

**Professional Services Agreement
Between the County of San Mateo and
CEP America – California, a California general partnership d/b/a Vituity
For Emergency and Correctional Health Services**

THIS PROFESSIONAL SERVICES AGREEMENT is entered into by and between the County of San Mateo, San Mateo County Health (“County”) and CEP America – California, a California general partnership d/b/a Vituity (“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 emergency medicine 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, San Mateo County Health, 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).
- 1.3.6 Contractor and each health care provider providing services under this Agreement shall, prior to providing services under this Agreement, provide to the SMMC Medical Staff Office satisfactory proof of immunity to Mumps, Measles and Rubella (MMR), Varicella and Hepatitis B. In addition, all such health care providers shall, prior to providing services under this Agreement, provide proof of

vaccination for Influenza within the one-year period immediately preceding commencement of such services, and of QuantiFERON Tuberculosis (TB) testing within the one-year period immediately preceding the commencement of such services. During the term of this Agreement, all health care providers providing services under this Agreement shall, on at least an annual basis, be immunized against Influenza; shall be tested for TB using the QuantiFERON blood test; and shall be N-95 fit tested. Documentation of compliance with these requirements shall be current on or before October 31st of each year during the term of this Agreement. Failure to maintain current documentation as required in this Section 1.3.6 shall be a material breach of this Agreement and will result in providers being barred from providing services or receiving compensation under this Agreement until such documentation is received. All health care providers acknowledge and agree that they may be required to undertake additional infectious disease-related testing in the event of an infectious disease exposure at SMMC. SMMC shall provide the testing and services required under this Section 1.3.6, free of charge to health care providers providing services under this agreement or such health care providers shall have the option of providing documentation from other sources that is reasonably satisfactory to the County of compliance with the requirements of this Section 1.3.6. All requirements under this section shall be subject to a medical exception request submitted to SMMC.

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 SEVEN MILLION ONE HUNDRED SEVENTY-SEVEN THOUSAND THREE HUNDRED AND SEVENTY-FOUR DOLLARS (\$7,177,374).

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, San Mateo County Health 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, San Mateo County Health, 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.

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 Billing and Compliance

Contractor agrees to keep accurate and complete records. To the extent that billing is discussed in more detail in Exhibits to this Agreement, Contractor shall comply with those billing-related requirements.

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 January 1, 2020, through December 31, 2022. The Agreement shall supersede all prior agreements.

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, property damage liability, and professional 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.

Such insurance shall include:

- A. Comprehensive general liability insurance... \$1,000,000
- B. Motor vehicle liability insurance..... \$-0-
- C. Professional liability insurance.....\$1,000,000/\$3,000,000
 - a. County will provide professional liability (malpractice) insurance coverage in the amounts of \$1,000,000 / \$3,000,000 and the appropriate tail coverage for the physician / nurse practitioner or physician's assistant providing services under this Agreement. This professional liability coverage will cover only the services provided to the patients of San Mateo County while such services are performed at SMMC or San Mateo Health System Clinics.

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 all insurance policies required by this Agreement. 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

Unless provided by the County as specified above, 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 States 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 39th Avenue
San Mateo, CA 94403
Facsimile: 650/573-2950

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

If to Contractor: CEP America – California, a California general partnership d/b/a
Vituity
2100 Powell Street, Suite 400
Emeryville, CA 94608
Attn: David Birdsall MD, COO

With a Copy to: CEP America – California, a California general partnership d/b/a
Vituity
2100 Powell Street, Suite 400
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—Performance Metrics

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

Attachment I—§ 504 Compliance

Attachment J – Vendor/Contractor Access Policy

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 San Mateo Medical Center (SMMC) Chief Medical Officer (CMO).

