

**Professional Services Agreement
Between the County of San Mateo and**

**Sutter Bay Medical Foundation, a California nonprofit public benefit corporation dba Palo Alto
Medical Foundation for Health Care, Research and Education For Vascular Surgery Services**

THIS PROFESSIONAL SERVICES AGREEMENT is entered into by and between the County of San Mateo, San Mateo Health System (“County”) and Sutter Bay Medical Foundation, a California nonprofit public benefit corporation dba Palo Alto Medical Foundation for Health Care, Research and Education (“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, Contractor has entered into a Professional Services Agreement with Palo Alto Foundation Medical Group, Inc., a California professional corporation (“PAFMG”), whereby Contractor retains the services of physicians employed by PAFMG; 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:

The physician(s) providing services for the patients of the County pursuant to this Agreement shall be duly licensed, certified, accredited or otherwise duly authorized to practice medicine in vascular surgery in the State of California. For purposes of this Agreement, references to “Contractor” shall include within their scope any physician who is providing professional services pursuant to this Agreement, including pursuant to any assignment or sub-contract under Section 5.4 of this Agreement.

1.2 **Contractor Provider**

1.2.1 The term “Contractor Provider” shall include all of the physician(s) who provide services under this Agreement who are qualified in the specialty of vascular surgery, whether the individual is (i) a Contractor representative, employee, subcontractor, or agent or (ii) a surgeon employed by or contracted through PAFMG. The term “Contractor Provider” does not include any other employee of Contractor or PAFMG who is not providing services under this Agreement. Notwithstanding the foregoing, Contractor still retains all obligations pursuant to this Agreement.

1.3 **Qualifications**

The following indicate qualifications that must be satisfied by each Contractor Provider 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 Health System, or his/her designee.
- 1.3.2 Shall at all times keep and maintain a valid license to engage in the practice of medicine in the State of California and active Medical Staff membership and/or privileges as may be required under the Bylaws of County for Contractor Provider to provide the services contemplated by this Agreement.
- 1.3.3 Contractor Provider 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 Neither Contractor nor Contractor Provider is currently excluded, debarred, or otherwise ineligible to participate in federal health care programs or in federal procurement or non-procurement programs; nor has Contractor or Contractor Provider been convicted of a criminal offense.
- 1.3.5 Contractor Provider 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). Contractor Provider 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 compliance with current SMMC policy regarding vaccination and screening.

1.4 **Services to be Performed by Contractor**

In consideration of the payments hereinafter set forth, Contractor shall provide Contractor Provider(s) who shall, under the general direction of the Chief Executive Officer of SMMC or his/her designee, with respect to the product or results of such services, 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 be as specified in Exhibit B, not to exceed NINE HUNDRED AND NINE THOUSAND TWO HUNDRED AND FORTY-FIVE (\$909,245.00).

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 Health System or his/her designee and shall not be binding on County unless so approved in writing and signed by both parties via an amendment to this Agreement. Each payment shall be conditioned on the Contractor's and Contractor Provider(s)'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. Such Invoice shall separately identify by service type the number of time-period blocks, consults or shifts for each type of service listed in Exhibit A and shall appear in the forms as attached as Exhibits H-1 and H-2, as may be modified by Contractor from time to time, subject to the reasonable approval of the County. County shall not be obligated to pay Contractor for the services covered by any invoice if Contractor presents the invoice to County more than one hundred eighty (180) days after the date Contractor renders the services, or more than ninety (90) days after this Agreement terminates, whichever is earlier.

1.6 **Substitutes**

Contractor shall provide, at Contractor's sole cost and expense, a substitute for any Contractor who is unable to provide services required under this Agreement. Contractor may add substitute physician names with County's written approval; no formal amendment to the agreement is required. 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 shall ensure that Contractor Provider(s) cooperate with the administration of the Medical Center. Such cooperation shall include but not be limited to the following: creating and maintaining medical records in a timely fashion (including the appropriate use of dictation, electronic medical records, 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 shall ensure that Contractor Provider(s) prepare such administrative and business records and reports related to the service in such format and upon such intervals as County shall reasonably require. Contractor agrees to keep accurate and complete records. 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 ensure that Contractor Provider(s) 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). Any services billed under such managed care contracts shall be billed by County under the County's tax identification number.

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

During the term of this Agreement, Contractor shall ensure that each Contractor Provider notifies County immediately, or as soon as is possible thereafter, but within thirty (30) days of receipt of such information, in the event that:

- I. Contractor Provider's license to practice in any jurisdiction is suspended, revoked, or otherwise restricted;
- II. A report pursuant to Section 805 of the California Business and Professions Code concerning Contractor Provider's competence or conduct is made to any state medical or professional licensing agency;

- III. Contractor Provider'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 Provider'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 Provider'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 Provider has provided to County concerning Contractor's professional qualification or credentials;
- VII. Contractor Provider is convicted of a crime;
- VIII. Contractor or Contractor Provider violates any of County's rules or regulations;
- IX. Contractor or Contractor Provider breaches this Agreement; or
- X. Contractor has knowledge or Contractor Provider has knowledge that Contractor Provider 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 ensure that Contractor Provider(s) 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 ensure that Contractor Provider(s) 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 ensure that all Contractor Provider(s) conduct themselves 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 and Contractor Provider(s) 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 and Contractor Provider(s)’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 Provider(s) 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**

To the best of Contractor's knowledge, and to the extent it would materially impact the obligations or performance of services under this Agreement, 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 or Contractor Provider(s) pursue 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 Contractor Provider 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 Power to Contract in the Name of the Other Party**

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. Likewise, neither the County nor anyone acting on behalf of the County under this Agreement shall have the right or authority to enter into any contract in the name of Contractor, or any Contractor Provider, or to otherwise bind Contractor or PAFMG in any way without the express consent of Contractor or PAFMG, respectively.

