

PROFESSIONAL SERVICES AGREEMENT

by and between

HEALTH DEPARTMENT (“Health Department”)

and

CEP AMERICA-AUC, PC (“Contractor”)

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (this "**Agreement**") is entered into as of April 1, 2017 (the "**Effective Date**"), by and between COUNTY OF MONTEREY ("**County**") on behalf of the Clinic Services Bureau of the County Health Department ("**Health Department**"), and CEP AMERICA-AUC, PC, a California limited liability company ("**Contractor**"). County, Health Department and Contractor are sometimes referred to in this Agreement as a "**Party**" or, collectively, as the "**Parties**."

RECITALS

A. County owns and operates various community clinics pursuant to Section 1206(b) of the California Health and Safety Code and designated as Federally Qualified Health Center Look-Alikes (each, a "**Clinic**" and collectively, the "**Clinics**"). Under the direction of the Health Department and governance of the Community Health Center Board ("**CHCB**"), the Clinics provide preventive, primary, and specialty medical care services.

B. Health Department desires to retain Contractor to provide certain professional and administrative services related to the operation of the Clinics through physicians (collectively, the "**Group Physicians**" and each, a "**Group Physician**") and allied health professionals, including physician assistants and nurse practitioners (collectively, the "**Group AHPs**" and each, a "**Group AHP**") who are duly licensed and/or certified, as applicable, to provide professional medical services, including episodic care to patients with acute injuries and illnesses, but excluding longitudinal primary care services, in the State of California (the "**State**") and employed or otherwise engaged by Group from time to time to provide the Services (as defined below) under this Agreement (each, a "**Group Provider**" and, collectively, the "**Group Providers**").

C. Health Department must arrange for the provision of professional consultation and treatment of Clinic patients in need of medical care, without regard to any consideration other than medical condition ("**Clinic Patients**").

D. Health Department has considered the following factors in determining the necessity and amount of compensation payable to Contractor pursuant to this Agreement:

1. The nature of Contractor's duties as contemplated by this Agreement.
2. Contractor's qualifications.
3. The difficulty in obtaining a qualified physician to provide the services described in this Agreement.
4. The benefits to Health Department's community resulting from Contractor's performance of the services described in this Agreement.
5. The economic conditions locally and in the health care industry generally.

AGREEMENT

THE PARTIES AGREE AS FOLLOWS:

ARTICLE I. CONTRACTOR'S OBLIGATIONS

1.1 Services.

(a) Contractor shall provide those medically necessary professional services, including episodic care to patients with acute injuries and illnesses and bridge care consisting of necessary medical services for patients until they can be seen by their primary physicians, but excluding longitudinal primary care services, that Group Providers are qualified to provide for any and all Clinic Patients receiving medical care, diagnosis or treatment at the Clinic (the "**Professional Services**"), upon the terms and subject to the conditions set forth in this Agreement.

(b) Contractor shall provide to Health Department those additional services set forth in Exhibit 1.1(b) (the "**Additional Services**"), upon the terms and subject to the conditions set forth in this Agreement. The Professional Services and Additional Services are sometimes referred to collectively in this Agreement as the "**Services**".

1.2 Commencement of Services. Contractor will commence providing the Services described herein on a date mutually agreed by the parties in writing, which the parties anticipate will be approximately 90 days after the Effective Date ("**Services Commencement Date**").

1.3 Time Commitment and Availability. Contractor shall ensure that Group Providers are available to provide Professional Services at the Clinics in accordance with a schedule agreed upon by the Parties. The Parties anticipate that Group Providers will provide Professional Services at Health Department a minimum of twenty-four (24) hours and a maximum of forty hours (40) hours per week, or as determined by mutual agreement of the Parties from time to time.

1.4 Time Reports. Contractor shall maintain and submit to Health Department monthly time sheets that provide a true and accurate accounting of time spent on a daily basis providing the Professional Services by providing a copy of the Group Provider schedule for the applicable month. Contractor shall include all such schedules with the invoice to Health Department for Services provided during the immediately preceding month.

1.5 Credentialing. Each Group Provider shall have an active appointment, as approved by the CHCB and in accordance with the Health Department protocols, policies and procedures ("**Health Department Rules**") and maintain all clinical privileges at the Clinics necessary for the performance of Group Provider's obligations under this Agreement. Any Group Provider may obtain and maintain medical staff privileges at any other hospital or health care facility at Group Provider's sole expense.

1.6 Professional Qualifications.

(a) Each Group Physician shall have and maintain an unrestricted license to practice medicine in the State. Each Group Physician shall be board eligible in a specialty by the applicable medical specialty board approved by the American Board of Medical Specialties. Each Group Physician shall have and maintain a valid and unrestricted United States Drug Enforcement Administration (“DEA”) registration.

(b) Each Group AHP shall have and maintain an unrestricted license and/or certification to provide or otherwise furnish the Services in accordance with applicable Laws.

1.7 Review of Office of the Inspector General (“OIG”) Medicare Compliance Bulletins. The OIG from time to time issues Medicare compliance alert bulletins. To the extent applicable to Contractor’s performance under this Agreement, Contractor and each Group Provider shall undertake to review, be familiar with and comply with all applicable requirements of such OIG compliance bulletins.

1.8 Performance Standards. Contractor and each Group Provider shall comply with all Health Department Rules applicable to the Services or the Clinics (the “Protocols”).

1.9 Continuing Medical Education. Contractor shall ensure that each Group Provider participates in continuing medical education as necessary to maintain licensure or certification, as applicable, professional competence and skills commensurate with the standards of the medical community and as otherwise required by the medical profession.

1.10 Use of Space. Contractor and each Group Provider shall use Health Department’s premises and space solely and exclusively for the provision of the Services, except in an emergency or with Health Department’s prior written consent.

1.11 Notification of Certain Events. Contractor shall notify Health Department in writing within twenty-four (24) hours after the occurrence of any one or more of the following events:

(a) Contractor or any Group Provider becomes the subject of, or materially involved in, any investigation, proceeding, or disciplinary action by: Medicare and Medicaid programs or any other Federal health care program, as defined at 42 U.S.C. Section 1320a-7b(f) (collectively, the “Federal Health Care Programs”) or state equivalent, any state’s medical board, any agency responsible for professional licensing or certification, as applicable, standards or behavior, or any medical staff;

(b) the medical staff membership or clinical privileges of any Group Provider at any hospital are denied, suspended, restricted, revoked or voluntarily relinquished, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(c) any Group Provider becomes the subject of any suit, action or other legal proceeding arising out of Contractor’s professional services;

(d) any Group Physician voluntarily or involuntarily retires from the practice of medicine;

(e) any Group Provider's license or certification, to provide professional services in the State is restricted, suspended or terminated, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(f) Contractor or any Group Provider is charged with or convicted of a felony, a misdemeanor involving fraud, dishonesty, controlled substances, or moral turpitude, or any crime relevant to the provision of medical services or the practice of medicine;

(g) Contractor changes the location of Contractor's office;

(h) any act of nature or any other event occurs which has a material adverse effect on Contractor's or any Group Provider's ability to provide the Services; or

(i) Contractor or any Group Provider is debarred, suspended, excluded or otherwise ineligible to participate in any Federal Health Care Program or state equivalent.