I. Correctional Health Services

Effective January 1, 2020 through December 31, 2022, Contractor will provide a physician, board-certified in Emergency Medicine, to serve as onsite Medical Director to the Correctional Health Services. This Medical Director will provide administrative, clinical, and program support, and shall be a physician for the Correctional Center facilities and have, prior to the initiation of this contract, approval by the Correctional Health Services Manager and jail administration to serve as the Medical Director for Correctional Health Services. The physician assigned as Medical Director for Correctional Health Services will be responsible for the following:

A. Administrative Responsibilities

1. Collaborate with all designated County managers to plan and further develop health care programs in the County's correctional facilities.
2. Review and approve policies and procedures in coordination with designated County managers, including nursing, physician, pharmacy, and ancillary services.
3. Review and approve standardized procedures for the nursing staff employed at the County's correctional facilities.
4. Supervise the medical aspects of the Quality Management Program.
5. Meet on a regular basis with the emergency physicians at SMMC and in Public Health to discuss common medical issues and perform peer review.
6. Participate in health education programs for inmates and staff.
7. Supervise the clinical practice of nurse practitioner(s) employed at the County's correctional facilities.
8. Arrange for peer review, at least quarterly. This review must be done by physicians not affiliated with Contractor, and using SMMC medical staff

resources. Notice of this review will be submitted quarterly, in writing, to the SMMC Chief Medical Officer (CMO) or designee.

9. Review Correctional Health Services formulary annually, and attend, at least quarterly, the Pharmacy and Therapeutics Committee meetings.
10. Provide a minimum of twenty-five (25) hours of service per month performing these administrative responsibilities.

B. Clinical Activities

1. Responsible for clinical services in the County's correctional facilities.
2. Provide direct clinical services for inmates, including health history, physical assessment and treatment plans.
3. Assist the County with supervision and recruitment of contract physicians.
4. Provide medical consultative services to all Correctional Health clinical staff.
5. Review and co-sign standardized orders entered in medical records by nursing staff.
6. Review cases with nurse practitioners on a scheduled basis each week.
7. Review, approve, and co-sign all consult requests.
8. Provide on-call service for telephone consultation between 8:00 a.m. and 9:00 p.m., Monday through Friday. In the absence of the onsite Medical Director, emergency physicians employed by Contractor at the SMMC ED, will provide telephone consultation.
9. In conjunction with the Correctional Health Services Manager, the Medical Director will create a schedule providing physician coverage Monday through Friday for the on-site clinic.
10. Provide oversight to the self-medication program.
11. Monitor the care of inmates hospitalized at any outside hospital, ensure appropriate medical care, and facilitate return to custody when indicated.

12. Review and co-sign health appraisals done by nursing staff.

II. Emergency Department (ED) Services

- A. Contractor shall provide emergency services in the SMMC Department of Emergency Services. ED shall be staffed twenty-four (24) hours a day with physicians working a maximum of twelve (12) hour shifts. There shall be a minimum of one physician on duty in the ED at all times. The staffing schedule for each month shall be posted in the SMMC ED at least thirty (30) days prior to the beginning of each month. The physicians assigned to SMMC shall be board certified or board eligible in Emergency Medicine (American Board of Emergency Medicine).

To facilitate care of patients in the Department, Contractor may hire physician assistants or nurse practitioners in addition to the Contractor's physicians. Physician assistants and nurse practitioners shall be supervised at all times by a physician employed by the Contractor. Contractor shall comply with written guidelines, approved by County, that limit the scope of services performed by a physician assistant or nurse practitioner to those which may be performed permissibly by physician assistants and nurse practitioners. Contractor shall observe the requirement (except in emergencies) that patients be informed that medical services shall be rendered by physician assistants or nurse practitioners. Physician assistants and nurse practitioners 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. 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.

- B. Contractor shall participate in such teaching and/or training programs as are, or may be, established by the medical staff at SMMC. Each individual's participation in continuing education shall be documented and considered at the time of reappointment to the medical staff and/or renewal or revision of individual clinical privileges.
- C. Contractor shall fulfill those requirements for active staff membership set forth in Articles 3 and 4.2 of SMMC's Medical Staff Bylaws, Rules, and Regulations, and maintain such active staff status as a condition of this Agreement.
- D. Contractor shall attend regularly and serve, without additional compensation, on committees responsible for peer review activities, quality assurance, and utilization review as outlined in the Medical Staff Bylaws, Rules, and Regulations. Contractor shall participate in utilization review of radiology services, laboratory services, and

ambulance services, as requested by the SMMC CMO or designee.