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 Provider(s) by virtue of this Agreement.

1.16 **Professional Standards**

Contractor shall ensure that Contractor Provider(s) perform their duties under this Agreement in accordance with the rules of ethics of the medical profession. Contractor shall ensure that Contractor Provider(s) also perform their 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 April 1, 2020 through March 31, 2022.

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 Without Cause Termination

This agreement may be terminated by either party at any time upon ninety (120) days written notice to the other party.

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 Immediate Termination

This Agreement may 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 either party's suspension or exclusion from the Medicare or Medi-Cal Program;
- C. If any of the Contractor Provider(s) violate the State Medical Practice Act;
- D. If any of the Contractor Provider(s)'s professional practice imminently jeopardizes the safety of patients;
- E. If any Contractor Provider(s) are convicted of a crime that, in the reasonable judgment of the County, materially impacts the Contractor Provider's suitability to perform services under the Agreement;

- F. If any Contractor Provider(s) violate ethical and professional codes of conduct of the workplace as specified under state and federal law;
- G. Upon revocation, cancellation, suspension, or limitation of any Contractor Provider(s)'s medical staff privileges at the County;
- H. If any Contractor Provider(s) have a guardian or trustee of its person or estate appointed by a court of competent jurisdiction;
- I. If any Contractor Provider(s) become disabled so as to be unable to perform the duties required by this Agreement;
- J. If PAFMG 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. Notwithstanding the foregoing, County shall have the option of withdrawing its acceptance of a Contractor Provider, as described in Section 1.3.1 without terminating this Agreement. Withdrawal of acceptance of a Contractor Provider 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. Contractor, however, shall have the right to view, inspect and copy patient records for billing, treatment, and quality improvement purposes.

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 and PAFMG shall furnish County with Certificates of Insurance evidencing the required coverage, and there shall be a specific contractual endorsement extending Contractor's and Contractor Provider(s)'s coverage, as applicable, 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 and PAFMG, as applicable, 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 and PAFMG shall each take out and maintain on their own behalf, and shall ensure that all Contractor Providers maintain on their own behalf, during the life of this Agreement such bodily injury liability and property damage liability, and professional liability insurance as shall protect shall protect Contractor, PAFMG and Contractor Provider, while performing work covered by this Agreement, from any and all claims for property damage which may arise from their respective operations or actions under this Agreement. 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 (Contractor and PAFMG)
- B. Motor vehicle liability insurance..... \$-0-
- C. Professional liability insurance.....\$1,000,000/\$3,000,000 (PAFMG only)

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 one hundred and twenty (120) days' notice to Contractor. Contractor and PAFMG, as applicable, must obtain such increased amount of coverage by the end of that notice period.

4.2 **Tail Coverage**

If Contractor or PAFMG, as applicable, obtains one or more claims-made insurance policies to fulfill its obligations, Contractor or PAFMG, as applicable, 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**

- a. It is agreed that Contractor shall defend, hold harmless, and indemnify County and its officers, employees, agents, and servants from any and all claims, suits, or actions of every name, kind, and description brought by a third party which arise out of the terms and conditions of this Agreement or result from the performance of any work required of or payments made pursuant to this Agreement, and which result from the negligent (or malicious/reckless) acts or omissions of Contractor and/or its officers, employees, agents, and servants (including, but not limited to PAFMG and Contractor Providers), provided that this shall not apply to injuries or damages which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.
- b. Contractor shall defend, hold harmless, and indemnify County 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 Provider for services provided under this Agreement.
- c. It is agreed that County shall defend, save harmless, and indemnify Contractor and its officers, employees, agents, and servants (including Contractor Provider(s)) from any and all claims, suits, or actions of every name, kind, and description brought by a third party which arise out of the terms and conditions of this Agreement and which result from the negligent (or malicious/reckless) acts or omissions of County and/or its officers, employees, agents, and servants, provided that this shall not apply to injuries or damages which Contractor and/or Contractor Provider has been found in a court of competent jurisdiction to be solely liable by reason of their own negligence or willful misconduct.
- d. The duty of each party to defend, hold harmless, and indemnify the other as set forth herein shall include the duty to defend as set forth in Section 2778 of the California Civil Code.
- e. In the event of concurrent negligence (or malicious/reckless acts) of County and/or its officers, employees, agents, and servants, on the one hand, and Contractor and/or its officers, employees, agents, and servants, on the other hand, then the liability for any and all claims for injuries or damage to persons and/or property which arise out of terms and conditions of this Agreement shall be apportioned according to the California theory of comparative negligence.

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: Sutter Bay Medical Foundation dba Palo Alto Medical Foundation
333 Distel Circle
Los Altos, CA 94022
Attn: Department of Provider Contracting

With copy to:
Sutter Health
2000 Powell Street, Suite 1000
Emeryville, CA 94608
Attn: Chief Legal Officer, Bay Area

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.

This Agreement supersedes any and all prior or contemporaneous agreements, representations and understandings of the parties.

