

Agreement No. _____

AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND VITALANT

This Agreement is entered into this ____ day of _____, 2021, by and between the County of San Mateo, a political subdivision of the state of California, hereinafter called "County," and Vitalant, hereinafter called "Contractor."

* * *

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

Whereas, it is necessary and desirable that Contractor be retained for the purpose of blood products and blood services.

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

1. Exhibits and Attachments

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

- Exhibit A—Services
- Exhibit B—Payments and Rates
- Exhibit C—Performance Metrics
- Exhibit E—Corporate Compliance SMMC Code of Conduct

2. Services to be performed by Contractor

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

3. Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A, County shall make payment to Contractor based on the rates and in the manner specified in Exhibit B. County reserves the right to withhold payment if County determines that the quantity or quality of the work performed is unacceptable. In no event shall County's total fiscal obligation under this Agreement exceed ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000). In the event that the County makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by the County at the time of contract termination or expiration. Contractor is not entitled to payment for work not performed as required by this Agreement. All invoices must be approved by the Laboratory Manager or their designee and paid within 30 days of receipt of the invoice. Invoices must be sent to: SMMC-Accounts-Payable@smcgov.org. Processing time may be delayed if invoices are not submitted electronically.

4. Term

Subject to compliance with all terms and conditions, the term of this Agreement shall be from January 1, 2021, through December 31, 2026.

5. Termination

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

Either party may terminate the Agreement upon the material breach of the Agreement by the other party by giving the other party thirty (30) days' prior written notice. If the material breach is not cured by the breaching party within thirty (30) days of receipt of the notice, the Agreement shall terminate at the end of such thirty (30) day period determination.

6. Contract Materials

At the end of this Agreement, or in the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and other written materials (collectively referred to as "contract materials") prepared by Contractor (specifically for or at the request of County) under this Agreement shall become the property of County and shall be promptly delivered to County. Upon termination, Contractor may make and retain a copy of such contract materials if permitted by law.

7. Relationship of Parties

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

8. Hold Harmless

a. General Hold Harmless

Contractor agrees to indemnify, defend and hold harmless County, its officers, directors, employees, and agents for such portion of any and all expenses, costs, damages for claims asserted against County based on allegations of negligence or intentional misconduct in collecting, testing, processing, packaging or distributing blood or blood components provided to County by Contractor under the Agreement such that the alleged negligence or intentional misconduct affects the quality or purity of the blood or blood components. Such indemnification is intended to cover County only in connection with allegations of negligence or intentional misconduct for the above described activities or any other activities that Contractor has agreed to perform under the terms of the Agreement or for negligent or intentional violation of law including but not limited to unlawful disclosure of confidential patient information . Indemnity shall be in proportion to the amount of damages reasonably attributable to Contractor. This indemnification is contingent upon County providing Contractor with prompt, written notification of any and all occurrences which may result in a claim under this paragraph, and reasonable cooperation in the investigation and response to such occurrences or claims.

To the extent permitted by law, County agrees to indemnify, defend and hold harmless Contractor, its officers, directors, employees, and agents for such portion of any and all expenses, costs, damages for claims asserted against Contractor based on allegations of negligence or intentional misconduct of the County, its employees, agents, or medical staff related to use, handling or storage of the blood products and services provided by Contractor, or medical treatment of patients to the extent not caused by Contractor's services or products provided under this Agreement. Indemnity shall be in proportion to the amount of damages reasonably attributable to County. This indemnification is contingent upon Contractor providing County with prompt, written notification of any and all occurrences which may result in a claim

under this paragraph, and reasonable cooperation in the investigation and response to such occurrences or claims.