1.12 Representations and Warranties by Contractor. Contractor represents and warrants that: (a) no Group Physician's license to practice medicine and no Group AHP's license and/or certification as applicable, in any state has ever been suspended, revoked or restricted; (b) neither Contractor nor any Group Provider has ever been reprimanded, sanctioned or disciplined by any licensing board, certifying authority or medical specialty board; (c) neither Contractor nor Group Provider has ever been excluded or suspended from participation in, or sanctioned by, any Federal Health Care Program; (d) no Group Provider has ever been denied membership and/or reappointment to the medical staff of any hospital or health care facility; (e) no Group Provider's medical staff membership or clinical privileges at any hospital or health care facility have ever been suspended, limited or revoked for a medical disciplinary cause or reason; and (f) no Group Provider has ever been charged with or convicted of a felony, a misdemeanor involving fraud, dishonesty, controlled substances, or moral turpitude, or any crime relevant to the provision of medical services or the practice of medicine.

1.13 Nondiscrimination. Neither Contractor nor any Group Provider shall differentiate or discriminate in performing the Services on the basis of race, religion, creed, color, national origin, ancestry, sex, physical disability, mental disability, medical condition, marital status, age, sexual orientation or payor, or on any other basis prohibited by applicable law.

1.14 Non-Exclusive Services. The Services provided by Contractor hereunder are intended to be non-exclusive. Notwithstanding the above, during the term of this Agreement, Contractor shall undertake to retain the service capacity necessary to provide those Services described in this Agreement, to the extent necessary to serve the reasonably foreseeable patient needs for medical care at Health Department and the administrative services hereunder.

1.15 Compliance with Grant Terms. If this Agreement has been or will be funded with monies received by Health Department or County pursuant to a contract with the state or federal government or private entity in which Health Department or County is the grantee, Contractor and Group Providers shall comply with all the provisions of said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon

request, Health Department shall deliver a copy of said contract to Contractor at no cost to Contractor.

1.16 Medical Records and Claims.

(a) Contractor shall ensure that each Group Provider prepares complete, timely, accurate and legible medical and other records with respect to the services and treatment furnished to patients, in accordance with the Health Department Rules, federal and state laws and regulations, and standards and recommendations of such nationally recognized accrediting organization as Health Department designates from time to time. All such information and records relating to any patient shall be: (i) prepared on forms developed, provided or approved by Health Department; (ii) the sole property of Health Department; and (iii) maintained at Health Department in accordance with the terms of this Agreement and for so long as is required by applicable laws and regulations.

(b) Contractor shall maintain and upon request provide to patients, Health Department, and state and federal agencies, all financial books and records and medical records and charts as may be necessary for Contractor and/or Health Department to comply with applicable state, federal and local laws and regulations and with contracts between Health Department and third party payors. Contractor shall cooperate with Health Department in completing such claim forms for patients as may be required by insurance carriers, health care service plans, governmental agencies, or other third party payors. Contractor shall retain all such records and information for at least ten (10) years following the expiration or termination of this Agreement. This Section 1.16(b) shall survive the expiration or termination of this Agreement.

1.17 Records Available to Contractor. Both during and after the term of this Agreement, Health Department shall permit Contractor and Contractor's agents to inspect and/or duplicate, at Contractor's sole cost and expense, any medical chart and record to the extent necessary to meet Contractor's professional responsibilities to patients, to assist in the defense of any malpractice or similar claim to which such chart or record may be pertinent, and/or to fulfill requirements pursuant to provider contracts to provide patient information; provided, however, such inspection or duplication is permitted and conducted in accordance with applicable legal requirements and pursuant to commonly accepted standards of patient confidentiality. Contractor shall be solely responsible for maintaining patient confidentiality with respect to any information which Contractor obtains pursuant to this Section.

1.18 Group Providers.

(a) Contractor shall employ, contract with, or otherwise engage Group Providers. Contractor has initially engaged those Group Providers listed (and identified by NPI number) on **Exhibit 1.18(a)** to provide the Services, which Group Providers are hereby approved and accepted by Health Department once such Group Providers meet the requirements set forth in Section 1.5.

(b) Contractor may from time to time engage one (1) or more additional Group Providers (including locum tenens providers) to provide the Services under this Agreement, subject to Health Department's prior written approval.

(c) Contractor shall ensure that, during the term of this Agreement, any and all Group Providers (including locum tenens physicians) providing the Services satisfy the professional standards and qualifications set forth in this Article I of this Agreement.

(d) Contractor shall provide prompt written notice to Health Department in the event any Group Provider resigns, is terminated by Contractor, or otherwise ceases to provide the Services.

(e) Contractor shall ensure that in-person Services are performed only on the Clinics' premises by Group Providers who have been approved and accepted by Health Department, and have not been removed in accordance with this Agreement.

(f) Contractor shall cause each Group Provider providing the Services to comply with all obligations, prohibitions, covenants and conditions imposed on Contractor pursuant to this Agreement.

ARTICLE II. COMPENSATION

2.1 Compensation. Health Department shall pay to Contractor the amount determined in accordance with **Exhibit 2.1** (the "Compensation"), upon the terms and conditions set forth therein.

2.2 Billing and Collection. Health Department shall have the sole and exclusive right to bill and collect for any and all Professional Services rendered to Clinic Patients by Contractor or any Group Provider under this Agreement. Health Department shall have the sole and exclusive right, title and interest in and to accounts receivable with respect to such Professional Services.

(a) **Assignment of Claims.** Contractor hereby assigns (or reassigns, as the case may be) to Health Department all claims, demands and rights of Contractor for any and all Professional Services rendered by Contractor pursuant to this Agreement. Contractor shall take such action and execute such documents (e.g., CMS Forms 855R and 855I), as may be reasonably necessary or appropriate to effectuate the assignment (or reassignment, as the case may be) to Health Department of all claims, demands and rights of Contractor for any and all Professional Services rendered by Contractor pursuant to this Agreement.

(b) **Cooperation with Billing and Collections.** Contractor shall cooperate with Health Department in the billing and collection of fees with respect to Professional Services rendered by Contractor. Without limiting the generality of the foregoing, Contractor shall cooperate with Health Department in completing such claim forms with respect to Professional Services rendered by Contractor pursuant to this Agreement as may be required by insurance carriers, health care service plans, governmental agencies, or other third party payors.

(c) **Health Department as Exclusive Source for Compensation for Services.** Contractor shall seek and obtain compensation for the performance of Professional Services only from Health Department. Contractor shall not, bill, assess or charge any fee, assessment or charge of any type against any Clinic Patient or any other person or entity for Professional Services rendered by Contractor pursuant to this Agreement. Contractor shall promptly deliver to Health Department any and all compensation, in whatever form, that is received by Contractor or any Group Provider for Professional Services rendered by Contractor or any Group Provider pursuant to this Agreement, including any amount received from any Managed Care Organization (as defined below) for Professional Services rendered by Contractor or any Group Provider pursuant to this Agreement.

(d) **Joint and Several Liability.** Health Department and Contractor acknowledge that they will be jointly and severally liable for any Federal Health Care Program overpayments relating to claims with respect to Professional Services furnished by Contractor pursuant to this Agreement. The foregoing is not intended and shall not be construed to diminish, limit, alter or otherwise modify in any way the Parties' respective indemnification obligations under this Agreement.

(e) **Indemnification for Billing Information.** Contractor hereby agrees to indemnify County, Health Department, its officers, supervisors, trustees, employees and agents, from and against any and all liability, cost, loss, penalty or expense (including, without limitation, attorneys' fees and court costs) incurred by Health Department resulting from negligent acts or negligent omissions of Contractor which result in inaccurate and/or improper billing information furnished by Contractor and relied on by Health Department regarding Professional Services rendered by Contractor to Clinic Patients, to the extent such liability, cost, loss, penalty or expense exceeds the amount of payment or reimbursement actually received by Health Department for such services.