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**

Neither party may assign any of its rights or obligations hereunder without the prior written consent of the other party. Notwithstanding the foregoing, either party may assign its rights or obligations hereunder to any affiliate of County or Contractor, respectively, without the prior written consent of the other party. 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 Contractor Provider(s) 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 Provider(s) 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**

Nothing in this Agreement or any other written or oral agreement, or any consideration in connection with this Agreement, contemplates or requires or is intended to induce or influence the admission or referral of any patient to or the generation of any business

between County, SMMC, Contractor, PAFMG, Contractor Provider or any other physician. This Agreement is not intended to influence Contractor's, PAFMG's, or any Contractor Provider's judgment in choosing the medical facility appropriate for the proper care and treatment of their patients, or restrict any physician from establishing medical staff membership or clinical privileges at any other healthcare facility.

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 Provider(s).

5.9 **Governing Law**

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

5.10 **Non-Discrimination**

Contractor and Contractor Provider(s) 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 Contractor Provider(s) 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 employs fifteen (15) or more persons, and pursuant to 42 C.F.R. section 84.7(a), has designated the person authorized to execute this Agreement on behalf of Contractor as the person to coordinate Contractor's efforts to comply with the federal regulation. All communications regarding compliance with Section 504 of the Rehabilitation Act of 1973 shall be sent to the addresses listed in Section 5.1 (Notices). 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. Contractor agrees that 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 ensure that Contractor Provider(s) 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. Under supervision, 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 and PAFMG, as applicable, shall comply with all applicable 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 that Contractor, PAFMG and Contractor Provider(s) 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 and Contractor Provider(s) shall keep in strictest confidence and in compliance with all applicable state and federal laws any patient information. Contractor and Contractor Provider(s) shall not disclose such information except as permitted by law.

All services to be performed by Contractor and Contractor Provider(s) pursuant to this Agreement shall be performed 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. 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 and Contractor Provider(s) 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 and Contractor Provider(s) from unauthorized disclosure.

With respect to any identifiable information concerning a Medi-Cal patient that is obtained by Contractor or Contractor Provider(s), Contractor and Contractor Provider(s): (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 D—List of Contractor Providers

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

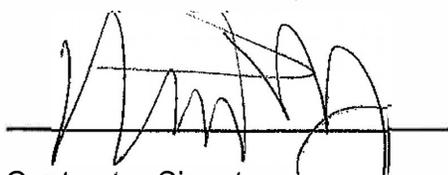
Exhibit G—SMARTT Guidelines

Exhibit H—Invoice Forms

Attachment I—§ 504 Compliance

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

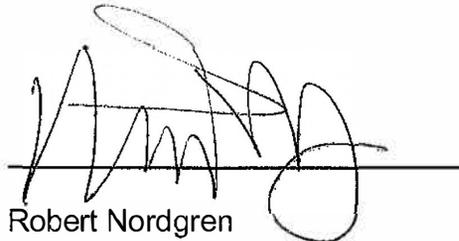
For Contractor: SUTTER BAY MEDICAL FOUNDATION DBA PALO ALTO MEDICAL FOUNDATION FOR HEALTH CARE, RESEARCH AND EDUCATION



Contractor Signature

3/24/20

Date



Robert Nordgren
Peninsula Area CEO



COUNTY OF SAN MATEO

By:

President, Board of Supervisors, San Mateo County

Date:

ATTEST:

By:

Clerk of Said Board

ACKNOWLEDGMENTS

The undersigned hereby acknowledges receipt of a copy of this Agreement and acknowledges the terms contained herein.

PALO ALTO FOUNDATION MEDICAL GROUP, INC.

By: 

Name: Christine Thorburn

Title: Interim Chief Executive Officer

EXHIBIT A

SERVICES

In consideration of the payments specified in Exhibit B, Contractor shall ensure that Contractor Provider (s) listed in Exhibit D perform the services described below under the general direction of the Chief Medical Officer and the SMMC Chief of Surgery.

- I. While providing Call Coverage Shifts (as defined below), Contractor Provider(s) shall provide professional vascular surgery services in the Division of SMMC, Department of Surgery, including inpatient, outpatient, and emergency care, as further described below in this Exhibit A.
- II. Participate in such scheduled Call Coverage Shifts are mutually arranged and agreed upon by members of the Department of Surgery under the supervision of the Chief of Surgery.

Contractor will participate in call and is responsible for four fifth (4/5) or eighty percent (80%) of call per year as scheduled and agreed upon by the Medical Director of Vascular Surgery. "On-call" and "emergency-call" ("Call Coverage Shifts") are defined as being available by telephone or pager to the hospital medical staff, nursing supervisor, and administrator on call as needed. In addition, Contractor Providers must adhere to the guidelines of the San Mateo County Trauma System by being immediately available by telephone and must make every reasonable effort to be present at the hospital at the time of the patient's arrival.

It is expressly understood that Contractor Provider(s) and any other of Contractor's subcontractors for medical specialty services are subject to these conditions, that all will accept scheduling for "on-call" status, and that each will be responsible for his/her portion of "on-call" time. All physicians who take calls for medical specialty services must have SMMC privileges.

Vascular Surgery Call Coverage Shifts are provided 365 nights per year, Monday – Friday, 5:00 p.m. – 7:00 a.m. and Saturday and Sunday 7:00 a.m. – 7:00 a.m. The parties acknowledge and agree that Contractor is expected to cover on average four (4) days out of every five (5) days of call coverage. Stated differently, the Contractor's providers will cover 80% of all Call Coverage Shifts during the term of this Agreement.