b. Intellectual Property Indemnification

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

Contractor warrants that to the best of its knowledge, the services it provides under this Agreement do not infringe, violate, trespass, or constitute the unauthorized use or misappropriation of any IP Rights of any third party. Contractor shall defend, indemnify, and hold harmless County from and against all liabilities, costs, damages, losses, and expenses (including reasonable attorney fees) arising out of or related to any claim by a third party that the services provided under this Agreement infringe or violate any third-party's IP Rights provided any such right is enforceable in the United States. Contractor's duty to defend, indemnify, and hold harmless under this Section applies only provided that: (a) County notifies Contractor promptly in writing of any notice of any such third-party claim; (b) County cooperates with Contractor, at Contractor's expense, in all reasonable respects in connection with the investigation and defense of any such third-party claim; (c) Contractor retains sole control of the defense of any action on any such claim and all negotiations for its settlement or compromise (provided Contractor shall not have the right to settle any criminal action, suit, or proceeding without County's prior written consent, not to be unreasonably withheld, and provided further that any settlement permitted under this Section shall not impose any financial or other obligation on County, impair any right of County, or contain any stipulation, admission, or acknowledgement of wrongdoing on the part of County without County's prior written consent, not to be unreasonably withheld); and (d) should services under this Agreement become, or in Contractor's opinion be likely to become, the subject of such a claim, or in the event such a third party claim or threatened claim causes County's reasonable use of the services under this Agreement to be seriously endangered or disrupted, Contractor shall, at Contractor's option and expense, either: (i) procure for County the right to continue using the services without infringement or (ii) replace or modify the services so that they become non-infringing but remain functionally equivalent.

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

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

9. Assignability and Subcontracting

Contractor shall not assign this Agreement or any portion of it to a third party or subcontract with a third party to provide services required by Contractor under this Agreement without the prior written consent of County, except that Contractor may, without consent, assign this Agreement to an entity that controls, is controlled by, or is under common control with Contractor. Any such assignment or subcontract without

County's prior written consent shall give County the right to automatically and immediately terminate this Agreement without penalty or advance notice.

10. Insurance

a. General Requirements

Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this Section has been obtained and such insurance has been approved by County's Risk Management, and Contractor shall use diligence to obtain such insurance and to obtain such approval. Contractor shall furnish County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide 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 material modification of the policy.

b. Workers' Compensation and Employer's Liability Insurance

Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) it will comply with such provisions before commencing the performance of work under this Agreement.

c. Liability Insurance

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

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

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

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

11. Compliance With Laws

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations, including, to the extent applicable, the Health Insurance Portability and Accountability Act (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, which prohibits discrimination on the basis of disability 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 any applicable State, Federal, County, or municipal law or regulation, the requirements of the applicable law or regulation will take precedence over the requirements set forth in this Agreement.

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

Further, Contractor certifies that it and all of its subcontractors will adhere to all applicable provisions of Chapter 4.106 of the San Mateo County Ordinance Code, which regulates the use of disposable food service ware. Accordingly, Contractor shall not use any non-recyclable plastic disposable food service ware when providing prepared food on property owned or leased by the County and instead shall use biodegradable, compostable, reusable, or recyclable plastic food service ware on property owned or leased by the County.

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

12. Non-Discrimination and Other Requirements

a. General Non-discrimination

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

b. Equal Employment Opportunity

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

c. Section 504 of the Rehabilitation Act of 1973

Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded

from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

d. Compliance with County's Equal Benefits Ordinance

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

e. Discrimination Against Individuals with Disabilities

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

f. History of Discrimination

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

g. Audit

In the event County is subject to an investigation or audit that relates to acts or omissions of Contractor or Contractor's personnel, Contractor will reasonably cooperate in any such audit. In addition, Contractor shall cooperate in any audit conducted by the County as set forth in section 14.

