates shall specify or be endorsed to provide 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. Contractor reserves the right to self-insure for any and all of these coverages.

County shall, at its expense, provide and maintain (a) workers' compensation coverage in amounts required by State law, (b) property damage insurance or equivalent coverage, and (c) professional liability and commercial general liability or equivalent coverage in amounts not less than One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) annual aggregate. Such insurance shall be maintained during the Term and, if such insurance is written on a claims-made form, for one (1) year after termination of this Agreement, covering all work, duties, or obligations of County in connection with this Agreement and, as applicable, for its employees who perform any work, duties, or obligations in connection with this Agreement. County reserves the right to self-insure this coverage. County's obligation under this Section 5.2 shall survive termination of this Agreement.

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. Such insurance shall be combined single limit bodily injury and property damage for each occurrence, shall not be limited, reduced, or otherwise affected by any limitations of liability in this Agreement and shall not be less than the amounts specified below:

- (a) Comprehensive General Liability.....\$1,000,000
- (b) Motor Vehicle Liability Insurance.....\$1,000,000
- (c) Professional Liability.....\$1,000,000

County and its officers, agents, employees, and servants shall be named as additional insured on any such Comprehensive General Liability policies of insurance, 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.

Each Party certifies that: (i) it shall not violate the Anti-Kickback Statute with respect to the performance of this Agreement; (ii) the compensation provided under this Agreement has been determined in arm's-length bargaining and reflects fair market value in arm's-length transactions; (iii) the compensation is not and has not been determined in a manner that takes into account the volume or value of any referrals or business otherwise generated for or with respect to or between the Parties for which payment may be made in whole or in part under Medicare, Medicaid, or any Federal or State health care program or under any other third party payor program.

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 within 30 days of such filing, provided that within such 30 days 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. liquidated damages of \$2,500 per violation; and/or
- iv. imposition of other appropriate contractual and civil remedies and sanctions, 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 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

In the case of Contractor, to:

Name/Title: DaVita Inc.
Address: 5200 Virginia Way
Brentwood, TN 37027;
Attention: Hospital Services Group Paralegal

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 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.

21. Disaster and Emergency Response Plan

Contractor will develop and maintain a Disaster and Emergency Response Plan ("Emergency Plan") that includes all of the elements set forth in this Section, as well as any additional elements reasonably requested by the County. The Emergency Plan will also include site-Specific emergency response plan(s) for each of the sites at which Contractor provides services pursuant to this Agreement ("Site Plans"). The Emergency Plan and associated Site Plans will address Contractor preparations to effectively respond in the immediate aftermath of a national, state or local disaster or emergency ("Emergency Response") and plans for the ongoing continuation of Services under the Agreement during and after a disaster or emergency ("Continuity of Operations").

Contractor shall submit the Emergency Plan to the County within thirty (30) days after the beginning of the Term of the Agreement and the Emergency Plan will be subject to the reasonable approval of the County. Contractor shall respond reasonably promptly to any comments or requests for revisions that the County provides to Contractor regarding the Emergency Plan. Contractor will update the Emergency Plan and associated Site Plans as circumstances warrant and shall provide County with copies of such updated plans. Contractor shall train employees on the Emergency Plan and the Emergency Plan will include a description of how employees will be trained.

The Emergency Plan will indicate, in as much detail as reasonably possible, the categories of additional staff, supplies, and services that Contractor projects would be necessary for effective Emergency Response and Continuity of Operations and the costs that the Contractor projects it would incur for such additional staff, supplies and services. Contractor shall recognize and adhere to the disaster medical health emergency operations structure, including cooperating with, and following direction provided by, the County's Medical Health Operational Area Coordinator (MHOAC). In the event that the Contractor is required to implement the Emergency Plan during the term of the Agreement, the parties will confer in good faith regarding the additional staff, supplies and services needed to ensure Emergency Response and/or Continuity of Operations owing to the particular nature of the emergency, as well as whether the circumstances warrant additional compensation by the County for additional staff, supplies and services needed for such Emergency Response and/or Continuity of Operations.