2.3 Third Party Payor Arrangements.

(a) Contractor shall cooperate in all reasonable respects necessary to facilitate Health Department's entry into or maintenance of any third party payor arrangements for the provision of services under Federal Health Care Programs or any other public or private health programs, including insurance programs, self-funded employer health programs, health care service plans and preferred provider organizations. In the event of any disagreement with respect to third-party payor arrangements, the Parties agree to meet and confer in good faith to attempt to resolve the disagreement within a reasonable period of time from the notification of the disagreement.

(b) To enable Health Department or Clinics to participate in any third party payor arrangement, Contractor shall, following Health Department's request:

- (i) Initiate enrollment as a provider (if required by the third party payor), separate from Health Department and Clinics, with any third party payor or intermediate organization (including any independent practice association) (each, a "**Managed Care Organization**") designated by Health Department for the

provision of Professional Services to Clinic Patients covered by such Managed Care Organization;

- (ii) Complete any documents (e.g., CAQH Universal Provider Datasource form) as may be reasonably necessary or appropriate to effectuate enrollment;
- (iii) Enter into a written agreement with such Managed Care Organization as may be necessary or appropriate for the provision of Professional Services to Clinic Patients covered by such Managed Care Organization; and/or
- (iv) Enter into a written agreement with Health Department regarding global billing, capitation or other payment arrangements as may be necessary or appropriate for the provision of Professional Services to Clinic Patients covered by such Managed Care Organization.

ARTICLE III. INSURANCE AND INDEMNITY

3.1 Evidence of Coverage. Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the Contractor upon request shall provide a certified copy of the policy or policies. This verification of coverage shall be sent to the County's Contract Administrator and County's Contracts/Purchasing Division, unless otherwise directed. The Contractor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and Health Department has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

3.2 Qualifying Insurers. All coverages except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A-VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County.

3.3 Insurance Coverage Requirements. Without limiting Contractor's or Group Provider's duty to indemnify, Contractor shall maintain in effect throughout the term of this Agreement, at Contractor's sole cost and expense, a policy or policies of insurance with the following minimum limits of liability:

(a) **Professional liability insurance,** covering Contractor and each Group Provider with coverage of not less than One-Million Dollars (\$1,000,000) per physician per occurrence and Three-Million Dollars (\$3,000,000) per physician in the aggregate; or such other amount(s) of professional liability insurance as may be required by County from time to time, to cover liability for malpractice and/or errors or omissions made in the course of rendering services under this Agreement. If any professional liability insurance covering Contractor and

Group Provider is procured on a "Claims Made" rather than "Occurrence" basis, then Contractor and Group Provider shall either continue such coverage or obtain extended reporting coverage ("**Tail Coverage**"), as appropriate, upon the occurrence of any of the following: (i) termination or expiration of this Agreement; (ii) change of coverage if such change shall result in a gap in coverage; or (iii) amendment, reduction or other material change in the then existing professional liability coverage of Contractor if such amendment, reduction or other material change will result in a gap in coverage. Any Tail Coverage shall have liability limits in the amount set forth above and shall in all events continue in existence until the greater of: (a) three (3) years or (b) the longest statute of limitations for professional and general liability for acts committed has expired. All insurance required by this Agreement shall be with a company acceptable to County and issued and executed by an admitted insurer authorized to transact insurance business in the State.

(b) **Commercial general liability insurance**, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than One Million Dollars (\$1,000,000) per occurrence.

Exemption/Modification (Justification attached; subject to approval).

(c) **Business automobile liability insurance**, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than One Million Dollars (\$1,000,000) per occurrence.

Exemption/Modification (Justification attached; subject to approval).

(d) **Workers' Compensation Insurance**, if Contractor employs others in the performance of this Agreement, in accordance with California Labor Code Section 3700 and with Employer's Liability limits not less than One Million Dollars (\$1,000,000) each person, One Million Dollars (\$1,000,000) each accident and One Million Dollars (\$1,000,000) each disease.

Exemption/Modification (Justification attached; subject to approval).

3.4 Other Insurance Requirements. All insurance required by this Agreement shall be with a company acceptable to County and issued and executed by an admitted insurer authorized to transact insurance business in the State. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three (3) years following the date Contractor and Group Providers complete their performance of services under this Agreement.

Each liability policy shall provide that County shall be given notice in writing at least thirty (30) days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor, Group Providers, and additional insured with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from

each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the Contractor's work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the Contractor's insurance. The required endorsement from for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement from for Automobile Additional Insured Endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by Health Department, Contractor shall file certificates of insurance with the County's Contract Administrator and County's Contracts/Purchasing Division, showing that the Contractor has in effect the insurance required by this Agreement. The Contractor shall file a new or amended certificate of insurance within five (5) calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

Contractor and each Group Provider shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to the County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify Contractor and Contractor shall have five (5) calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by Contractor to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate the Agreement immediately.

3.5 Right to Offset Insurance Costs.

(a) In the event that Contractor does not purchase or otherwise have the liability insurance set forth in this Section at any time during the term of this Agreement, and without limiting any rights or remedies of County, County may at its option and within its sole discretion provide the liability insurance required by this Section and continue to pay the premiums therefor. If Contractor does not promptly reimburse all such amounts, then County shall have the right to withhold and offset the compensation due to Contractor under this Agreement, in addition to such other rights or privileges as County may have at law or in equity.

(b) The County's option to provide such insurance and to offset the compensation otherwise due to the Contractor shall also apply to the "Tail Coverage" referenced in Section 3.3, including for general liability if during the term of the Agreement such coverage has been written on a claims made basis, which is required to remain effective after the expiration or termination of this Agreement for any reason.

3.6 Indemnification.

(a) **Indemnification by Contractor.** Contractor and each Group Provider shall indemnify, defend, and hold harmless County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with Contractor's or Group Providers' performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of County. "Contractor's performance" includes Contractor's and Group Providers' acts or omissions and the acts or omissions of Contractor's officers, employees, agents and subcontractors.

(b) **Indemnification by County.** County agrees to defend, indemnify, and hold harmless Contractor and Group Providers, to the extent permitted by applicable law, from and against any and all claims and losses whatsoever accruing or resulting to any person, firm or corporation for damages, injury or death arising out of or connected with any negligent act or omission or willful misconduct of County or any of its agents or employees.

3.7 Indemnification for Timely Payment of Tax Contributions. It is expressly agreed by the Parties hereto that no work, act, commission or omission of Contractor or any Group Provider shall be construed to make or render Contractor or any Group Provider the agent, employee or servant of County. Contractor and each Group Provider agrees to indemnify, defend and hold harmless County and Health Department from and against any and all liability, loss, costs or obligations (including, without limitation, interest, penalties and attorney's fees in defending against the same) against County or Health Department based upon any claim that Contractor has failed to make proper and timely payment of any required tax contributions for itself, its employees, or its purported agents or independent contractors.

3.8 Health Department Services. Health Department shall retain professional and administrative responsibility for the operation of the Clinics. Health Department's retention of such responsibility is not intended and shall not be construed to diminish, limit, alter or otherwise modify in any way the obligations of Contractor under this Agreement, including, without limitation, the obligations under the insurance and indemnification provisions set forth in this Article III.

3.9 Survival of Obligations. The Parties' obligations under this Article III shall survive the expiration or termination of this Agreement for any reason.