h. Compliance with Living Wage Ordinance

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

13. Compliance with County Employee Jury Service Ordinance

Contractor shall comply with Chapter 2.85 of the County's Ordinance Code, which states that Contractor shall have and adhere to a written policy providing that its employees, to the extent they are full-time employees and live in San Mateo County, shall receive from the Contractor, on an annual basis, no fewer than five days of regular pay for jury service in San Mateo County, with jury pay being provided only for each day of actual jury service. The policy may provide that such employees deposit any fees received

for such jury service with Contractor or that the Contractor may deduct from an employee's regular pay the fees received for jury service in San Mateo County. By signing this Agreement, Contractor certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if Contractor has no employees in San Mateo County, it is sufficient for Contractor to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Contractor certifies that it has no full-time employees who live in San Mateo County. To the extent that it hires any such employees during the term of its Agreement with San Mateo County, Contractor shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code." The requirements of Chapter 2.85 do not apply if this Agreement's total value listed in the Section titled "Payments", 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.

14. Retention of Records: Right to Monitor and Audit

(a) Contractor shall maintain all required records relating to services provided under this Agreement for three (3) years after County makes final payment and all other pending matters are closed, and Contractor shall be subject to the examination and/or audit by County, a Federal grantor agency, and the State of California.

(b) Contractor shall comply with all program and fiscal reporting requirements set forth by applicable Federal, State, and local agencies and as required by County.

(c) Contractor agrees upon reasonable notice to provide to County, to any Federal or State department having monitoring or review authority, to County's authorized representative, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed. This requirement includes but is not limited to any audit the County decides to conduct regarding Contractor compliance with Section 12 of this Agreement. Contractor will cooperate fully with any such audit.

15. Merger Clause: Amendments

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

16. Controlling Law: Venue

The validity of this Agreement and of its terms, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules.

17. Disentanglement

Contractor shall cooperate with County and County's other contractors to ensure a smooth transition at the time of termination of this Agreement, regardless of the nature or timing of the termination. Contractor shall cooperate with County's efforts to effectuate such transition with the goal of minimizing or eliminating any interruption of work required under the Agreement and any adverse impact on the provision of services or the County's activities; provided, however, that County shall pay Contractor on a time and materials basis, at the then-applicable rates, for all additional services performed in connection with such cooperation. Contractor shall deliver to County or its designee, at County's request, all documentation and data related to County, including, but not limited to, patient files, held by Contractor, and after return of same, Contractor shall destroy all copies thereof still in Contractor's possession, at no charge to County, except that Contractor may retain copies of such records as necessary to comply with Contractor's legal or regulatory requirements. Such data delivery shall be in an electronic format to facilitate archiving or loading into a replacement application. County and Contractor shall mutually agree to the specific electronic format.

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

18. Notices

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

In the case of County, to:

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

In the case of Contractor, to:

Name/Title: Vitalant
Attn: Client Sales
Address: 6210 E. Oak Street
Scottsdale, AZ 85257
Email: CClark2@vitalant.org

With a copy to: Vitalant
Attn: General Counsel
6210 East Oak Street
Scottsdale, AZ 85257
legal@vitalant.org

19. 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.

20. Payment of Permits/Licenses

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

21. Hospital and Clinics Credentialing Program

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

* * *

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

For Contractor: VITALANT

DocuSigned by: <i>Robert Van Tuyle</i> E0C08E3AED01420...	6/28/2021	Robert Van Tuyle
Contractor Signature	Date	Contractor Name (please print)

COUNTY OF SAN MATEO

By:
President, Board of Supervisors, San Mateo County

Date:

ATTEST:

By:
Clerk of Said Board

Exhibit A

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

1. **Provision of Blood and Blood Components.** During the Term of the Agreement, Contractor shall deliver to County and maintain County's stock levels for blood and blood components sufficient to meet the routine and potential emergency needs of County, as determined and adjusted by mutual agreement between Contractor and County.
2. **Ordering and Delivery of Blood and Blood Components.** County shall order specific quantities of blood and blood components by placing orders pursuant to Contractor's ordering instructions, billing protocols and, where applicable, on-line product management system. To facilitate service to County, Contractor shall maintain service twenty-four (24) hours a day, seven (7) days a week.
 - a. The blood stock will be delivered on a scheduled basis as agreed upon by Contractor and County. Contractor and County will mutually agree upon stock inventory levels for each blood component to be provided. Stock inventory levels shall be based on average daily utilization by the County, as well as complexity of services provided, trauma designation, and distance from the distribution site.
 - b. Unless other arrangements are made, Contractor shall pay expenses for scheduled delivery of blood and blood components to County, using the method of delivery or shipment that Contractor determines is appropriate to the circumstances. Unless non-scheduled deliveries are needed to maintain County's mutually agreed upon stock inventory levels, County shall pay for expenses associated with non-scheduled deliveries requested by County.
 - c. All blood and blood components supplied to County will be accompanied by appropriate documentation. Blood and blood components will be transported to County in a validated manner so that the blood and blood components remain within required specification throughout the transport period. Upon delivery to County, the County shall be responsible for any loss, destruction, or damage to the units of blood or blood components.
3. **Return of Blood and Blood Components.** Contractor may permit or request County to return blood or blood components, subject to the County's compliance with the requirements of Contractor's Return Policy, in Section [12](#).
4. **County Notification.** If Contractor becomes aware that blood or a blood component is potentially infectious, including with HIV or HCV, and may have been provided to County, Contractor shall notify County in compliance with regulatory requirements of FDA. Where required or allowed by law, notification to County may be provided through a state department of health or similar government agency. If directed by Contractor or required by law, County shall notify the recipient of the blood or blood component or, in County's discretion, the recipient's physician. Notification shall be provided as follows:
 - a. Within three (3) calendar days after identifying blood or blood components previously collected from donors who have subsequently tested reactive for infectious disease

markers (IDM) which require notification by law, or from donors who are determined to be at increased risk for transmitting HCV or HIV infection, Contractor shall:

- i. Quarantine all in-date blood and blood components identified from the donor if intended for use in another person or for further manufacture into injectable products;
 - ii. Notify consignees to quarantine all in-date blood and blood components identified from the donor if intended for use in another person or for further manufacture into injectable products.
 - b. If necessary, Contractor shall notify consignees of the donor's additional test results within forty-five (45) calendar days of a reactive test for IDM.
 - c. Contractor shall comply with all applicable "Lookback" requirements for notification, quarantine and return of blood and blood components as set forth in 21 C.F.R. 610.46–610.47 and relevant FDA Guidance for Industry.
5. Reference Laboratory Services. If County requests that Contractor provide reference laboratory services to County as described in Exhibit B, Section 2 ("Lab Services"), County will collect and transmit specimens to Contractor for Lab Services and will: (i) ensure that such collection and transmission is performed in accordance with applicable laws and County's policies and procedures; (ii) ensure that such requests are accompanied by an appropriate licensed independent practitioner order and otherwise ensure that County complies with all billing and legal requirements related to receipt of Lab Services, and (iii) assume all of the costs associated with such collection and transmission. Contractor will notify County of the receipt of any specimen which it believes is not suitable for analysis due to improper collection or degradation of the specimen in transit. Contractor shall perform requested Lab Services and deliver the result of Lab Services in a manner that is consistent with current industry standards.
6. Payment for Blood or Blood Components and Lab Services. County shall pay to Contractor the Blood Service Fees and the Lab Services Fees as provided in Section 3 of this Agreement.
7. Delivery and Storage of Blood or Blood Components. County is responsible for inspecting all blood or blood components upon delivery and shall notify Contractor immediately of any blood or blood components found to be damaged, abnormal in appearance, received at unacceptable temperatures, or if there appear to be any testing, labeling or shipping errors. County shall furnish storage units restricted to storage of blood and other biologicals that are capable of maintaining required storage temperatures as specified in Title 21 of the Code of Federal Regulations and standards of the AABB and Contractor standard operating procedures (available on request) and that are equipped with a continuous temperature monitoring system that records temperatures at least once every four (4) hours ("Storage Units"). County shall verify continuous storage temperature of each Storage Unit and shall maintain such documentation. County agrees to provide Storage Unit temperature records to Contractor upon request and for any blood or blood components which Contractor authorizes County to return. County shall notify Contractor of any deviation of temperatures outside of the acceptable range during the storage of blood and blood components within twenty-four (24) hours of such occurrence and shall not return to Contractor of any blood or blood components subjected to temperatures outside the acceptable

temperature range.