- III. Contractor Provider(s) 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 is documented and considered at the time of

reappointment to the medical staff and/or renewal or revision of individual clinical privileges.

- IV. Contractor Provider(s) shall fulfill those requirements for active staff membership set forth in Articles 3 and 4.2 of the SMMC Medical Staff Bylaws, Rules and Regulations and maintain such active staff status as a condition of the Agreement. If Contractor Provider(s) have not already completed such training within two years prior to the effective date of this Agreement, Contractor Provider(s) shall complete the SMMC's General Compliance Training within 30 days of execution of this Agreement.
- V. Contractor Provider(s) shall attend regularly and serve without additional compensation on committees responsible for peer review activities, quality assurance, and utilization review as outlined in the SMMC Medical Staff Bylaws, Rules and Regulations.
- VI. During the term of this Agreement, Contractor Providers shall collectively provide on average, a minimum of seven (7) hours per month of medical staff administrative support to hospital and nursing with respect to scheduling clinic, surgery and call coverage and in meeting surgical and anesthesia standards as defined by the Joint Commission, Title XXII, and other applicable standards.

Administrative services to be provided by Contractor Providers shall include the following:

- a. Quarterly review of the performance metrics set forth in Exhibit C of this Agreement with the development of subsequent corrective action plans as needed
 - b. Monthly review of productivity data on both a department and individual basis
 - c. Participate on and meet regularly with the Credential Committee
 - d. Review of vascular surgery clinic performance with the development of corrective action plans as needed
 - e. Compile clinic/OR schedule for Contractor Providers
 - f. Compile Contractor Providers' call schedule
- VII. Vascular Surgery Responsibilities and Expectations

- a. For the entire term of this Agreement, Contractor is responsible for four fifths (4/5) or eighty percent (80%) of vascular surgery outpatient clinic. Each session shall be at least four (4) hours in duration and occur weekly at SMMC outpatient clinics, as designated by the SMMC Chief Medical Officer or Chief of Surgery.
- b. For the term of this Agreement, Contractor is responsible for four fifths (4/5) or eighty percent (80%) of a consecutive five (5) hour block for vascular surgical procedures on a day of the week mutually determined in consultation with the Chief of Surgery.
- c. All procedures that can safely and reasonably be performed and have appropriate post-op care at SMMC shall be performed at SMMC.
- d. Off-site care: All vascular care for SMMC patients provided at off-site locations (other hospitals) is included under this Agreement, except as provided in Exhibit B, Section V.I.
- e. Contractor shall provide inpatient postoperative care as indicated by standard surgical practice and in compliance with SMMC medical staff requirements for the general practice of medicine.
- f. Participate in such scheduled coverage of service as is mutually arranged and agreed upon by members of the Department of Surgery under the supervision of the Chief of Surgery.

EXHIBIT B
PAYMENTS

In consideration of the services specified in Exhibit A, County will pay Contractor based on the following:

- I. Subject to achievement of the Performance Metrics as described in Exhibit C, Contractor shall be paid at fixed rate of FOUR HUNDRED FIFTY-FOUR THOUSAND SIX HUNDRED AND TWENTY-THREE DOLLARS (\$454,623) per year, to be paid in monthly installments of THIRTY SEVEN THOUSAND EIGHT HUNDRED AND EIGHTY-FIVE DOLLARS (\$37,885) for each month worked.
 - A. Contractor compensation for vascular surgery from the County will be based on the service hours of clinic and surgical time set forth in Section VII of Exhibit A. If the contract terms of services are amended such that the current numbers of clinic sessions and surgical time in Exhibit A are changed, the compensation shall be adjusted in proportion to the change in service hours.
 - B. Additionally, the compensation in this Agreement has been based upon an assumed level of productivity. If the annualized average monthly Medicare Resource-Based Relative Value Scale Relative Value Work Units (wRVUs) for the SMMC vascular surgery services is expected to be 2,431 RVU per year. If the RVU is above 2,795 , or fall below 2,066 wRVUs, over an annual period, and pro-rated for partial annual periods, Contractor and the Chief Medical Officer or his/her designee will meet and confer regarding the productivity standard, and compensation will be modified as appropriate and mutually agreed. Both parties shall have the right to review and audit the other party's data supporting the calculation of productivity. This Section II.B shall not be effective unless and until County shall make available to Contractor accurate and complete monthly reports of each Contractor Provider's productivity pursuant to Section 1.5.3.
- II. If the contract terms of services are amended such that the current numbers of clinic sessions in Exhibit A are changed, the projected volume of wRVU (work units) and corresponding compensation shall be adjusted in proportion to the change in estimated wRVU (work units), based upon a wRVU rate per unit of \$71.87, based on 2019 Medical Group Management Association (MGMA) Physician Compensation and Productivity Survey, Western United States Median Values.
- III. Failure of Contractor to perform the listed services in any given month constitutes a material breach of this Agreement, and in such circumstances, the County, at its option, may withhold payment for any portion of services not rendered, terminate the Agreement pursuant to the termination provisions above, work with the Contractor to reach a schedule for returning the

Contractor to performance under this Agreement, revise this Agreement pursuant to the terms of this Agreement, pursue any remedy available at law, or any combination of these options. The Contractor is not entitled to payment for non-performance of services listed by this Agreement.