Contractor shall reasonably cooperate with the County in complying with processes and requirements that may be imposed by State and Federal agencies (including, but not limited to the California Governor's Office of Emergency Services and the Federal Emergency Management Agency) in connection with reimbursement for emergency/disaster related expenditures.

In a declared national, state or local disaster or emergency, Contractor and its employees will be expected to perform services as set forth in the Agreement, including in the area of Emergency Response and Continuity of Operations, as set forth in the Emergency Plan and each Site Plan. Contractor shall ensure that all of its employees are notified, in writing, that they will be expected to perform services consistent with the Emergency Plan and each Site Plan.

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. LIMITATION OF LIABILITY

NEITHER PARTY NOR ITS AFFILIATES SHALL BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES FOR PUNITIVE, EXEMPLARY, CONSEQUENTIAL, SPECIAL, INCIDENTAL OR INDIRECT DAMAGES, INCLUDING LOSS OF PROFITS, WHETHER IN TORT, CONTRACT OR ANY OTHER LEGAL THEORY, AS A RESULT OF THIS AGREEMENT, EVEN IF SUCH PARTY IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

24. Force Majeure

Neither Party shall be considered in breach of or in default under this Agreement, and shall not be liable to the other Party, for any inability to perform its obligations hereunder due to any circumstance or delay resulting from, including but not limited to, acts of nature; terrorism or war; acts of governmental authority; national emergencies; public health emergencies; or an inability to obtain supplies or materials (or reasonable substitutes therefor) necessary to perform its obligations under this Agreement by reason of circumstances beyond its reasonable control (each of the foregoing, a "Force Majeure Event"). This section will only apply to the extent (a) the Force Majeure Event is outside the reasonable control of the impacted Party and is not due to the impacted Party's fault or negligence; (b) the impacted Party provides notice of the Force Majeure Event to the other Party, stating the period of time the occurrence is expected to continue; and (c) the impacted Party uses diligent efforts to minimize the effects of such Force Majeure Event.

* * *

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

For Contractor: Total Renal Care, Inc.

Signed by:

Shelly Nelson

Contractor Signature

June 13, 2025

Date

Shelly Nelson

Contractor Name (please print)

APPROVED AS TO FORM ONLY: DaVita Inc.

DocuSigned by:

By: Rose Olson

Name: Rose Olson

Title: Assistant General Counsel

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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

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

Hemodialysis: Equipment (dialysis machines, filters, bloodlines, needles, dialysate, bicarbonate, teammate uniforms, clerical supplies); Services (HD machine setup, testing, and maintenance; water testing; patient assessment; implementation of dialysis treatments; patient monitoring; blood and medication administration during dialysis treatments; bedside care provided during dialysis treatments; patient monitoring during dialysis treatments; dialysis access care and dressing changes, lab draws from dialysis access, clinical support to County personnel, patient education about ESRD and treatment modalities).

Peritoneal Dialysis: Equipment (peritoneal dialysis cyclers, sets, appliances, dianeal); Services (peritoneal dialysis machine setup, testing, and maintenance; patient assessment; implementation of peritoneal dialysis treatments; patient monitoring; peritoneal dialysis exit site care and dressing changes, medication administration through peritoneal dialysis catheters, lab draws from peritoneal dialysis catheters, peritoneal dialysis catheter repair, patient education, 24-hour clinical support for primary nurses with PD patients, transportation of equipment to and from patient rooms).

CRRT: Equipment (CRRT machines, filters, bloodlines, and dialysate); Services (CRRT machine setup, testing, and maintenance, administration of CRRT treatments, CRRT connections and disconnections, lab draws through CRRT access, CRRT exit site care and dressing changes, patient monitoring, 24-hour clinical support for County ICU nurses, machine alarm troubleshooting and management, patient education, CRRT education for ICU nurses, transportation of equipment to and from patient rooms).