8. Inspection of Storage Facilities. Upon request by Contractor or any licensing, regulating or accrediting agency or organization to which Contractor is subject, including FDA, AABB and the College of American Pathologists (“CAP”), County shall allow on-site inspections of blood storage facilities and Storage Units during normal business hours by Contractor or any applicable regulatory or accrediting agency applicable to Contractor. County shall further allow Contractor or any such regulatory or accrediting agency to review and copy, without charge, County’s standard operating procedures for blood storage and quality assurance or any other similar or related records.

9. Compliance.
 - a. County will report to Contractor within twenty-four (24) hours of discovery all transfusion adverse reactions which occur in blood or blood component recipients when the reaction is suspected to be due to an attribute specific to the donor or the processing of the blood or blood component. All clinically-significant reactions, infections or infectious diseases in recipients of blood or blood components that could have resulted from transfusion of blood or blood components provided under this Agreement and for which another more likely cause is not apparent should be reported to Contractor immediately upon discovery. County reports made verbally shall be followed up by a written report within forty-eight (48) hours of telephone notification. County will cooperate fully in any investigation of serious reactions due to, or associated with, transfusion. If any transfusion is associated with a fatality, such event also must be reported by County to the FDA in accordance with applicable federal regulations.

 - b. County shall cooperate fully and expeditiously with all requests to quarantine and return blood and blood components as part of retrievals, recalls or market withdrawals of blood and blood components, as reasonably requested by Contractor.

 - c. County shall comply with all applicable “Lookback” requirements for notification, quarantine and return of blood and blood components as set forth in 21 C.F.R. 610.46–610.47 and relevant FDA Guidance for Industry.

 - d. County shall utilize blood and blood components provided pursuant to this Agreement for purposes of transfusion to patients, or such products will be returned to Contractor, or expired and discarded, in compliance with the Agreement.

10. Utilization. County will cooperate with Contractor in balancing the available blood supply with the healthcare community’s needs. County agrees to temporarily adjust stock inventory when deemed necessary by Contractor during blood product shortages, disaster, or to meet urgent needs in another part of the healthcare community. When medically appropriate, County agrees to first use shorter dated blood and blood components, and release in a timely manner untransfused, crossmatched blood and blood components for other patient use upon request by Contractor. In the event of a critical supply shortage, emergency, or disaster, Contractor may reasonably direct County to limit the use of blood or blood components to emergency situations, and County agrees to comply with any such direction. This may result in a reduction in County’s stock inventory level for the duration of the shortage, emergency or disaster.

11. Transfer. Except in emergency situations, blood or blood components provided to the County may not be sold, assigned, exchanged, or transferred to any facility, other than a facility identified in this Agreement, without the prior written authorization of Contractor. County shall notify Contractor within 24 hours, in writing, in the event of an emergency that required a transfer without prior authorization of Contractor and shall retain records to track the disposition of the transferred blood or blood component.
12. Return Policy. Contractor may permit County to return unexpired Red Blood Cells to Contractor for credit, subject to a fifty percent (50%) restocking fee, described below, provided County complies with all of the following conditions:
- a. County shall verify that proper temperature requirements have been satisfied and monitored during the storage period, in compliance with the regulatory requirements, including Title 21 of the Code of Federal Regulations and Standards of the AABB.
 - b. County shall verify that the integrity of the unit container has been maintained and neither the unit container nor the affixed label is damaged, broken, disturbed, defaced, tampered with, or otherwise manipulated.
 - c. County shall ensure that the original label is intact, unmarked and uncovered. Any labels or tags affixed by the County to the unit must be removed prior to return.
 - d. At least two (2) crossmatch segments must remain available for use, unless Contractor has approved use of the last crossmatch segment.
 - e. County shall inspect blood products at the time of packing and shall pack products in accordance with Contractor policies and in appropriate shipping containers. County shall document that inspections have occurred in compliance with the regulatory requirements, and it shall not return blood products to Contractor which appear unsuitable for re-issue.
 - f. All requests to receive credit for unused blood products must be received by Contractor no more than seven (7) days from the expiration date of any such blood products.
 - g. All returned blood products must have a minimum of fourteen (14) days remaining prior to expiration at the time they are received by Contractor.
 - h. All requests to receive credit for returned blood products must comply with the Contractor ordering and return instructions, billing protocols and, where applicable, the on-line product management system.