- IV. For patients treated at Mill-Peninsula Hospitals, Contractor shall bill all payers, including Medicare, Medi-Cal, Health Plan of San Mateo, commercial insurance, or “self-pay” patients. Contractor shall claim against third party payer for payment, and County shall bear no financial responsibility for such patient with such third party payers.
- V. Contractor shall be paid monthly in equal installments of the annual compensation set forth below. These payments will be subject to the performance metrics that are set forth in Exhibit C to this Agreement and Contractor’s compensation may be reduced due to a failure to meet the performance metrics in a prior quarter, as described below and in more detail in Section II of Exhibit C.
- VI. Contractor’s annual compensation has been based on the following:

A.	Scheduled clinics and surgical time described in Exhibit A, Section VII	\$205,622.60
B.	Call Coverage Vascular Surgery \$750/Call Coverage Shift x 292 days, as described in Exhibit A, Section II:	\$219,000
C.	Medical Director and scheduling clinic, surgery and call coverage: \$2,500/month	\$30,000
	Total :	\$454,622.60

- VII. Total payment for services performed under this Agreement will not exceed NINE HUNDRED AND NINE THOUSAND DOLLARS TWO HUNDRED AND FORTY-FIVE DOLLARS (\$909,245.00).
- VIII. The term of this Agreement is April 1, 2020 through March 31, 2022, as stated in Section 3.1 of this Agreement.
- IX. Payments shall be directed to:

Palo Alto Medical Foundation

Standard Mail:

PAMF Physician Checks
P.O. Box 619100
Roseville, CA 95661

FedEx, UPS, or Other carrier that does not deliver to P.O. Boxes:

PAMF Physician Checks
Sutter Shared Services
9100 Foothills Blvd
Roseville, CA 95747

EXHIBIT C
PERFORMANCE METRICS

- I. Both County and Contractor acknowledge the need for a quality-based performance payment model based on mutually acceptable units of measurement. Amounts at risk will be reconciled quarterly to Contractor on the basis of the following metrics achieved by Contractor Provider(s):
- A. Ninety five percent (95%) of the time in the operating room, surgeons will pause prior to surgery for Time Out and at the end of the surgery for a debriefing.
 - B. In at least ninety five percent (95%) of cases in which the provider is more than thirty (30) minutes late for the start of clinic, a plan of action will be communicated to the PSA and the nurse practitioner assisting in the clinic.
 - C. Documentation, including charge capture, will be completed within seventy-two (72) hours for each patient of a Contractor Provider, with no more than ten (10) delinquent charts per month for the group. A chart is delinquent if not closed within 21 days.
 - D. Contractor Providers are to be compliant with SMMC Employee Health Requirements. Currently, Contract Providers are SEVENTY-EIGHT percent (78%) compliant. By the fourth quarter of the Term of this Agreement, Contractor Providers will be at least NINETY-FIVE (95%) compliant.
 - E. Surgical site infection rates for Vascular Surgery less than the higher of (i) 2.5% or (ii) the surgery department average (excluding Contract providers).

Compliance is measured by meeting or exceeding each of the metrics listed in this Exhibit C, Section I.

- II. Both the County and Contractor acknowledge Contractor cannot achieve the metrics detailed in Section I of this Exhibit C, without assistance and cooperation from the County and, at times, there are conditions the Contractor cannot control. Therefore, the County must meet the following operational conditions, and failure to do so will have the consequences described below in Exhibit C, Section III.
- A. Ninety percent (90%) or better on time (8:00 a.m.) arrival for clinic staff. Noncompliance is defined as clinic staff unable to begin assisting patients and provider after 8:15 a.m.
 - B. The Vascular Surgical Group Medical Director will meet with Medical Director of Specialty Services at mid-quarter (six (6) weeks into each quarter) to review metrics which are not tracking to meet the goal.

- C. Patients seen in the Vascular Surgical clinic will be ninety five percent (95%) compliant with SMARTT expected practice guidelines, as set forth in Exhibit G.
- D. The Vascular Surgical Group Medical Director or designee will meet at least once per quarter with the Medical Director of 2A/B to work on operational barriers delaying or prevailing vascular surgery for 2A/B patients.
- E. A list of vascular clinic charts which are fourteen (14) days past due will be presented by the PSA to the vascular surgeon to sign and one hundred percent (100%) will be completed and signed off the same day in clinic.

III. In the event that the Contractor fails to meet any of the conditions listed in Subsections II. A-E of this Exhibit C during any quarterly period during the term of this Agreement, Contractor compensation may have \$3,788 partially or all withheld. The withholding represents ten percent (10%) the Contractors base monthly fee. Each metric represents one fifth (1/5) of \$3,788 (i.e. \$757). Such withholding will be determined by how many metrics the Contractor fails to meet and whether the County likewise failed to meet any of its operational conditions. By way of example, the calculation each quarter will follow this logic:

If Contractor fails to achieve two out of five conditions during a given quarter, Contractor's compensation will be reduced by two fifths (2/5th) of the \$3,788 (i.e., \$1,514). Contractor would, however, be entitled to retain the three fifths (3/5th) of the \$3,788 that corresponds to the three conditions achieved during that quarter (i.e. \$2,271). If however, in the same quarter the County fails to achieve one of its five conditions, Contractor shall be entitled to a decrease of the reduction by an amount equal to one fifth (1/5th) (i.e. \$757). Therefore, in this example, where Contractor has failed to achieve two of the five conditions, and the County failed to achieve one of the five conditions, the Contractor shall be subject to a reduction in compensation corresponding to the one fifth (1/5) of the total at risk amount for the quarter.

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.