Apheresis: Equipment (Optia machines); Services (provide therapeutic plasma exchange; offer additional services for red cell exchange and white cell depletion; potential to treat sickle cell patients; opportunity to expand therapy for some select cancer treatments).

Orders

Contractor shall provide the Treatment Services only upon receipt of an order from a nephrologist, physician, or advanced practice provider who has been authorized by County to make such requests ("Order"). If requested by Contractor, County shall provide Contractor with a list of providers authorized and qualified to order Treatment Services (the "Providers"). In order to initiate treatment, County agrees to promptly contact Contractor upon receipt of an Order and upon County's confirmation that the patient is Clinically Ready for Treatment. For purposes of this Agreement, a patient is deemed "Clinically Ready for Treatment" when (a) the patient is physically available for treatment; (b) the patient has a functioning vascular or peritoneal access in place; (c) County has obtained necessary, appropriate, and written consent specific to the Treatment Services ("Informed Consent") and such consent is documented per County policy; and (d) the patient's Hepatitis B status is properly documented. If a patient requires same-day treatment, the patient must be Clinically Ready for Treatment and the Order for such same-day treatment must be received no later than 3PM for Normal Operating Hours to apply to such same-day treatment. If a patient requires same-day treatment and the patient is not Clinically Ready for Treatment, or the Order for such same-day treatment is not received, by 3PM, Non-Normal Operating Hours will apply to such same-day treatment. County shall use commercially reasonable efforts to submit an Order for all other patients by 6PM the day prior to the requested treatment. If contact is made by telephone, County will call the dedicated phone number Contractor will give to County for placing an Order. County's call to Contractor with Orders for the Treatment Services is County's authorization for Contractor to provide such Treatment Services on County's behalf. If Contractor receives a verbal or read back Order

for the provision of the Treatment Services, County shall provide to Contractor a written Order from the ordering Provider within forty-eight (48) hours of such verbal or read-back Order. County shall make Informed Consent documents available to Contractor Staff immediately prior to the performance of the Treatment Services. County and Contractor agree that the Provider(s) shall be responsible for discussing the risks and benefits of treatments involving any of the Treatment Services in conjunction with obtaining the Informed Consent. If questions arise from any documentation to be provided under this Section, Contractor may delay the performance of the Treatment Services until it has the required information. Contractor Staff shall monitor and regulate the Treatment Services in conformity with Provider's orders and the patient's condition.

Response Time

Contractor will respond within two hours for emergent and eight hours for non-emergent (or as otherwise ordered by a physician) requests; however, multiple mitigating factors will need to be taken into consideration including weather, location, and other environmental considerations that may impact Contractor's ability to respond within the expected time frame. After 6pm, Contractor will always have nursing resources available to ensure that urgent/stat patients are covered.

Hours of Operations

Contractor can provide service 24 hours per day, 7 days per week, and 365 days per year. In the inpatient setting, Contractor's normal hours of operation are routinely Monday through Saturday, 6a.m. to 6p.m. All other days and times, including after hours, Sundays, and holidays (New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, MLK, Columbus Day, Presidents Day and Veterans Day) are considered "Non-Normal Operating Hours." Contractor ensures that availability and coverage are provided by designating an "on-call" nurse that is available to the hospital and physicians.

Staffing

Contractor staffs according to treatment volume and patient acuity. The number of staffing corresponds with the expected volume on a given day. Bedside treatments for patients that are a higher acuity or in isolation are performed with a 1:1 patient to caregiver ratio. Routine treatments provided in the treatment room, are typically performed with a 2:1 patient to caregiver ratio. For hemodialysis, Contractor's clinical staff consist of registered nurses (RNs) and a Hospital Services Administrator (HSA) who serves as a manager for the program, as well as Contractor's local management team.