A restocking fee equal to fifty (50%) percent of the fee charged for the blood product will apply to any blood product returned to Contractor in compliance with this policy. For example, if County is charged \$500 for a Red Blood Cell unit, the County will pay a restocking fee of \$250 per unit for a blood product returned pursuant to this policy.

In general, STAT and ASAP orders, platelets, and frozen, specialty, altered or modified blood products are not returnable. Examples include, but are not limited to, frozen plasma, cryoprecipitate, irradiated blood products, blood products with special testing or other modification, such as CMV-negative, antigen negative, sterile docking, divided units or HLA/HPA matched units. However, in limited circumstances where Contractor agrees to accept return of

altered or modified blood products or STAT/ASAP delivered blood products, the service fees associated with County's requested alteration or modification or STAT/ASAP delivery are not eligible for credit.

Contractor may provide credit to County for expired blood products received, not transfused and discarded by County under the following circumstances:

- a. Red Blood Cells are provided to County less than seven (7) days prior to expiration;
- b. Platelets are provided to County less than twenty-four (24) hours prior to expiration; or
- c. AB Red Blood Cell products.

County is responsible for appropriate disposal of any expired products.

Exhibit B

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

1. Blood Service Fees:

Product/Service Description	Fee Schedule (Year 1)	Fee Schedule (Year 2)	Fee Schedule (Year 3)	Fee Schedule (Year 4)	Fee Schedule (Year 5)
RED BLOOD CELLS					
Red Blood Cells Leukocytes Reduced	\$266.00	\$274.00	\$282.00	\$290.00	\$298.00
PLATELET COMPONENTS					
Apheresis Platelets Leukocytes Reduced	\$535.00	\$551.00	\$567.00	\$584.00	\$601.00
PLASMA COMPONENTS					
Fresh Frozen Plasma/FP24	\$60.00	\$62.00	\$64.00	\$66.00	\$68.00
CRYO COMPONENTS					
Cryoprecipitate AHF	\$60.00	\$62.00	\$64.00	\$66.00	\$68.00
Cryoprecipitate AHF Pooled	\$400.00	\$412.00	\$424.00	\$437.00	\$450.00
MODIFICATIONS/SERVICES					
CMV Unit Test	\$40.00	\$40.00	\$40.00	\$40.00	\$40.00
Irradiation	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
STAT* Delivery by VITALANT	\$200.00	\$200.00	\$200.00	\$200.00	\$200.00
ASAP** Delivery by VITALANT	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00
STAT/ASAP Delivery by third party	As Invoiced				

NOTE: Item listing represents the most commonly ordered products, modifications and services and is not exhaustive; additional products, modifications, and services may be available and will be charged appropriately when provided. For prices for other products and services, please contact your Regional Account Manager.

*STAT: Not more than 1 hour from the time an order is received by the blood center to the time it is shipped from the blood center.