**ARTICLE IV.
RELATIONSHIP BETWEEN THE PARTIES**

4.1 Independent Contractor.

(a) Contractor and each Group Provider is and shall at all times be an independent contractor with respect to Health Department in the performance of Contractor's

and Group Provider's obligations under this Agreement. Nothing in this Agreement shall be construed to create an employer/employee, joint venture, partnership, lease or landlord/tenant relationship between Health Department and Contractor or Health Department and any Group Provider. No Group Provider shall hold himself or herself out as an officer, agent or employee of Health Department, and shall not incur any contractual or financial obligation on behalf of Health Department without Health Department's prior written consent.

(b) If the Internal Revenue Service ("IRS") or any other governmental agency should inquire about, question or challenge the independent contractor status of Contractor or any Group Provider with respect to County, the Parties hereto mutually agree that: (i) each shall inform the other Party hereto of such inquiry or challenge; and (ii) County and Contractor shall each have the right to participate in any discussion or negotiation occurring with the taxing agency, regardless of who initiated such discussions or negotiations. In the event the taxing agency concludes that an independent contractor relationship does not exist, County may terminate this Agreement effective immediately upon written notice. In the event of such termination, the Parties remain free to negotiate an employer/employee contract with any Group Provider.

4.2 Limitation on Control. Health Department shall neither have nor exercise any control or direction over Contractor's or any Group Provider's professional medical judgment or the methods by which Contractor or any Group Provider performs professional medical services; provided, however, that Contractor and Group Providers shall be subject to and shall at all times comply with the Protocols, guidelines, policies, procedures and rules applicable to other members of the Medical Staff.

4.3 Practice of Medicine. Contractor and Health Department acknowledge that Health Department is neither authorized nor qualified to engage in any activity which may be construed or deemed to constitute the practice of medicine. To the extent that any act or service required of, or reserved to, Health Department in this Agreement is construed or deemed to constitute the practice of medicine, the performance of such act or service by Health Department shall be deemed waived or unenforceable, unless this Agreement can be amended to comply with the law, in which case the Parties shall make such amendment.

4.4 No Benefit Contributions. Health Department shall have no obligation under this Agreement to compensate or pay applicable taxes for, or provide employee benefits of any kind (including contributions to government mandated, employment-related insurance and similar programs) to, or on behalf of, Contractor or any other person employed or retained by Contractor. Notwithstanding the foregoing, if Health Department determines or is advised that it is required by law to compensate or pay applicable taxes for, or provide employee benefits of any kind (including contributions to government mandated, employment-related insurance and similar programs) to, or on behalf of, Contractor or any other person employed or retained by Contractor, Contractor shall reimburse Health Department for any such expenditure within thirty (30) calendar days after being notified of such expenditure.

4.5 Referrals. Contractor and the Group Providers shall be entitled to refer patients to any hospital or other health care facility or provider deemed by Contractor or the Group Providers best qualified to deliver medical services to any particular patient; provided; however,

that neither Contractor nor any Group Provider shall refer any Clinic patient to any provider or health care services which either Contractor or any Group Provider knows or should have known is excluded or suspended from participation in, or sanctioned by, any Federal Health Care Program or state equivalent. Nothing in this Agreement or in any other written or oral agreement between Health Department and Contractor or Health Department and the Group Providers, nor any consideration offered or paid in connection with this Agreement, contemplates or requires the admission or referral of any patients or business to Health Department or any Affiliate. In the event that any governmental agency, any court or any other judicial body of competent jurisdiction, as applicable, issues an opinion, ruling or decision that any payment, fee or consideration provided for hereunder is made or given in return for patient referrals, either Party may at its option terminate this Agreement with three (3) days' notice to the other Party. Contractor's rights under this Agreement shall not be dependent in any way on the referral of patients or business to Health Department or any Affiliate by Contractor, Group Provider or any person employed or retained by Contractor.

4.6 Form 1099 or W-2. If required to do so under applicable law, County shall issue an Internal Revenue Service Form 1099 or Form W-2 to Contractor.

4.7 Contractor Compensation Arrangements. Contractor represents and warrants to Health Department that the compensation paid or to be paid by Contractor to any physician is and will at all times be fair market value for services and items actually provided by such physician, not taking into account the value or volume of referrals or other business generated by such physician for Health Department or any Affiliate. Contractor further represents and warrants to Health Department that Contractor has and will at all times maintain a written agreement with each physician receiving compensation from Contractor.

4.8 Cooperation.

(a) The Parties recognize that, during the term of this Agreement and for an undetermined time period thereafter, certain risk management issues, legal issues, claims or actions may arise that involve or could potentially involve the Parties and their respective employees and agents. The Parties further recognize the importance of cooperating with each other in good faith when such issues, claims or actions arise, to the extent such cooperation does not violate any applicable laws, cause the breach of any duties created by any policies of insurance or programs of self-insurance, or otherwise compromise the confidentiality of communications or information regarding the issues, claims or actions. As such, the Parties hereby agree to cooperate in good faith, using their best efforts, to address such risk management and legal issues, claims, or actions.

(b) The Parties further agree that if a controversy, dispute, claim, action or lawsuit (each, an "**Action**") arises with a third party wherein both the Parties are included as defendants, each Party shall promptly disclose to the other Party in writing the existence and continuing status of the Action and any negotiations relating thereto. Each Party shall make every reasonable attempt to include the other Party in any settlement offer or negotiations. In the event the other Party is not included in the settlement, the settling Party shall immediately disclose to the other Party in writing the acceptance of any settlement and terms relating thereto, if allowed by the settlement agreement.

(c) Contractor shall cooperate with the individual designated by Health Department to have principal responsibility for the administration and operation of the Clinics. Such cooperation shall include supervision, selection, assignment, and evaluation of personnel; management and direction of equipment maintenance; development of budgets; and oversight of the acquisition of materials, supplies, and equipment.

(d) Contractor shall assist Health Department, as reasonably requested by Health Department, in Health Department's compliance with applicable laws and the standards, requirements, guidelines and recommendations of any governing or advisory body having authority to set standards relating to the operation of Health Department, or any nationally recognized accrediting organization that Health Department designates from time to time.

4.9 Contractor's Performance. County or Health Department, at its option and within its sole discretion, may seek evaluation of contractual performance by requesting input from Health Department's Medical Director and from other professionals within Health Department.

4.10 Right of Inspection. Upon reasonable prior written notice, Health Department and County officials and their designees may inspect the books and records of Contractor which are necessary to determine that work performed by Contractor or any Group Provider to patients hereunder is in accord with the requirements of this Agreement. Such inspection shall be made in a manner so as not to disrupt the operations of Health Department or Contractor.

4.11 Access to and Audit of Records. Health Department shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the Contractor and its subcontractors related to services provided under this Agreement. Pursuant to Government Code Section 8546.7, if this Agreement involves the expenditure of public funds in excess of Ten Thousand Dollars (\$10,000), the Parties may be subject, at the request of Health Department or as part of any audit of Health Department, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three (3) years after final payment under the Agreement.

ARTICLE V. TERM AND TERMINATION

5.1 Term. This Agreement shall become effective on the Effective Date, and shall continue until the end of two (2) years from the Effective Date (the "**Expiration Date**"), subject to the termination provisions of this Agreement.