Under no circumstances shall Contractor withholding during a quarter exceed the total quarterly amount of \$3,788. 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 earned contractual compensation will be reduced by up to a maximum of SIX THOUSAND THREE HUNDRED FIFTY DOLLARS (\$3,788) for failure to meet or exceed metrics each quarter. Each metric is valued at SEVEN HUNDRED AND FIFTY SEVEN DOLLARS (\$757) each quarter.

Exhibit D

List of Contractor Providers

George Lee, MD
Dirk Baumann, MD
Owen Palmer, MD
John Rosenman, MD

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.

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

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.

Exhibit G
SMARTT Guidelines

Specialty	Vascular Surgery
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Diagnosis	End Stage Renal Disease
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What follows are our specialist’s recommendations and requirements to not only improve diagnostic accuracy, but also to provide the consultant with the proper information to care for your patient.

Clinical Pearls/Assessment

Comment	These questions are listed primarily to assist you in diagnosing disease and/or comprehensively evaluating disease.
---------	---

Question	Response Type	Required or optional response
	Y/N, Y/N w/comment, Multi-select, Radio Button, Free text	(R or O)
Does the patient have stage IV chronic kidney disease and has been seen by a nephrologist who anticipates starting dialysis in the next 6 months?	Y/N	R
Is the patient on dialysis and needs a fistula?	Y/N	R
Have you fully discussed all options for dialysis with the patient, has the patient undergone dialysis education (e.g., CRICKET), and has the patient decided on the dialysis modality?	Y/N	R
If the patient < 45 years of age and has severe hypertension and at least stage IV renal failure, have you ruled-out renal artery stenosis as a cause of renal failure?	Y/ N	R

Comment	<i>Optional</i>
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Required Labs

Diagnostic Name	Time frame (How Recent? i.e. Within last 6 mo.? Last two weeks?)	Comments	Schedule on order or result?
Basic metabolic panel	1 month		Result

Optional Labs

Diagnostic Name	Time frame (How Recent? i.e. Within last 6 mo.? Last two weeks?)	Comments	Schedule on order or result?

Required Radiology

Diagnostic Name	Time frame (How Recent? i.e. Within last 6 mo.? Last two weeks?)	Comments	Schedule on order or result?
Vein mapping, bilateral upper extremities	6 months		Result
Renal duplex with renal artery evaluation	6 months	For patients < 45 years of age with persistent hypertension despite > 3 anti-hypertensives and	Result
Carotid duplex ultrasound screening	Ever	This is recommended screening for all patients with at least stage IV chronic kidney disease.	Schedule

Optional Radiology

Diagnostic Name	Time frame (How Recent? i.e. Within last 6 mo.? Last two weeks?)	Comments	Schedule on order or result?
Carotid duplex ultrasound screening	Ever		Result

Initial Treatment

Comment	Medical therapy for HTN, DM and dyslipidemia.
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Clinical Summary

Comment	
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Disclaimer Boilerplate

Specialty	Vascular surgery
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Diagnosis	Peripheral arterial disease
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What follows are our specialist's recommendations and requirements to not only improve diagnostic accuracy, but also to provide the consultant with the proper information to care for your patient.

Clinical Pearls/Assessment

Comment	These questions are listed primarily to assist you in diagnosing disease and/or comprehensively evaluating disease.
---------	---

Question	Response Type	Required or optional response (R or O)
Does the patient have wounds in the toes or feet in the setting of absent peripheral pulses? If so, send stat referral.	Y/N, Y/N w/comment, Multi-select, Radio Button, Free text	R
Does the patient have classic claudication that is reproducible with ambulation? If so, please give 3-month trial of conservative therapy (cilostazol 100 mg BID, referral for supervised exercise program of at least 12 sessions, such as with Mills Hospital PT department.	Y/N	R
Does the patient have atherosclerotic risk factors?	Y/N	R
If a smoker, has the patient undergone smoking cessation counselling?	Y/N	R
Does the patient have a diabetic ulcer with excellent, palpable pulses, consistent with a neuropathic ulcer? If so, patient should be referred to both Seton Wound Clinic (patient needs TAR if ACE) and Podiatry.	Y/N	R

Comment	<i>Optional</i>
---------	-----------------

Required Labs

Diagnostic Name	Time frame (How Recent? i.e. Within last 6 mo.? Last two weeks?)	Comments	Schedule on order or result?
Hemoglobin A1C	3 months		Schedule
Lipid panel	1 year		Result

Optional Labs

Diagnostic Name	Time frame (How Recent? i.e. Within last 6 mo.? Last two weeks?)	Comments	Schedule on order or result?

Required Radiology

Diagnostic Name	Time frame (How Recent? i.e. Within last 6 mo.? Last two weeks?)	Comments	Schedule on order or result?
Arterial duplex ultrasound	3 months		Result
Ankle-brachial Index	3 months		Result

Optional Radiology

Diagnostic Name	Time frame (How Recent? i.e. Within last 6 mo.? Last two weeks?)	Comments	Schedule on order or result?
Carotid duplex ultrasound	Ever		Result

Initial Treatment

Comment	Aspirin 81 mg daily or Plavix 75 mg daily and high intensity statin. May try cilostazol 100 mg BID for 3 months in claudication patients. All claudicants should have referral for supervised exercise program (at least 12 sessions). This program is provided at Mills Hospital PT department.
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Clinical Summary

Comment	
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Disclaimer Boilerplate

Specialty	Vascular Surgery
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Diagnosis	Aortic aneurysm/dissection
-----------	----------------------------

What follows are our specialist’s recommendations and requirements to not only improve diagnostic accuracy, but also to provide the consultant with the proper information to care for your patient.