Contractor's teammates, including RNs, PCTs, and biomedical services specialist meet the qualifications and applicable licensure and certification requirements based on the CMS conditions for coverage. All dialysis staff meets the applicable scope of practice, board, and licensure requirements in effect in the appropriate state. State regulations supersede Contractor's general policy regarding qualifications and licensure. In addition, education and credentialing requirements are built to comply with any requirements of the Joint Commission. Contractor's frontline clinical team will be led by a Clinical Coordinator and a Hospital Services Clinical Manager will also be available and will function as a quality outcomes specialist and educator.

Contractor's local operations are supported by a flexible and highly trained nursing staff. Contractor also offers creative staffing solutions to absorb growth or volume fluctuations such as part-time or per-diem staff, utilization of regionalized float teams or night nurses. These resources consist of RNs and PCTs and can be deployed within 24 hours to help support surges in treatment volume.

Equipment

Contractor maintains and repairs all dialysis and related equipment necessary for the provision of dialysis services. All equipment provided by Contractor is properly maintained to meet any local, state or federal requirements and code. Contractor will provide biomedical coverage for Contractor's equipment 24 hours per day, seven days per week with an on-call schedule posted at the hospital. A localized biomedical engineering team ensures dialysis equipment safety standards and regulations are maintained and documentation is readily retrievable for TJC inspections and other CQI monitoring.

Contractor does not manufacture equipment or supplies and is device agnostic. Contractor has a singular focus on innovating and improving care delivery and quality and allow the hospital and physicians to provide guidance on their preferred equipment for dialysis machines and portable reverse osmosis (RO) technology. As a result, Contractor have developed best-demonstrated practices that maximize operational efficiency and excellence, while minimizing cost across complex health systems with varying equipment, configuration and delivery needs. Equipment selection is based on the specific needs of each individual hospital. At SMMC, Contractor may utilize the following machines:

- Fresenius 2008T dialysis machines (2)
- Millenium Reverse osmosis machines (2)
- Optia apheresis machine (1)
- Baxter peritoneal dialysis cyclers (2)

County Obligations.

- (i) County will provide Contractor with a Contractor-approved locked area for storage of equipment and materials associated with provision of Treatment Services, as further described in Section 10(a) (Other County Obligations/Space) below.
- (ii) County acknowledges and agrees that items of equipment may require preventive maintenance and/or repair from time to time, and County agrees to make available to Contractor's Staff and its authorized agents appropriately located work areas that are suited to the making of such repairs.
- (iii) County shall be responsible for the maintenance of its own equipment which is not provided by Contractor, including, without limitation, maintenance and water testing of equipment owned by County.
- (iv) County shall provide access to and all necessary connections to obtain incoming water appropriate for the provision of dialysis treatments. Incoming water shall be at the appropriate temperature and quantity, delivered with adequate pressure for the proper functioning of the dialysis machines and related equipment.
- (v) County shall provide access to and all necessary code-compliant connections to a drain into a sewer system appropriate for the disposal of effluent solutions from dialysis procedures.
- (vi) County shall provide utilities including electricity, gas, and HVAC. County shall also provide access to sufficient dedicated GFI electrical outlets necessary for the proper functioning of dialysis equipment, water purification devices, and any other electrical device that may be required for patient care.
- (vii) County shall provide telecommunications including emergency call systems. Telephone and fax lines will include outside line usage located in the space provided for the provision of the Treatment Services. County shall provide to Contractor Staff direct

access to the public internet via a publicly routable IP address that is assigned to Contractor by County's Internet Service Provider or a private IP address from County network with appropriate accommodations made on County's internet firewall to allow connectivity to Contractor's VPN. Contractor will pay (or reimburse County) for the connectivity charges and network change requirements.

- (viii) County's biomedical or maintenance department shall monitor electrical safety of dialysis equipment according to Joint Commission requirements.

Supplies. _____ Contractor shall provide the following supplies:

- (i) Commercially available dialysate solutions ordered for Treatment Services.
- (ii) Tubing Sets required for Contractor provided equipment or for the provision of Treatment Services.
- (iii) Filters required for Contractor provided equipment including Transducer Protectors and filters for portable RO equipment.
- (iv) Fistula Needles, dialysis end caps and/or catheter adaptors, as applicable. Product selection to be made in Contractor's sole discretion unless County desires to provide alternate products at its own expense.
- (v) Water Quality Analysis Supplies.