5.2 Termination by Health Department. Health Department shall have the right to terminate this Agreement upon the occurrence of any one or more of the following events:

(a) breach of this Agreement by Contractor or any Group Provider where the breach is not cured within thirty (30) calendar days after Health Department gives written notice of the breach to Contractor;

(b) neglect of professional duty by Contractor or any Group Provider in a manner that poses an imminent danger to the health or safety of any individual, or violates any Health Department Rules;

(c) breach by Contractor or any Group Provider of any HIPAA Obligation (as defined in **Exhibit 6.3**);

(d) Contractor makes an assignment for the benefit of creditors, admits in writing the inability to pay its debts as they mature, applies to any court for the appointment of a trustee or receiver over its assets, or upon commencement of any voluntary or involuntary proceedings under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution liquidation or other similar law of any jurisdiction;

(e) the insurance required to be maintained by Contractor under this Agreement is terminated, reduced below the minimum coverage requirements set forth in this Agreement, not renewed or cancelled (whether by action of the insurance company or Contractor) for any reason, and Contractor has not obtained replacement coverage as required by this Agreement prior to the effective date of such termination, reduction, non-renewal or cancellation;

(f) Contractor is rendered unable to comply with the terms of this Agreement for any reason; or

(g) upon a sale of all or substantially all assets comprising the Clinics, any change of control in Health Department's organization, or any change in control of its day to day operations, whether through a membership change or by management contract. Health Department shall notify Contractor in writing of such sale or change of control at least thirty (30) days prior to the closing date of any such sale or the effective date of any such change of control.

5.3 Termination by Contractor. Contractor shall have the right to terminate this Agreement upon breach of this Agreement by Health Department where the breach is not cured within thirty (30) calendar days after Contractor gives written notice of the breach to Health Department.

5.4 Termination or Modification in the Event of Government Action.

(a) If the Parties receive notice of any Government Action, the Parties shall attempt to amend this Agreement in order to comply with the Government Action.

(b) If the Parties, acting in good faith, are unable to make the amendments necessary to comply with the Government Action, or, alternatively, if either Party determines in good faith that compliance with the Government Action is impossible or infeasible, this Agreement shall terminate ten (10) calendar days after one Party notifies the other of such fact.

(c) For the purposes of this Section, "**Government Action**" shall mean any legislation, regulation, rule or procedure passed, adopted or implemented by any federal, state or local government or legislative body or any private agency, or any notice of a decision, finding, interpretation or action by any governmental or private agency, court or other third party which,

in the opinion of counsel to County, because of the arrangement between the Parties pursuant to this Agreement, if or when implemented, would:

- (i) revoke or jeopardize the status of any health facility license granted to Health Department or any Affiliate of Health Department;
- (ii) revoke or jeopardize the federal, state or local tax-exempt status of Health Department or any Affiliate of Health Department, or their respective tax-exempt financial obligations;
- (iii) prevent Contractor or any Group Provider from being able to access and use the facilities of Health Department or any Affiliate of Health Department;
- (iv) constitute a violation of 42 U.S.C. Section 1395nn (commonly referred to as the Stark law) if Contractor or any Group Provider referred patients to Health Department or any Affiliate of Health Department;
- (v) prohibit Health Department or any Affiliate of Health Department from billing for services provided to patients referred to by Contractor or any Group Provider;
- (vi) subject Health Department or Contractor, any Group Provider, or any Affiliate of Health Department, or any of their respective employees or agents, to civil or criminal prosecution (including any excise tax penalty under Internal Revenue Code Section 4958), on the basis of their participation in executing this Agreement or performing their respective obligations under this Agreement; or
- (vii) jeopardize Health Department's full accreditation with any accrediting organization as Health Department designates from time to time.

(d) For the purposes of this Agreement, "Affiliate" shall mean any entity which, directly or indirectly, controls, is controlled by, or is under common control with Health Department.

5.5 Termination without Cause. Either Party may terminate this Agreement without cause, expense or penalty, effective sixty (60) calendar days after written notice of termination is given to the other Party.

5.6 Effect of Termination or Expiration. Upon any termination or expiration of this Agreement:

(a) all rights and obligations of the Parties shall cease except (i) those rights and obligations that have accrued and remain unsatisfied prior to the termination or expiration of

this Agreement, (ii) those rights and obligations which expressly survive termination or expiration of this Agreement; and (iii) Contractor's obligation to continue to provide services to Clinic Patients under Contractor's and Group Providers' care at the time of expiration or termination of this Agreement, until the patient's course of treatment is completed or the patient is transferred to the care of another physician.

(b) upon Health Department's request, Contractor and any Group Provider shall immediately vacate the premises, removing any and all of Contractor's and Group Providers' personal property, and Health Department may remove and store, at Contractor's expense, any personal property that either Contractor or any Group Provider has not so removed;

(c) Contractor and Group Providers shall not do anything or cause any other person to do anything that interferes with Health Department's efforts to engage any other person or entity for the provision of the Services, or interferes in any way with any relationship between Health Department and any other person or entity who may be engaged to provide the Services to Health Department; and

(d) This Section 5.6 shall survive the expiration or termination for any reason of this Agreement.

5.7 Immediate Removal of Group Providers. Contractor shall immediately remove any Group Provider from furnishing Services under this Agreement who:

(a) has his or her clinical privileges at the Clinics terminated, suspended, revoked or relinquished for any reason, whether voluntarily or involuntarily, temporarily or permanently, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(b) has his or her license to practice medicine in the State, DEA registration denied, suspended, restricted, terminated, revoked or relinquished for any reason, whether voluntarily or involuntarily, temporarily or permanently, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(c) is convicted of a felony, a misdemeanor involving fraud, dishonesty, or moral turpitude, or any crime relevant to Professional Services or the practice of medicine;

(d) is debarred, suspended, excluded or otherwise ineligible to participate in any Federal Health Care Program or state equivalent;

(e) fails to satisfy any of the standards and qualifications set forth in Sections 1.5, 1.6, 1.8 and 1.9 of this Agreement; or

(f) fails to be covered by the professional liability insurance required to be maintained under this Agreement.

5.8 Removal of Group Providers upon Health Department Request. Upon written request by Health Department, Contractor shall immediately remove any Group Provider from furnishing Services under this Agreement who:

(a) engages in conduct that, in Health Department's good faith determination, jeopardizes the mental or physical health, safety or well-being of any person or damages the reputation of Health Department;

(b) fails to comply with any other material terms or conditions of this Agreement after being given written notice of that failure and a reasonable opportunity to comply;

(c) is unable to perform services as required under this Agreement for more than thirty (30) days in the aggregate over any three (3) month period; or

(d) within a twelve (12) month period, has two (2) or more medical malpractice judgments filed against him or her, or he or she becomes the subject of two (2) or more proceedings by the Medical Staff regarding the performance of professional medical services.

5.9 Effect of Removal. Upon the removal of a Group Provider pursuant to Section 5.7 or Section 5.8 of this Agreement, Contractor shall employ, contract with, or otherwise engage, at its cost and expense, a qualified substitute for the removed Group Provider, or shall demonstrate to Health Department's satisfaction Contractor's ability to continuously perform the Services without such a substitute. Failure to take such action shall constitute a material breach of this Agreement, subject to Section 5.2. Nothing herein shall be construed to limit Health Department's rights under Section 5.2 or any other provision of this Agreement.

5.10 Return of Property. Upon any termination or expiration of this Agreement, Contractor shall immediately return to Health Department all of Health Department's property, including Health Department's equipment, supplies, furniture, furnishings and patient records, which is in Contractor's or any Group Provider's possession or under Contractor's or any Group Provider's control.