- E. Contractor shall provide direct supervision of the Department of Emergency Services, assuring overall efficiency in day-to-day operations. Contractor shall serve as Chief of Emergency Services through appointment by the Medical Executive Committee (MEC). Chief of the ED will be elected by the ED medical staff who may convey the wishes of the group on medical matters to the medical staff via MEC. Contractor will select a Medical Director for operations and management of the ED. The duties of the Medical Director shall include, but are not limited to, the following:
1. Monthly meetings with the Chief Operating Officer (COO), 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. Accountability for all professional and administrative activities within the Department.
 3. Ongoing monitoring of the professional performance of all individuals who have clinical privileges in the ED.
 4. Assure the quality and appropriateness of patient care provided within the ED 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 ED, and about the clinical performance of its members, as reported to the Department of Surgery and MEC.
 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 as determined by Contractor.

8. Assist SMMC Administration in developing and updating departmental rules, polices and regulations.
- F. Contractor shall also provide other administrative services not directly related to the medical care of patients as reasonably determined by Contractor and SMMC's CEO, CMO or their designees. Such administrative services may include, but are not limited to, teaching, administration, supervision of professional or technical staff, quality control activities, committee work, and attending conferences, and will be provided that such work shall be for a minimum of one hundred (100) hours per month.
- G. Contractor will provide the following administrative services for its own personnel, and County shall have no responsibility for these services or functions:
1. Recruiting of its own physicians, physician assistants, and nurse practitioners to ensure its ability to provide staff needed to comply with the terms of this Agreement.
 2. Medical Group credentialing.
 3. Orientation of clinical staff to clinical operations and use of the Emergency Department Information Systems (EDIS).
 4. Provision and management of ED medical staff benefit programs (i.e. medical, dental, life and disability insurance; retirement benefits).
 5. Payroll and withholding taxes.
 6. Scheduling.
 7. Backup for sick call and vacation.
 8. Leadership training.
 9. Management and oversight of the professional fee billings function for ED patients.
- H. Provide medical staff administrative support to SMMC in meeting Surgical and Anesthesia Standards as defined by the Joint Commission, Title XXII, of the California Code of Regulations and other applicable standards.
- I. Respond to calls from Correctional Health Services for telephonic and telemedicine evaluation and management of inmates on a full-time basis – seven (7) days per week,

twenty-four (24) hours per day. Respond to calls from Cordilleras Mental Health Center, Monday – Thursday 5:00pm to 8:00am and Friday 5:00pm to Monday 8:00am.

- J. Respond to SMMC clinical laboratory, imaging and other ancillary services for the evaluation and management of critical laboratory, pathology, and imaging results for primary care patients between the hours of 5:00pm and 9:00am each day.
- K. Manage and stabilize cardiac arrest and other medical or surgical emergencies on the premises of SMMC in the absence of an available medical or surgical attending physician.
- L. Respond to calls from commercial payor members regarding medical necessity.
- M. Provide medical supervision for Psychiatric Emergency Services (PES) post- graduate year one (PGY1) residents and serve as restraint authority for PES patients in the absence of on-site psychiatry attending staff.
- N. Both County and Contractor acknowledge the need for a reduction assessment 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 A and in Exhibit C, the text of Exhibit C shall control. As discussed in Exhibit A and B to this Agreement, amounts assessed will be paid quarterly the month following each quarter pursuant to the following metrics:
 - 1. Patients who arrive at the SMMC ED and leave before being seen by a provider (LWBS) will average two percent (2%) or less for each quarter of each year of this Agreement.
 - 2. The Patient Satisfaction score for ED patients regarding “trust provider with care” from NRC Health will reach current goal of 70.0 each quarter during the term of this Agreement. If, however, the NRC Health score is below this goal, Contractor will nevertheless be deemed to have satisfied this metric if Contractor achieves an improvement in its NRC Health score on this metric of at least one- and one-half percent (1.5%) over the score achieved by the Contractor the immediately prior quarter.
 - 3. Length of ED Patient Stay:

Discharge Home – One hundred fifty (150) minutes or less from Arrival to disposition (sign off) for discharge.