County shall provide the following supplies:

- (i) Pharmaceuticals, medical supplies and other supplies not listed in this Section that are necessary and appropriate for the provision of the Treatment Services, including all intravenous replacement solutions, saline, peripheral fluids and plasma.
- (ii) All equipment and supplies necessary for Contractor to comply with all County policies and procedures with respect to the treatment of patients with communicable diseases and/or infections in conjunction with the provision of Services, as long as such policies and procedures are consistent with CDC recommendations and Contractor's policies and procedures for the provision of Services.

Patient Education

Patient education is crucial in Contractor's patient's prevention and intervention choices impacting their present and long-term health and wellness. Contractor has developed an innovative educational program called Transition Smart that allows patients to choose their education path through interactive video content.

Facility Orientation and Additional Training

Contractor Staff assigned to each Facility shall complete an initial orientation of the Facility ("Initial Facility Orientation") of up to eight (8) hours at no additional cost to County. In addition to the Initial Facility Orientation, each Contractor Staff may also attend up to four (4) hours of relevant, applicable, and necessary County-required additional training ("Additional Training") per year, at no additional cost to County. County agrees to coordinate scheduling of such Additional Training in a manner that does not interfere with Contractor Staff providing Services. If County requires that Contractor Staff attend Additional Training in excess of four (4) hours per Contractor Staff per year, then County shall (i) memorialize its request for Additional Training in writing prior to its implementation, (ii) provide such Additional Training at its own expense and (iii) reimburse Contractor for any labor costs incurred by Contractor incident to such Additional Training, which shall be invoiced by Contractor as "County

Required Orientation or Training” in accordance with the Fee Schedule. Contractor will utilize County's written request and documentation of Contractor Staff completion of Additional Training to invoice County as described above.

Treatment Location Contractor shall provide the ordered Treatment Services at patient bedside or in a designated dialysis room made available by County. The determination of the medically appropriate location of each treatment shall be made in the sole and absolute discretion of a particular patient's Physician and shall be expressed in an Order. In the event that the Physician orders Contractor to provide the Treatment Services to a patient in the dialysis treatment room, County shall be solely responsible for transferring the patient to and from the dialysis treatment room.

Treatment Services

General duties and responsibilities of Contractor's Staff include:

- (a) Contractor Staff will communicate with County nurse at time of arrival and departure from location where procedure is being performed.
- (b) Contractor Staff will be responsible for provision of the ordered Treatment Services, including, as applicable and/or except as otherwise specified in the Agreement: (i) set-up and safety check of machine and water treatment system; (ii) initiating treatment, monitoring of treatment, and termination of treatment; (iii) documentation of treatment on County approved forms; and (iv) clean-up of equipment used in the Treatment Services and proper storage of machine and supplies.
- (c) Communication between County and Contractor Staff will include but not be limited to the following specific information: (i) patient's pertinent condition; (ii) tolerance of procedure, medications and transfusions; (iii) medications administered or transfusions given; and (iv) lab tests or other services required by County staff to be performed for dialysis patients before, during, or after the Treatment Services.
- (d) Contractor Staff will complete any and all reports required in accordance with this Agreement. Also, Contractor Staff will document any fluids and medications added to dialysate, any other medications administered, or blood products transfused.
- (e) Contractor Staff will secure all equipment and supplies in the storage area designated within County when procedure is completed.
- (f) Contractor staff will document care into County's designated EHR, Epic.
- (g) Contractor staff are required to complete new Epic training. Alternatively, if the individual has used Epic in this specific role within the past 12 months, they may request to bypass the assigned training by applying to Test Out. If eligible, the individual will be given a one-time assessment. An 80% or higher passing score is required to waive the full end-user training.