**ASAP: Not more than 4 hours from the time an order is received by the blood center to the time it is shipped from the blood center

2. Lab Services Fees:

Regular Hours: Monday – Friday, 9 AM - 5 PM

On-Call Service Hours: Monday – Friday, 5 PM - 9 AM; Saturday - Sunday, 24 hours; Holidays (New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day)

Name	Item Number	Description	Fee \$
ABO Grouping	LS005	ABO Grouping Typing.	31.00
Rh(D) Typing	LS015	Rh(D) Typing.	21.00
Rh Phenotype	LS020	Common Rh Antigen. Phenotyping Excluding Rh(D):C,c,E,e.	85.00
Antigen Typing, Patient (per antigen)	LS025	Patient antigen typing of red blood cells, one charge per antigen. Example: RH/FY/JK/K/MNS.	72.00
Extended Phenotype	LS035	Patient Typing for Common Blood Group Antigens Excluding Rh(D): K, Fya, Fyb, Jka, Jkb, S,s.	251.25
Direct Antiglobulin Test	LS040	Test used to demonstrate antibodies and/or complement bound to patient red blood cells. One charge for poly then if applicable one for anti-IgG and one charge for complement.	24.00
Antibody Screen	LS105	Red cell antibody screen any methodology.	83.75
Antibody Identification Panel	LS115	Routine or selected reagent red cell panel up to 11 reagent red cells.	125.45
Adsorption	LS205	Adsorption test per adsorption. Autoadsorption (using patients own red cells) or allogeneic adsorption (using donor red cells of known phenotype).	134.00
Red Cell Treatment	LS210	Chemical premodification of red cells for testing. Examples: EGA/CHL/DTT/WARM/ZZAP.	90.00
Elution	LS225	Removal of antibody from patient red cells for further antibody identification testing.	87.00
Hemoglobin S Test	LS285	Test that detects abnormal type of S Hemoglobin.	86.00
Compatibility Testing	LS405	Crossmatch testing. Requires Transfusion Services Contract.	90.00
Crossmatch: (AHG)	LS420	Crossmatch: (AHG). Any methodology.	125.00
Electronic Crossmatch	LS425	Crossmatch: Electronic. Two separate ABO/Rh Types must be done in order to utilize electronic crossmatching.	81.00
Molecular Extended Red Cell Genotype/Phenotype	LS505	Molecular determination of allelic variants that determine common and rare red cell antigens using multiplex PCR and microarray analysis. Includes DNA extraction and purification.	410.00

Molecular Genotype-Platelet (HPA)	LS510	Molecular determination of allelic variants that determine common Human Platelet Antigens, using multiplex PCR and microarray analysis. Includes DNA extraction and purification.	320.00
Unit Search	LS605	System inventory search for specially typed products.	161.25
Historical type unit search	LS610	Charge for search/location of historical antigen negative units, per antigen	176.00
Antigen Typing, Donor - confirmed	LS810	Antigen Typing of Donor Red Blood Cells, routine typing per antigen. Example: RH/FY/JK/K/MNS. A charge is incurred for each test performed.	103.00
On-Call Patient Testing Fee	LS905	On-Call Patient Testing (outside of regular business hours, weekends and holidays).	200.00
STAT Request IRL	LS910	STAT Patient Workup (testing to begin immediately upon sample receipt in lab).	250.00
ASAP Request IRL	LS915	ASAP Patient Workup (testing to receive priority upon sample receipt in lab).	200.00

NOTE: Item listing represents the most commonly ordered tests and services and is not exhaustive; additional tests and services may be available and will be charged appropriately when performed upon request. For prices for other products and services, please contact your Regional Account Manager.

Exhibit C

Performance Metrics

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

. SMMC will monitor via monthly Quality Assurance reports time from when a STAT order is placed to when it is ready for shipment to ensure order to completion is under 4hrs. Expectation of 95% success rate.

EXHIBIT E

CORPORATE COMPLIANCE SMMC CODE OF CONDUCT (THIRD PARTIES)

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

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

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

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

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

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

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

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

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

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

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

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