4. Contractor Providers are to be compliant with SMMC Employee Health Requirements (EHR), set forth at Exhibit F. Currently, Contract Providers are eighty percent (80%) compliant. By the fourth quarter of the Term of this Agreement, Contractor Providers will be at least 85% compliant with the EHR. By the eighth quarter of the Term of this Agreement, Contractor Providers will be at least 90% compliant with SMMC EHR. By the tenth quarter of the Term of this Agreement, Contractor Providers will be at least 95% Compliant. A copy of the EHR has been provided to the Contractor Providers.
5. To understand and improve the rate of patient transfers, Contractor/ED leadership or designee will meet quarterly with specialty service or individual specialty providers that have the largest number of transfers (excluding OB/GYN transfers to Stanford and Kaiser patients transferred to Kaiser) or may need consultant support

Compliance is measured by meeting and exceeding each of the metrics listed above.

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:

- a. Laboratory testing for CBC, lactate, troponin, urine analysis, and urine pregnancy from time to receive to results will not exceed sixty (60) minute for STAT orders, and this standard will be met at least 95% of the time; If, however, the standard is below this goal, the County will nevertheless be deemed to have satisfied this metric if the County achieves an improvement of at least one over the score achieved by the County the immediately prior quarter.
- b. Length of stay of patients to admit: Patients who are admitted as inpatients will have, on average, an admit time that is no more than three hundred and forty-four (344) minutes from ED Arrival to Admit to an inpatient unit (i.e., ICU or 2AB).
- c. Patients who arrive at the ED will be admitted to an ED room within not more than twenty-five (25) minutes of registration, on average.
- d. The Patient Satisfaction score for ED patients regarding "facility would recommend" from NRC Health will reach current goal of 82.0 during each

quarter during the term of this Agreement. If, however, the NRC Health score is below this goal, the County will nevertheless be deemed to have satisfied this metric if the County achieves an improvement in its NRC Health score on this metric of at least one- and one-half percent (1.5%) over the score achieved by the County the immediately prior quarter.

- e. To understand and improve the rate of patient transferred, SMMC leadership or designee will work in decreasing transfer rate by reviewing and meeting with consultants quarterly to support process of transferring patients. If case manager or designated workflow or staff is assigned to this work this metric will be fulfilled.

O. Patient Volume Fluctuation – Compensation Metric

Due to the variability of patient demand in the SMMC ED and in order to address the greater or lesser provider need on a specific day, the following reimbursement metric shall apply. The parties agree that the compensation for ED services set forth in this Agreement contemplates one hundred ten (110) patient visits to the SMMC ED per day (excluding patients who leave without being seen by a provider or without being treated in the ED prior to having contact with a provider)

1. If the number of patient visits to the SMMC ED on a given day (i.e., 0001 hours to 2400 hours) meets or exceeds one hundred twenty (120) patient visits (excluding from the definition of “patient visits” patients who leave the ED without being seen or treated by a provider), Contractor will receive a payment of \$40.00 for each patient visit that exceeds one hundred and ten 110 patient visits to the ED on that day. By way of example, on a day where the ED treats 122 patients, the Contractor would be entitled to receive a payment of \$480.00 on that day (i.e., a payment of \$40.00 times the twelve (12) patient visits taking place in excess of 110 patient visits on that day).
2. Every month during the term of the Agreement, the payments that Contractor is entitled to receive pursuant to this Section II.O. of Exhibit A to the Agreement and any amounts will be paid to Contractor on a monthly basis.

P. Scribe Services

1. Contractor will provide Scribes for an average of three (3) shifts of eight hours each per day.
2. Under the direct supervision of the Contractor, Scribe will:

- a. Document the history of the patient's present illness
- b. Document the review of systems and physician examination
- c. Enter vital signs and reported lab values
- d. Look up pertinent past medical records
- e. Track and enter the results of studies
- f. Type progress notes
- g. Enter the patient's discharge plan
- h. Document physician consultations with a patient
- i. Notify physicians when studies results are available, thus assisting with timely disposition of the patient.