Clinical Pearls/Assessment

Comment	These questions are listed primarily to assist you in diagnosing disease and/or comprehensively evaluating disease.
---------	---

Question	Response Type	Required or optional response
	Y/N, Y/N w/comment, Multi-select, Radio Button, Free text	(R or O)
Is the patient a smoker with > 100 cigarettes in a lifetime?	Y/N	R
Is there evidence of an aneurysm > 3 cm in diameter by any imaging?	Y/N	R
Is there a family h/o aneurysm? If so, screen all patients > 55 years of age for aneurysm with CT angiogram of chest, abdomen and pelvis.	Y/N	R
Is there a pulsatile mass and/or bruit on abdominal exam?	Y/N	R
Is there evidence of dissection on imaging studies? If so, please obtain CT angiogram of the chest, abdomen and pelvis.	Y/N	R
Has the patient had a repair of an aneurysm? If so, please order a CT angiogram of the abdomen and pelvis.		

Comment	<i>If there are any questions regarding appropriate imaging studies, please send an eConsult.</i>
---------	---

Required Labs

Diagnostic Name	Time frame (How Recent? i.e. Within last 6 mo.? Last two weeks?)	Comments	Schedule on order or result?
Lipid panel	6 months		Result

Optional Labs

Diagnostic Name	Time frame (How Recent? i.e. Within last 6 mo.? Last two weeks?)	Comments	Schedule on order or result?

Required Radiology

Diagnostic Name	Time frame (How Recent? i.e. Within last 6 mo.? Last two weeks?)	Comments	Schedule on order or result?
Arterial duplex of aorta and iliac	1 year		Result
CT angiogram of the chest/abdomen/pelvis, dissection study	12 months	If any imaging study shows dissection.	Result

Optional Radiology

Diagnostic Name	Time frame (How Recent? i.e. Within last 6 mo.? Last two weeks?)	Comments	Schedule on order or result?

Initial Treatment

Comment	Aspirin 81 mg daily or Plavix 75 mg daily and a statin. Smoking cessation counselling. BP control per national guidelines.
---------	--

Clinical Summary

Comment	
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Disclaimer Boilerplate

Specialty	Vascular Surgery
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Diagnosis	Chronic venous insufficiency/varicose veins
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What follows are our specialist's recommendations and requirements to not only improve diagnostic accuracy, but also to provide the consultant with the proper information to care for your patient.

Clinical Pearls/Assessment

Comment	These questions are listed primarily to assist you in diagnosing disease and/or comprehensively evaluating disease.
---------	---

Question	Response Type	Required or optional response
	Y/N, Y/N w/comment, Multi-select,	

	Radio Button, Free text	(R or O)
Does the patient have symptoms suggestive of venous insufficiency, including severe and unilateral swelling, varicose veins, chronic leg discoloration (dermatosclerosis) and/or open ulcers in legs?	Y/N	R
Does the patient have pain, heaviness and/or a burning sensation in the legs, in addition to varicose vein findings?	Y/N	R
Has the patient had an episode of thrombophlebitis or bleeding from varicose veins?	Y/N	R
Is the patient pregnant with worsening varicose vein symptoms? If so, please try panty hose and postpone referral until after pregnancy.	Y/N	R
Did the patient try 3-6 months of compression stockings?	Y/N	R
Does the patient have asymptomatic varicose veins? If so, this is considered a cosmetic issue and referral is not appropriate.	Y/N	R
Does the patient have classic venous ulcers on the medial aspect of the leg?	Y/N	R
Does the patient have chronic venous stasis discoloration of the legs? If so, please try compression stockings prior to referral.	Y/N	R

Comment	<i>Optional</i>
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Required Labs

Diagnostic Name	Time frame (How Recent? i.e. Within last 6 mo.? Last two weeks?)	Comments	Schedule on order or result?

Optional Labs

Diagnostic Name	Time frame (How Recent? i.e. Within last 6 mo.? Last two weeks?)	Comments	Schedule on order or result?

Required Radiology

Diagnostic Name	Time frame (How Recent? i.e. Within last 6 mo.? Last two weeks?)	Comments	Schedule on order or result?
Venous duplex ultrasound with reflux study of symptomatic extremity	6 months		Result

Optional Radiology

Diagnostic Name	Time frame (How Recent? i.e. Within last 6 mo.? Last two weeks?)	Comments	Schedule on order or result?

Initial Treatment

Comment	<p>Compression therapy for spider veins: 15-20 mm Hg knee high.</p> <p>Compression therapy for varicose veins (3 mm): 20-30 mm Hg knee high.</p>
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Clinical Summary

Comment	
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Disclaimer Boilerplate

Specialty	Vascular surgery
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Diagnosis	Carotid artery disease
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What follows are our specialist's recommendations and requirements to not only improve diagnostic accuracy, but also to provide the consultant with the proper information to care for your patient.