5.11 Termination or Amendment in Response to Reduction of Government Funding. Notwithstanding any other provision of this Agreement, if Federal, State or local government terminates or reduces its funding to the County for services that are to be provided under this Agreement, County, in its sole and absolute discretion after consultation with the Contractor, may elect to terminate this Agreement by giving written notice of termination to Contractor effective immediately or on such other date as County specifies in the notice. Alternatively, County and Contractor may mutually agree to amend the Agreement in response to a reduction in Federal, State or local funding.

ARTICLE VI.
GENERAL PROVISIONS

6.1 Amendment. This Agreement may be modified or amended only by mutual written agreement of the Parties. Any such modification or amendment must be in writing, dated and signed by the Parties and attached to this Agreement.

6.2 Assignment. This Agreement is entered into by Health Department in reliance on the professional and administrative skills of Contractor. Contractor shall be solely responsible for providing the Services and otherwise fulfilling the terms of this Agreement, except as specifically set forth in this Agreement. Contractor may not assign any interest or obligation under this Agreement without Health Department's prior written consent. Subject to the foregoing, this Agreement shall be binding on and shall inure to the benefit of the Parties and their respective successors and assigns.

6.3 Compliance with HIPAA. Contractor and Group Providers shall comply with the obligations under the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. § 1320d et seq.), as amended by the Health Information Technology for Economic and Clinical Health Act of 2009, and all rules and regulations promulgated thereunder (collectively, "HIPAA," the obligations collectively referred to herein as "HIPAA Obligations"), as set forth in Exhibit 6.3. The HIPAA Obligations shall survive the expiration or termination of this Agreement for any reason.

6.4 Compliance with Laws and Accreditation. Contractor and Group Providers shall comply with all applicable laws, ordinances, codes and regulations of federal, state and local governments (collectively, "Laws") applicable to Contractor and Group Providers, the provision of the Services, or the obligations of Contractor and Group Providers under this Agreement, including without limitation laws that require Contractor or any Group Provider to disclose any economic interest or relationship with Health Department. Contractor and Group Providers shall take actions necessary to ensure that the Clinics are operated in accordance with: all requirements of a nationally recognized accrediting organization that Health Department designates from time to time, all applicable licensing requirements, and all other relevant requirements promulgated by any federal, state or local agency.

6.5 Compliance with Medicare Rules. To the extent required by law or regulation, Contractor shall make available, upon written request from Health Department, the Secretary of Health and Human Services, the Comptroller General of the United States, or any duly authorized agent or representative, a copy of this Agreement and Contractor's books, documents and records. Contractor shall preserve and make available such books, documents and records for a period of ten (10) years after the end of the term of this Agreement, or the length of time required by state or federal law. If Contractor is requested to disclose books, documents or records pursuant to this Section for any purpose, Contractor shall notify Health Department of the nature and scope of such request, and Contractor shall make available, upon written request of Health Department, all such books, documents or records. Contractor shall indemnify and hold harmless Health Department if any amount of reimbursement is denied or disallowed because of Contractor's failure to comply with the obligations set forth in this Section. Such indemnity shall include, but not be limited to, the amount of reimbursement denied, plus any

interest, penalties and legal costs. This Section shall survive the expiration or termination for any reason of this Agreement.

If Contractor carries out any of the duties of the contract through a subcontract, with a value or cost of Ten Thousand Dollars (\$10,000) or more over a twelve (12) month period, with a related organization, such subcontract shall contain a clause to the effect that until the expiration of ten (10) years after the furnishing of such Services pursuant to such subcontract, the related organization shall make available, upon written request by the Secretary, or upon request by the Comptroller General, or any of their duly authorized representatives, the subcontract and books, documents and records of such organization that are necessary to verify the nature and extent of such costs.

6.6 Confidential Information.

(a) During the term of this Agreement, Contractor and Group Providers may have access to and become acquainted with Trade Secrets and Confidential Information of Health Department. **“Trade Secrets”** includes information and data relating to payor contracts and accounts, clients, patients, patient groups, patient lists, billing practices and procedures, business techniques and methods, strategic plans, operations and related data. **“Confidential Information”** includes Trade Secrets and any information related to the past, current or proposed operations, business or strategic plans, financial statements or reports, technology or services of Health Department or any Affiliate that Health Department discloses or otherwise makes available in any manner to Contractor or Group Providers, or to which Contractor or Group Providers may gain access in the performance of the Services under this Agreement, or which Contractor or any Group Provider knows or has reason to know is confidential information of Health Department or any Affiliate; whether such information is disclosed orally, visually or in writing, and whether or not bearing any legend or marking indicating that such information or data is confidential. By way of example, but not limitation, Confidential Information includes any and all know-how, processes, manuals, confidential reports, procedures and methods of Health Department, any Clinic Patient’s individually identifiable health information (as defined under HIPAA), and any information, records and proceedings of Health Department and/or Medical Staff committees, peer review bodies, quality committees and other committees or bodies charged with the evaluation and improvement of the quality of care. Confidential Information also includes proprietary or confidential information of any third party that may be in Health Department’s or any Affiliate’s possession.

(b) Confidential Information shall be and remain the sole property of Health Department, and shall, as applicable, be proprietary information protected under the Uniform Trade Secrets Act. Neither Contractor nor any Group Provider shall use any Confidential Information for any purpose not expressly permitted by this Agreement, or disclose any Confidential Information to any person or entity, without the prior written consent of Health Department. Contractor and Group Providers shall protect the Confidential Information from unauthorized use, access, or disclosure in the same manner as Contractor and any Group Provider protects his, her, or its own confidential or proprietary information of a similar nature and with no less than reasonable care. All documents that Contractor and Group Providers prepare, or Confidential Information that might be given to Contractor in the course of providing Services under this Agreement, are the exclusive property of Health Department, and, without

the prior written consent of Health Department, shall not be removed from Health Department's premises.

(c) Contractor and Group Providers shall return to Health Department all Confidential Information and all copies thereof in Contractor's and Group Providers' possession or control, and permanently erase all electronic copies of such Confidential Information, promptly upon the written request of Health Department, or the termination or expiration of this Agreement. Neither Contractor nor any Group Provider shall copy, duplicate or reproduce any Confidential Information without the prior written consent of Health Department.

(d) This Section shall survive the expiration or termination of this Agreement.

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

6.8 Disclosure of Interests. Contractor or any Group Physician shall provide to Health Department, as requested by Health Department from time to time, information sufficient to disclose any ownership, investment or compensation interest or arrangement of Contractor, or any of Contractor's or any Group Physician's immediate family members, in any entity providing "designated health services" (as such term is defined in the Stark Law (42 U.S.C. Section 1395nn) and its regulations) or any other health care services. This Section shall not impose on Health Department any disclosure or reporting requirements or obligations imposed on Contractor or any Group Physician under any governmental program or create an assumption of such disclosure obligations by Health Department. Contractor and Group Physicians shall have the sole responsibility to fulfill any such federal and/or state reporting requirements or obligations.

6.9 Dispute Resolution. In the event of any dispute, controversy, claim or disagreement arising out of or related to this Agreement or the acts or omissions of the Parties with respect to this Agreement (each, a "Dispute"), the Parties shall resolve such Dispute as follows:

(a) **Meet and Confer.** The Parties shall, as soon as reasonably practicable, but in no case more than ten (10) days after one Party gives written notice of a Dispute to the other Party (the "Dispute Notice"), meet and confer in good faith regarding such Dispute at such time and place as mutually agreed upon by the Parties (the "Meet and Confer"). The obligation to conduct a Meet and Confer pursuant to this Section does not obligate either Party to agree to any compromise or resolution of the Dispute that such Party does not determine, in its sole and absolute discretion, to be a satisfactory resolution of the Dispute. The Meet and Confer shall be considered a settlement negotiation for the purpose of all applicable Laws protecting statements, disclosures or conduct in such context, and any offer in compromise or other statements or conduct made at or in connection with any Meet and Confer shall be protected under such Laws.