EXHIBIT B

PAYMENTS

Correctional Health and Emergency Department (ED) Services

In consideration of the services provided by Contractor in EXHIBIT A, County will pay Contractor based on the following fee schedule:

I. Correctional Health

- A. For the period January 1, 2020 through December 31, 2022, Contractor shall invoice the County on a monthly basis at the rate of THIRTY-SEVEN THOUSAND NINE HUNDRED AND FIVE DOLLARS (\$37,905) per month, not to exceed FOUR HUNDRED FIFTY-FOUR THOUSAND EIGHT HUNDRED AND SIXTY DOLLARS (\$454,860) for each one-year period of this three-year Agreement.
- B. In addition to the foregoing compensation, Contractor shall be entitled to compensation for training of Contractor personnel providing Correctional Health Services when such training for Contractor personnel is requested by SMMC, at the following hourly rates: \$168 per hour for training of physicians; \$58 per hour for training of auxiliary providers ("APs," i.e., physician assistants and nurse practitioners); and \$17 per hour for training of scribes.
- C. The parties anticipate that Contractor staff will participate in training for SMMC's Correctional Health Services electronic health record ("EHR"). Up to three (3) physicians or APs employed by Contractor will initially be trained in the County's EHR. Thereafter, each year during the term of this Agreement, Contractor shall be entitled to receive compensation for EHR training for one (1) physicians or APs. Contractor shall not receive more than eight hours of compensation for any one individual's EHR training.
- D. The Correctional Health Services Manager shall approve all invoices for payment as appropriate per the terms of this Agreement. The physician assigned to Correctional Health shall be on site five (5) days per week and on call until 9:00 p.m., Monday through Friday. The monthly payments described in Paragraph I.A of Exhibit B to this Agreement shall also cover these on call services. At other times the SMMC ED physician on duty will, by telephone or by telemedicine imaging, manage the Correctional Health patients or direct the transfer of patients to the SMMC ED for further evaluation.

II. Emergency Department

- A. For the period January 1, 2020 through December 31, 2022, Contractor shall provide County with a minimum of one physician on duty in the ED at all times, twenty-four (24) hours per day, 365 days a year. Services include those described in EXHIBIT A, including telephone and telemedicine backup for Correctional Health, after-hours telephone back-up for Cordilleras Mental Health Center, and meeting or exceeding the five (5) metrics for County and Contractor outlined in Section N of EXHIBIT A and EXHIBIT C. This Agreement is based on Contractor serving 40,280 SMMC ED patient visits per year, which was the total number of patients seen in the ED in 2015.
- B. Clinical ED services will be paid at the rate of ONE HUNDRED THIRTY-THREE THOUSAND FOUR HUNDRED AND NINETEEN DOLLARS (\$133,419) per month during each month of the term of the Agreement.

However, Contractor's compensation may be reduced each quarter depending on Contractor's achievements of the performance metrics set forth in Exhibit C.

- C. In order to compensate for fluctuations and variations in the demand for ED patient services which are addressed in Exhibit A, Section II.O. of this Agreement, the incremental case rate paid by the County or reimbursed by Contractor will be FORTY DOLLARS (\$40.00) per patient, subject to the requirements and procedures set forth in Section II.O of Exhibit A.
- D. If one or more of the performance metrics in Exhibit C are not met in any quarter, Contractor's contractual compensation will be reduced up to a maximum of FORTY-EIGHT THOUSAND FOUR HUNDRED AND FORTY DOLLARS (\$48,440) 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 \$9,688 each quarter.

However, under no circumstances shall Contractor ever receive during a quarter any amount greater than the total quarterly potential "withhold" amount of \$48,440.

- E. Contractor will be compensated TWELVE THOUSAND THREE HUNDRED AND THIRTY FOUR DOLLARS (\$12,334) per month for Contractor to retain and provide three (3) full time Scribes at SMMC who will provide services for Contractor's providers in the SMMC ED. The Scribe Job Description is detailed in Exhibit A, Section P, of the Agreement. The additional amount is not reflected in the money payment for clinical services listed above in Section II.B of this Exhibit B, and shall be payable separate from the clinical services for a total amount as reflected in Section II.I below.