Care Coordination

County shall provide Contractor Staff with a daily listing of inpatients requiring dialysis or related services. County shall provide nurses who will provide general nursing support during each treatment for each patient

receiving the Treatment Services. These nurses shall be responsible for the non-Treatment Service-related care of the patient during the treatment, which may include, without limitation, responsibility for administering medications, performing activities of daily living (ADLs) and baseline assessments, and assisting Contractor Staff in achieving hemodynamic stability in the event the patient becomes unstable during the treatment. County shall provide emergency support services including emergency facility personnel, equipment and supplies. County shall provide or otherwise arrange for blood banking, laboratory and x-ray services as required for patient care both on an emergent and non-emergent basis.

Other County Obligations

(a) **Space.**

- (i) County shall provide adequate space, consistent with all applicable guidelines and regulations, to store sufficient equipment, water systems and medical supplies required, at Contractor's sole discretion, by the patient volume, complexity of Treatment Services, and consistent with response time and scheduling requirements set forth in this Agreement. The size and location of the storage space must be reasonably acceptable to Contractor.
- (ii) County shall provide a locked and secure file cabinet, drawer, or other storage space for the retention of patient health information by Contractor.
- (iii) County will provide hospital beds and dialysis chairs in a dedicated dialysis space with such equipment, furniture and other equipment and devices as are necessary for the proper care of patients during the provision of Treatment Services, as determined by Contractor. County provides all patient transport to and from dedicated dialysis space.

(b) **Safety.**

- (i) Adequate and Safe Space (as defined herein), consistent with all applicable guidelines and regulations, to perform Services. "Safe Space" shall mean that County will use commercially reasonable efforts to provide an environment where Contractor personnel will be free from any real or threatened acts of physical violence or harassment from, but not limited to, County patients. If Contractor has reason to believe its personnel may be subject to any kind of physical abuse, County agrees to work with Contractor to establish and maintain "Safe Space" by, for example, providing security personnel, though the exact measures taken will be mutually agreed upon by both Parties at that specific time. Safe Space shall also mean appropriate access of Contractor Staff to eye wash stations and related safety mechanisms. In the event County is unable to provide a Safe Space, as reasonably determined by Contractor, due to real or threatened acts of physical violence or harassment by a County patient, Contractor reserves the right to discontinue the provision of Services to such patient until County has established such Safe Space and such discontinuation of Services shall not be considered a breach of this Agreement.
- (ii) All physical restraints, chemical restraints and other personnel/equipment necessary or appropriate to restrain patients to protect the safety of Contractor Staff and other patients.

- (iii) Free parking in a safe environment within close proximity to Facility for all Contractor Staff.
 - (iv) The Parties shall work together to ensure there is an appropriate emergency management plan in place to address Contractor Staff and those receiving Treatment Services.
- (c) Miscellaneous. County shall be responsible for:
 - (i) Orientation to all Contractor Staff with respect to County's policies and procedures applicable to the provision of the Services (e.g., fire safety, evacuation procedure, hazardous materials, communication, safety, etc.).
 - (ii) All patient transport.
 - (iii) Annual testing for Contractor Staff to ensure tuberculosis respirators fit properly.
 - (iv) Pre and post dialysis weights for patients.
 - (v) Janitorial, in-house messenger, laundry, medical records, and environmental services, all as related to the Services including, without limitation, medical and hazardous waste removal.
 - (vi) A mutually agreed upon STAT protocol.
 - (vii) All necessary medical record charting forms.
 - (viii) For purposes of utilization of billing and documentation purposes, County will permit Contractor access to its network or allow Contractor to put in its own network access for the Term of the Agreement.

Exhibit B**Fee Schedule**

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 below fee schedule and terms.

The below fees include services provided to non-admitted persons who are kept at SMMC for observational purposes for a period of less than twenty-four (24) hours without being admitted at that time.