(b) **Arbitration.** If any Dispute is not resolved to the mutual satisfaction of the Parties within ten (10) business days after delivery of the Dispute Notice (or such other period as may be mutually agreed upon by the Parties in writing), the Parties shall submit such Dispute to arbitration conducted by Judicial Arbitration and Mediation Services, Inc. (“JAMS”), or other arbitration and/or mediation services company as agreed to by the Parties, in accordance with the following rules and procedures:

- (i) Each Party may commence arbitration by giving written notice to the other Party demanding arbitration (the “**Arbitration Notice**”). The Arbitration Notice shall specify the Dispute, the particular claims and/or causes of actions alleged by the Party demanding arbitration, and the factual and legal basis in support of such claims and/or causes of action.
- (ii) The arbitration shall be conducted in the County in which the Health Department is located and in accordance with the commercial arbitration rules and procedures of JAMS (or other arbitration company as mutually agreed to by the Parties) to the extent such rules and procedures are not inconsistent with the provisions set forth in this Section. In the event of a conflict between any rules and/or procedures of JAMS (or other arbitration company as mutually agreed to by the Parties) and the rules and/or procedures set forth in this Section, the rules and/or procedures set forth in this Section shall govern.
- (iii) The arbitration shall be conducted before a single impartial retired member of the JAMS panel of arbitrators (or panel of arbitrators from such other arbitration company as mutually agreed to by the Parties) covering the County in which the Health Department is located (the “**Panel**”). The Parties shall use their good faith efforts to agree upon a mutually acceptable arbitrator within thirty (30) days after delivery of the Arbitration Notice. If the Parties are unable to agree upon a mutually acceptable arbitrator within such time period, then each Party shall select one arbitrator from the Panel, and those arbitrators shall select a single impartial arbitrator from the Panel to serve as arbitrator of the Dispute.

- (iv) The arbitration hearing shall commence within thirty (30) days after appointment of the arbitrator. The substantive internal law (and not the conflict of laws) of the State shall be applied by the arbitrator to the resolution of the Dispute, and the Evidence Code of the State shall apply to all testimony and documents submitted to the arbitrator. The arbitrator shall have no authority to amend or modify the limitation on the discovery rights of the Parties or any of the other rules and/or procedures set forth in this Section. As soon as reasonably practicable, but not later than thirty (30) days after the arbitration hearing is completed, the arbitrator shall arrive at a final decision, which shall be reduced to writing, signed by the arbitrator and mailed to each of the Parties and their respective legal counsel.
- (v) Any Party may apply to a court of competent jurisdiction for entry and enforcement of judgment based on the arbitration award. The award of the arbitrator shall be final and binding upon the Parties without appeal or review except as permitted by the Arbitration Act of the State.
- (vi) The fees and costs of JAMS (or other arbitration company as mutually agreed to by the Parties) and the arbitrator, including any costs and expenses incurred by the arbitrator in connection with the arbitration, shall be borne equally by the Parties, unless otherwise agreed to by the Parties.
- (vii) Except as set forth in this Section 6.9(b)(vii), each Party shall be responsible for the costs and expenses incurred by such Party in connection with the arbitration, including its own attorneys' fees and costs; provided, however, that the arbitrator shall require one Party to pay the costs and expenses of the prevailing Party, including attorneys' fees and costs and the fees and costs of experts and consultants, incurred in connection with the arbitration if the arbitrator determines that the claims and/or position of a Party were frivolous and without reasonable foundation.

(c) **Waiver of Injunctive or Similar Relief.** The Parties hereby waive the right to seek specific performance or any other form of injunctive or equitable relief or remedy arising out of any Dispute, except that such remedies may be utilized for purposes of enforcing this Section and sections governing Confidential Information, Compliance with HIPAA, Compliance with Laws and Accreditation and Compliance with Medicare Rules of this Agreement. Except as expressly provided herein, upon any determination by a court or by an arbitrator that a Party has breached this Agreement or improperly terminated this Agreement, the other Party shall accept monetary damages, if any, as full and complete relief and remedy, to the exclusion of specific performance or any other form of injunctive or equitable relief or remedy.

(d) **Injunctive or Similar Relief.** Notwithstanding anything to the contrary in this Section, the Parties reserve the right to seek specific performance or any other form of injunctive relief or remedy in any state or federal court located within the County in which the Health Department is located for purposes of enforcing this Section and sections governing Confidential Information, Compliance with HIPAA, Compliance with Laws and Accreditation and Compliance with Medicare Rules of this Agreement. Contractor hereby consents to the jurisdiction of any such court and to venue therein, waives any and all rights under the Laws of any other state to object to jurisdiction within the State, and consents to the service of process in any such action or proceeding, in addition to any other manner permitted by applicable Law, by compliance with the notices provision of this Agreement. The non-prevailing Party in any such action or proceeding shall pay to the prevailing Party reasonable fees and costs incurred in such action or proceeding, including attorneys' fees and costs and the fees and costs of experts and consultants. The prevailing Party shall be the Party who is entitled to recover its costs of suit (as determined by the court of competent jurisdiction), whether or not the action or proceeding proceeds to final judgment or award.

(e) **Survival.** This Section shall survive the expiration or termination of this Agreement.

6.10 Entire Agreement. This Agreement is the entire understanding and agreement of the Parties regarding its subject matter, and supersedes any prior oral or written agreements, representations, understandings or discussions between the Parties. No other understanding between the Parties shall be binding on them unless set forth in writing, signed and attached to this Agreement.

6.11 Exhibits. The attached exhibits, together with all documents incorporated by reference in the exhibits, form an integral part of this Agreement and are incorporated by reference into this Agreement, wherever reference is made to them to the same extent as if they were set out in full at the point at which such reference is made.

6.12 Force Majeure. Neither Party shall be liable for nonperformance or defective or late performance of any of its obligations under this Agreement to the extent and for such periods of time as such nonperformance, defective performance or late performance is due to reasons outside such Party's control, including acts of God, war (declared or undeclared), terrorism, action of any governmental authority, civil disturbances, riots, revolutions, vandalism, accidents, fire, floods, explosions, sabotage, nuclear incidents, lightning, weather, earthquakes, storms, sinkholes, epidemics, failure of transportation infrastructure, disruption of public utilities, supply chain interruptions, information systems interruptions or failures, breakdown of machinery or strikes (or similar nonperformance, defective performance or late performance of employees, suppliers or subcontractors); provided, however, that in any such event, each Party shall use its good faith efforts to perform its duties and obligations under this Agreement.

6.13 Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State.

6.14 Headings. The headings in this Agreement are intended solely for convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.

6.15 Litigation Consultation. Contractor shall ensure that no Group Provider accepts consulting assignments or otherwise contract, agree, or enter into any arrangement to provide expert testimony or evaluation on behalf of a plaintiff in connection with any claim against the County, Health Department or any Affiliate named, or expected to be named as a defendant. Contractor shall ensure that no Group Provider accepts similar consulting assignments if (a) the defendants or anticipated defendants include a provider with privileges at the Clinics or any Affiliate, and (b) the matter relates to events that occurred at Health Department or any Affiliate; provided, however, the provisions of this Section shall not apply to situations in which a Group Physician served as a treating physician.