Clinical Pearls/Assessment

Comment	These questions are listed primarily to assist you in diagnosing disease and/or comprehensively evaluating disease.
---------	---

Question	Response Type	Required or optional response
Does the patient have symptomatic disease with evidence of carotid stenosis by any imaging? If so, send an eConsult.	Y/N, Y/N w/comment, Multi-select, Radio Button, Free text	(R or O)
Does the patient have asymptomatic disease but has moderate to severe stenosis by any imaging?	Y/N	R
Has the patient experienced any hemispheric or ophthalmic symptoms in the last 6 months? If yes, please screen for carotid artery disease.	Y/N	R
Does the patient have a carotid bruit with risk factors for atherosclerosis? If yes, please screen for carotid artery disease.	Y/N	R
Does the patient have severe peripheral arterial disease? If so, please screen for carotid artery disease, regardless of age.	Y/N	R

Does the patient have coronary artery disease, dyslipidemia and is a smoker? If so, please screen for carotid artery disease, regardless of age.	Y/N	R
Has the patient had a carotid endarterectomy and not had vascular surgery follow-up? If so, please perform a bilateral carotid duplex ultrasound.	Y/N	R

Comment	<i>Optional</i>
---------	-----------------

Required Labs

Diagnostic Name	Time frame (How Recent? i.e. Within last 6 mo.? Last two weeks?)	Comments	Schedule on order or result?

Optional Labs

Diagnostic Name	Time frame (How Recent? i.e. Within last 6 mo.? Last two weeks?)	Comments	Schedule on order or result?

Required Radiology

Diagnostic Name	Time frame (How Recent? i.e. Within last 6 mo.? Last two weeks?)	Comments	Schedule on order or result?
Carotid duplex ultrasound, bilateral	6 months		Result

Optional Radiology

Diagnostic Name	Time frame (How Recent? i.e. Within last 6 mo.? Last two weeks?)	Comments	Schedule on order or result?

Initial Treatment

Comment	Start all patients on aspirin 81 mg daily or Plavix 75 mg daily and statin (moderate-high intensity). Obtain appropriate labs, per statin management guidelines.
---------	--

Clinical Summary

Comment	
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Disclaimer Boilerplate

Exhibit H-1
Invoice Form

_____, 20__

San Mateo Medical Center
222 West 39th Avenue
San Mateo, CA 94403
Attn: Robert Lewis

Invoice for Vascular Surgery Professional Services (No. _____)
Contract No.: [TO BE FILLED IN AFTER APPROVAL]

Professional Services Agreement: Vascular Surgery Services		
<i>Please record the date and number of hours performed for each type of service. Record partial hours.</i>		
Month/Year	Vascular Surgery Outpatient Clinic(s) Min 4 hours/block	Vascular Surgery Professional Services Min 4 hours/block
Week 1		
Week 2		
Week 3		
Week 4		
Week 5		
Total Blocks (Hours):	[4 blocks (min 20 hours)]	[4 blocks (min 20 hours)]
Rate		
Total Invoice Amount for Professional Services:		

I certify that this Invoice is a true and accurate record of the number of hours of services PAMF provided during this month.

Date: _

Name: _____

Payment due upon receipt. Please make check payable to **Sutter Bay Medical Foundation dba Palo Alto Medical Foundation for Health Care, Research and Education** and remit payment for professional services and a copy of this Invoice to:

If via Standard Mail:

PAMF Physician Checks
P.O. Box 619100
Roseville, CA 95661

If via Fed/Ex, Ups or any other carrier that does not deliver to P.O. Boxes:

PAMF Physician Checks, Sutter Shared Services
9100 Foothills Blvd
Roseville, CA 95747

Exhibit H-2
Invoice Form

_____, 20__

San Mateo Medical Center
222 West 39th Avenue
San Mateo, CA 94403
Attn: Robert Lewis

Invoice for Call Coverage Services for Vascular Surgery Services (No. _____)
Contract No.: [TO BE FILLED IN AFTER APPROVAL]

Call Coverage: Vascular Surgery Services		
<i>Please record the dates on which you performed call coverage shifts each week. Record partial shifts.</i>		
Month/Year	Monday-Friday (5p-7a) Except every 4th night	Saturday-Sunday (7a-7a)
Week 1		
Week 2		
Week 3		
Week 4		
Week 5		
Total Shifts	[16]	[7]
Rate		
Total Invoice Amount for Call Coverage Services: Included in monthly fee		

I certify that this Invoice is a true and accurate record of the number of shifts of call PAMF provided during this month.

Date: __

Name: _____

Payment due upon receipt. Please make check payable to **Sutter Bay Medical Foundation dba Palo Alto Medical Foundation for Health Care, Research and Education** and remit payment for coverage services and a copy of this Invoice to:

If via Standard Mail:

PAMF Physician Checks
P.O. Box 619100
Roseville, CA 95661

If via Fed/Ex, Ups or any other carrier that does not deliver to P.O. Boxes:

PAMF Physician Checks, Sutter Shared Services
9100 Foothills Blvd
Roseville, CA 95747

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: **Robert Nordgren, MD**

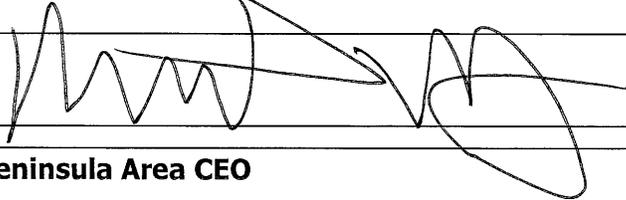
Name of Contractor(s): **Sutter Bay Medical Foundation dba Palo Alto Medical Foundation for Health care, Research, and Education**

Street Address or P.O. Box: **795 El Camino Real, 3rd Floor Administration**

City, State, Zip Code: **Palo Alto, CA 94301**

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

Signature:



Title of Authorized Official:

Peninsula Area CEO

Date:

3/25/20

*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."