Service	Rate	Unit of Measure
Hemodialysis-1:1	\$1,070	Per tx
Hemodialysis-2:1	\$895	Per tx
Hemodialysis Differential - Non-routine Hours	\$123	Per tx
Hemodialysis Differential - Holidays	\$123	Per tx
Hemodialysis Cancellation - Labor and Supplies	\$393	Per cancellation
Hemodialysis 2:1 Differential Non-Normal Operating Hrs	\$123	Per tx
Hemodialysis 2:1 Differential - Holidays	\$123	Per tx
PD Differential - Non-Normal Operating Hours	\$123	Per tx
PD Differential - Holidays	\$123	Per tx
PD Cancellation - Labor and Supplies	\$393	Per cancellation
Apheresis Differential - Non-Normal Operating Hours	\$123	Per tx
Apheresis Differential - Holidays	\$123	Per tx
Apheresis Cancellation - Labor and Supplies	\$393	Per tx
TPA Administration	\$98	Per administration
CAPD-Therapeutic Visit/Support Service	\$702	Per tx
CCPD-Therapeutic Visit/Support Service	\$702	Per tx
Plasma Exchange (Routine Apheresis)	\$2,378	Per tx
Red Cell Exchange / Depletion	\$2,478	Per exchange
White Cell Exchange / Depletion	\$2,478	Per exchange
Apheresis Cartridge Only	\$283	Per cartridge
RN Consultation	\$98	Per 30 minutes
County Required Orientation or Training	\$98	Per 30 minutes
Hemodialysis-additional charge per hour for treatments ordered longer than 4 hours	\$75	Per hour
Wait Time (30 minute grace period)	\$92	Per 30 minutes

Invoicing

Contract Template >\$200,000
May 2022

San Mateo Medical Center

All invoices must be approved by the Chief Nursing Officer or their designee. For services provided to San Mateo Medical Center, invoices must be sent to: SMMC-Accounts-Payable@smcgov.org San Mateo Medical Center, Attn: Accounts Payable, 222 W. 39th Ave, San Mateo, CA 94403

Correctional Health Services

Invoices can be sent to: Correctional Health Services, 300 Bradford Street Redwood City, CA 94063, Attention: CHS Accounts Payable HS_CH_AP@SMCGOV.ORG and CC Rakesh Kapadia: Rkapadia@smcgov.org

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. The Parties agree to work collaboratively to develop an action plan to address any failure(s) of the Contractor to meet a Performance Metric goal, but any such failure shall not be considered a breach of this Agreement.

Metric	Metric Definition	Target Performance Threshold (specific # selected by ops)	Measurement	Frequency
Time Out	% of time outs performed prior to each HD treatment per Company P&P as reported in the ACOI data	98%	Based on 100% of the HD treatments as reported via the ACOIs	Monthly on Pyramid Report
Hand Hygiene	% of hand hygiene observations of Company Staff that are hand hygiene compliant as reported in the monthly hand hygiene audits	95%	Based on observation threshold of ≥ 30 hand hygiene observations submitted via hand hygiene audit app	Monthly on Pyramid Report
Patient Education	% of HD treatments where education was provided to patient and/or family and documented, or education was documented as not appropriate for that treatment	95%	Based on ACOI data	Monthly on Pyramid Report
Water & Dialysate Quality Testing	% of reverse osmosis and dialysis delivery systems within acceptable culture/LAL range at end of month per Company P&P	98%	Based on DaVita lab data of final results in the month	Monthly on Pyramid Report
Pre- and post-treatment report	Pre- and post-treatment report is completed for every HD treatment as reported in the ACOI data	95%	Based on ACOI data	Monthly on Pyramid Report
Preventive maintenance	% of machines with Preventative Maintenance that is current by month end	98%	Based on BART data of 100% of machines in service	Monthly on Pyramid Report

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 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 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 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 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 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 in the time and manner designated 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, and in the time and manner designed 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 County at the request of County or the Secretary, in a time and manner designated by the County or 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 in the time and manner designated 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.
- p. 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.
- 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 Protection Health Information.

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.
- 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 monitor the security policies and procedures of Business Associate.