- F. Contractor will be compensated at a rate of SEVENTEEN THOUSAND ONE HUNDRED AND SIXTY-FIVE DOLLARS (\$17,165) per month for 100 hours per month of administrative services detailed in Exhibit A, Section F with no additional compensation for addition hours necessitated in a particular month. This additional amount is not reflected in the money payment for clinical services listed above in Section II.B of this Exhibit B, and shall be payable separate from the clinical services for a total amount as reflected in Section II.I below.
- G. County will provide professional liability (malpractice) insurance coverage as defined in Section 4 of the Agreement in the amounts of \$1,000,000/\$3,000,000 and the appropriate tail coverage for Contractor providing services under this Agreement.
- H. Contractor will be paid at a fixed rate of ONE MILLION NINE HUNDRED THIRTY-SEVEN THOUSAND SIX HUNDRED AND FOUR DOLLARS (\$1,937,604) per year to be paid in monthly installments of ONE HUNDRED SIXTY-ONE THOUSAND FOUR HUNDRED AND SIXTY-SEVEN DOLLARS (\$161,467) per month except when Exhibit B, Section II and/or Section II, E are applied and result in a different compensation. The maximum amount payable under this Agreement for its three year term shall not exceed SEVEN MILLION ONE HUNDRED SEVENTY-SEVEN THOUSAND THREE HUNDRED AND SEVENTY-FOUR DOLLARS (\$7,177,374).
- I. In addition to the foregoing compensation, Contractor shall be entitled to compensation for training of Contractor personnel providing services at SMMC when such training for Contractor personnel is requested by SMMC, at the following hourly rates: \$168 per hour for training of physicians; \$58 per hour for training of auxiliary providers ("APs," i.e., physician assistants and nurse practitioners); and \$17 per hour for training of scribes.
- J. The parties anticipate that Contractor staff will participate in training for SMMC's electronic health record ("EHR"). Up to twelve (12) physicians, 11 APs and 6 scribes employed by Contractor will initially be trained in the County's EHR. Thereafter, each year during the term of this Agreement, Contractor shall be entitled to receive compensation for EHR training for up to two physicians, 6 APs, and 6 scribes. Contractor shall not receive more than eight hours of compensation for any one individual's EHR training.

III. Invoices. Contractor shall, on a monthly basis and following each month of service, submit an invoice to County for all compensation for services set forth in this Agreement. County shall pay invoices within thirty (30) days of the invoice date. County shall only pay Contractor in response to invoices, unless otherwise instructed by Contractor, and shall include the remittance information set forth in such invoices when making payments.

Contractor may impose a late fee equal to a simple two percent interest (the invoice amount multiplied by two percent) on any unpaid undisputed invoice more than 30 calendar days past due. An additional two percent interest may be assessed for each additional 30 calendar day period that the invoice or any portion thereof remains unpaid. If County has not paid an invoice for more than 120 calendar days (90 calendar days overdue), Contractor may refer collection of the unpaid amount to an attorney or collections agency. County agrees to pay all reasonable costs of collection (including attorney's fees) necessary for Contractor to collect any amounts due it by County.

If County requests a payment plan, County must do so prior to the invoice due date. If County requests a payment plan after the invoice due date, and Contractor agrees, at its sole discretion, to such payment plan, Contractor reserves the right to assess upon County all late fees, accumulated interest, attorney's fees, collection fees and any other related cost, as applicable and as set forth in Section 6.1 above. Nothing in this Section requires Contractor to agree to any payment plan.

EXHIBIT C

PERFORMANCE METRICS

- I. 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:
 - A. Patients who arrive at the SMMC ED and leave before being seen by a provider (LWBS) will average two percent (2%) or less for each quarter of each year of this Agreement.
 - B. The Patient Satisfaction score for ED patients regarding “trust provider with care” from NRC Health will reach current goal of 70.0 each quarter during the term of this Agreement. If, however, the NRC Health score is below this goal, Contractor will nevertheless be deemed to have satisfied this metric if Contractor achieves an improvement in its NRC Health score on this metric of at least one- and one-half percent (1.5%) over the score achieved by the Contractor the immediately prior quarter.
 - C. Length of ED Patient Stay:

Discharge Home – One hundred fifty (150) minutes or less from Arrival to disposition (sign off) for discharge.

 - D. Contractor Providers are to be compliant with SMMC Employee Health Requirements (EHR), set forth at Exhibit F. Currently, Contract Providers are eighty percent (80%) compliant. By the fourth quarter of the Term of this Agreement, Contractor Providers will be at least 85% compliant with the EHR. By the eighth quarter of the Term of this Agreement, Contractor Providers will be at least 90% compliant with SMMC EHR. By the tenth quarter of the Term of this Agreement, Contractor Providers will be at least 95% Compliant. A copy of the EHR has been provided to the Contractor Providers.
 - E. To understand and improve the rate of patient transfers, Contractor/ED leadership or designee will meet quarterly with specialty service or individual specialty providers that have the largest number of transfers (excluding OB/GYN transfers to Stanford and Kaiser patients transferred to Kaiser) or may need consultant support.

Compliance is measured by meeting or exceeding each of the metrics listed above.
 - F. As the metrics listed above are measured using data provided by SMMC, in the event that performance reporting is not available or does not contain enough information to permit the parties to determine whether or not a metric target has been achieved, SMMC will inform Vituity within five (5) calendar days of becoming aware of such problem. After Vituity receives such notice from SMMC, the parties will promptly meet and confer to establish an alternative method for determining if the particular metric has been achieved, or alternatively, the parties may amend this Agreement to replace such metric with mutually agreed upon replacement metrics.

- II. 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 describe below:
- A. Laboratory testing for CBC, lactate, troponin, urine analysis, and urine pregnancy from time to receive to results will not exceed sixty (60) minute for STAT orders, and this standard will be met at least 95% of the time; If, however, the standard is below this goal, the County will nevertheless be deemed to have satisfied this metric if the County achieves an improvement of at least one over the score achieved by the County the immediately prior quarter.
 - B. Length of stay of patients to admit: Patients who are admitted as inpatients will have, on average, an admit time that is no more than three hundred and forty-four (344) minutes from ED Arrival to Admit to an inpatient unit (i.e., ICU or 2AB).
 - C. Patients who arrive at the ED will be admitted to an ED room within not more than twenty-five (25) minutes of registration, on average.
 - D. The Patient Satisfaction score for ED patients regarding “facility would recommend” from NRC Health will reach current goal of 82.0 during each quarter during the term of this Agreement. If, however, the NRC Health score is below this goal, the County will nevertheless be deemed to have satisfied this metric if the County achieves an improvement in its NRC Health score on this metric of at least one- and one-half percent (1.5%) over the score achieved by the County the immediately prior quarter.
 - E. To understand and improve the rate of patient transferred, SMMC leadership or designee will work in decreasing transfer rate by reviewing and meeting with consultants quarterly to support process of transferring patients. If case manager or designated workflow or staff is assigned to this work this metric will be fulfilled.
- III. In the event that the County or Contractor fails to meet any of the conditions listed in Subsections I, A – E through II, A – E, of this Exhibit C during any quarterly period during the term of this Agreement, Contractor shall be entitled to a credit of \$9,688 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 \$48,440 total that is at risk for failure to meet all five of the metrics set forth in this Exhibit C (i.e. \$19,376). Contractor

would however, be entitled to retain the three fifths (3/5th) of the \$48,440 that corresponds to the three-performance metrics achieved during that quarter (i.e. \$29,064). 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 \$48,440 performance incentive amount at risk during the quarter (i.e. \$9,688). 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 \$48,440. 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 (\$48,440) 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 \$9,688 each quarter.

However, under no circumstances shall Contractor ever receive during a quarter any amount greater than the total quarterly "withhold" amount of \$48,440.

EXHIBIT E

CORPORATE COMPLIANCE SMMC CODE OF CONDUCT (THIRD PARTIES)

Contractor 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.

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 I

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

Contractor (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:

Name of Contractor(s):

CEP America-California, a California general partnership

Street Address or P.O. Box:

2100 Powell Street, Suite 400

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

Date:

1/22/2020

*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."

COUNTY OF SAN MATEO



Attachment J Vendor/Contractor Access Policy

Policy Update: 10/22/2018

Overview

Vendors/Contractors play an important role in the support of hardware and software management for San Mateo County. They may be required to access, configure, maintain, and provide emergency support for systems. As a result, the vendor/contractor can be exposed to sensitive data or the need to connect to the County's network may expose the County to unwanted virus or security threats.

Policy Purpose

The purpose of this policy is to establish rules and responsibilities for the vendors/contractors who require not only physical access but also access to the County's network and information resources. This policy is intended to minimize potential exposure from damages and to mitigate any liability to the County as a result of unauthorized use.

Scope

This policy applies to all vendors/contractors who require access to County facilities as well as access to the County's network using non-County owned computing devices to perform work on behalf of the County. This policy also applies to all portable computers (laptops) and portable computing devices (devices that have similar hardware and software components used in personal computers such as a tablet PC).

Policy

Vendor/contractors shall:

- A. Only use information and systems for the purpose of the business agreement with County and any information acquired in the course of the agreement shall not be used for personal purposes or divulged to others.
- B. All contractors and vendors contracting with the County shall provide a list of its employees that require access to the County's system and data pursuant to the agreement
 1. The list shall be updated and provided to the Departments and Chief Information Officer (CIO) or his/her designee within 24 hours of staff changes.
- C. Safeguard all County data by:
 1. Utilizing data encryption to protect information on computing devices.
 2. Securing the computing device at all times; especially if the device is left unattended for any length of time.

3. Implementing precautions to prevent others from viewing on-screen data in public areas.
 4. Notifying the County immediately if the mobile device containing County data or used in the performance of County activities is lost or stolen.
 5. Not downloading, uploading, or maintaining, on a computing device, any information that is considered sensitive without authorization of his/her Project Manager or Department Head or his/her designee.
- D. Vendor/contractor shall use unique accounts and password management that complies with the County's Information Technology (IT) Security Policy.
1. All passwords and accounts shall be unique to the vendor/contractor and shall not be shared.
- E. Vendor/Contractor shall take reasonable steps to protect against the installation of unlicensed or malicious software.
1. All commercial software installed must have a valid license and that the terms, conditions, and copyright laws shall be strictly followed.
- F. All County-owned software installed on the computing device must be removed when the vendor/contractor services are terminated.
1. Upon termination of work, the vendor/contractor shall return or destroy all County information and data as well as provide written certification of that return or destruction within 24 hours.
- G. Remote access rules and procedures shall be strictly adhered to.
1. Remote access usage must be confined to provide support for County systems; personal use shall be strictly prohibited.
- H. In the event that a vendor/contractor disposes of a computing device containing County's confidential information and/or data, the device must be sanitized in such a way that does not allow for the retrieval of data and by Department of Defense (DOD) standards.
1. Alternatively, computing devices may be physically destroyed by a method that leaves the device's data unrecoverable.
- I. Vendor/contractor understands that its written security protocols for County-related business shall be available for inspection by the County upon request.
1. For the period that the computing device is on the County's network, there is no expectation of privacy with regard to the contents of the device despite the fact that it is a privately-owned equipment.
- J. Vendors/contractors must wear visible identification and if issued a County cardkey, the cardkey must be visible at all times. Use of another individual's cardkey is expressly prohibited.
- K. Vendor/Contractor access to County data center(s) must be authorized and approved in writing by the Chief Information Officer (CIO) or his/her designee.

Responsibilities

The vendor/contractor will be responsible for assuring that anti-virus software, with scanning and update services be applied, is installed on its computing device used for County business and that the anti-virus software meets the requirements as set forth in the County's IT Security Policy and the Virus, Patch, and Vulnerability Management Policy. Vendor must also ensure that all computing devices have operating system security patches installed and are updated on a regular basis.

Additionally, computing devices, such as laptops and/or tablets, must include an approved encryption program with configuration that meets or exceeds the County's IT Security Policy.

Vendor/Contractor device(s) may connect directly to the County network with express written approval from the CIO or his/her designee. The Vendor/Contractor must verify to the County that the device(s) have been patched, virus protected, and encrypted. Vendors using devices without approved software and encryption will not be permitted to connect to the County's network.

It is also the responsibility of the vendor/contractor to be familiar with the following policies to ensure its adherence:

- IT Security Policy
- Internet Usage Policy
- Email Policy (if applicable)
- Virus, Patch, and Vulnerability Management Policy
- Data Center Policy

Policy Enforcement

The Director of ISD (CIO) is the policy administrator for information technology resources and will ensure this process is followed. Additionally, Division Directors, Department Heads, and managers are responsible for compliance with County policy within their respective administrative areas.

Those vendors who violate this policy may be subject to contract termination, denial of service, and/or legal penalties, both criminal and civil.

Revision History

Effective Date	Changes Made
August 8, 2009	Policy established
October 22, 2018	Policy updated