6.16 Master List. The Parties acknowledge and agree that this Agreement, together with any other contracts between Health Department and Contractor, will be included on the master list of physician contracts maintained by Health Department.

6.17 Meaning of Certain Words. Wherever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine, or neuter forms, and the singular form of nouns shall include the plural and vice versa. Unless otherwise specified: (i) "days" shall be considered "calendar days;" (ii) "months" shall be considered "calendar months;" and (iii) "including" means "including, without limitation" in this Agreement and its exhibits and attachments.

6.18 New Group Providers. Each new Group Provider shall agree in writing to be bound by the terms of and conditions of this Agreement.

6.19 No Conflicting Obligations. Contractor represents and warrants that the execution and delivery of this Agreement and the performance of its obligations hereunder do not and will not: (a) present a conflict of interest or materially interfere with the performance of Contractor's duties under any other agreement or arrangement; or (b) violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice and/or lapse of time, would constitute a default) under, terminate, accelerate the performance required by, or result in a right of termination or acceleration under any of the terms, conditions or provisions of any other agreement, indebtedness, note, bond, indenture, security or pledge agreement, license, franchise, permit, or other instrument or obligation to which Contractor is a party or by which Contractor is bound. Contractor shall immediately inform Health Department of any other agreements to which Contractor is a party that may present a conflict of interest or materially interfere with performance of Contractor's or Group Providers' duties under this Agreement.

6.20 No Third Party Beneficiary Rights. The Parties do not intend to confer and this Agreement shall not be construed to confer any rights or benefits to any person, firm, group, corporation or entity other than the Parties.

6.21 Notices. All notices or communications required or permitted under this Agreement shall be given in writing and delivered personally or sent by United States registered or certified mail with postage prepaid and return receipt requested or by overnight delivery service (e.g., Federal Express, DHL). Notice shall be deemed given when sent, if sent as

specified in this Section, or otherwise deemed given when received. In each case, notice shall be delivered or sent to:

If to Health Department, addressed to:

Elsa Jimenez, Director of Health
Monterey County Health Department
1270 Natividad Road
Salinas, CA 93906

If to Contractor, addressed to:

CEP America-AUC, PC
2100 Powell Street, Suite 900
Emeryville, CA 94608
Attn: President
cc: Legal Department

6.22 Participation in State and Federal Health Care Programs. Contractor hereby represents that neither it nor any Group Provider is debarred, suspended, excluded or otherwise ineligible to participate in any state or Federal Health Care Program.

6.23 Representations. Each Party represents with respect to itself that: (a) no representation or promise not expressly contained in this Agreement has been made by any other Party or by any Parties' agents, employees, representatives or attorneys; (b) this Agreement is not being entered into on the basis of, or in reliance on, any promise or representation, expressed or implied, other than such as are set forth expressly in this Agreement; and (c) Party has been represented by legal counsel of Party's own choice or has elected not to be represented by legal counsel in this matter.

6.24 Severability. If any provision of this Agreement is determined to be illegal or unenforceable, that provision shall be severed from this Agreement, and such severance shall have no effect upon the enforceability of the remainder of this Agreement.

6.25 Statutes and Regulations. Any reference in this Agreement to any statute, regulation, ruling, or administrative order or decree shall include, and be a reference to any successor statute, regulation, ruling, or administrative order or decree.


6.26 Waiver. No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a Party must be in writing to be effective, and shall apply solely to the specific instance expressly stated.

[signature page follows]

The Parties have executed this Agreement on the date first above written, and signify their agreement with duly authorized signatures.

CONTRACTOR

CEP AMERICA-AUC, PC, a California professional corporation



By: David Birdsall, M.D.
Its Chief Operations Officer

Date: February 13, 2017

County of Monterey

Elsa Jimenez, Director of Health
Monterey County Health Department

Date: _____, 20__

APPROVED AS TO LEGAL PROVISIONS:

Stacy Saetta, Deputy County Counsel

Date: _____, 20__

APPROVED AS TO FISCAL PROVISIONS:

Auditor/Controller

Date: _____, 20__

APPROVED AS TO LIABILITY PROVISIONS:

Risk Management

Date: _____, 20__

Exhibit 1.1(b)

ADDITIONAL SERVICES

Contractor shall:

1. ensure that each Group Provider meets the patient visit standard of a minimum of three (3) patients per contact hour, provided that Clinic patient volumes are sufficient to require the enforcement of such patient visit standard;
2. perform routine clinical and administrative duties ancillary to the provision of patient services, such as:
 - a. Medication refills, specific to Contractor's patients; referrals; alcohol, tobacco and drug screening; and immunizations following Health Department workflows and protocols; and
 - b. Resolution of billing issues and completion of forms and reports.
3. cause Group Physicians to supervise Group AHPs performing Services in the Clinics in accordance with applicable Laws and the Health Department's Standardized Procedures/Protocols for the Nurse Practitioner/Physician Assistant, which shall include signing five percent (5%) of charts.
4. meet Health Department's standards for attendance, clinical quality, incentive programs, accepted workflows, documentation and specific clinical care policies such as pain management;
5. participate in utilization review programs, as reasonably requested by Health Department and ensure that each Group Provider accesses and checks the Controlled Substance Utilization, Review and Evaluation System when prescribing controlled substances;
6. participate in risk management, quality assurance and peer review programs, as reasonably requested by Health Department;
7. accept third party insured patients and referrals of patients, subject only to the limitations of scheduling and Contractor's professional qualifications;
8. assist Health Department in monitoring and reviewing the clinical performance of health care professionals who provide services to Health Department's patients; including reviewing incident reports and patient satisfaction studies relevant to the Clinics, and assisting Health Department in implementing any necessary corrective actions to address any issues identified during the course of such review;
9. assist in monitoring the performance of those professionals who are not meeting Health Department quality and/or performance standards, including, without limitation, direct observation of the provision of care by such professionals, and in disciplining any professionals who continue poor performance, recognizing that the Health Department Board of Directors is ultimately responsible for maintaining the standards of care provided to patients;

10. assist Health Department management with all preparation for, and conduct of, any inspections and on-site surveys of Clinics conducted by governmental agencies or accrediting organizations;

11. cooperate with Health Department in all litigation matters affecting Contractor or Health Department, consistent with advice from Contractor's legal counsel;

12. cooperate and comply with Health Department's policies and procedures which are pertinent to patient relations, quality assurance, scheduling, billing, collections and other administrative matters and cooperate with Health Department's efforts to bill and collect fees for services rendered to Clinic Patients. All business transactions related to the Services provided by Contractor, such as enrollment, verification and billings, shall be conducted by and in the name of Health Department;

13. assist Health Department in developing, implementing and monitoring a program by which quality measures are reportable to Health Department with respect to the Clinics; and

14. exhibit professional behavior and maintain respect for the dignity and sensitivities of patients and families, as well as colleagues, employees, and all other health care professionals.

Exhibit 1.18(a)

GROUP PROVIDERS

[List Approved Group Providers Below]

Group Provider	NPI Number

Exhibit 2.1

COMPENSATION

1. **Professional Services.** Health Department shall pay to Contractor in accordance with the following (the "**Compensation**"), so long as Contractor is in compliance with the terms and conditions of this Agreement:

(a) Two Hundred and Five Dollars (\$205) per hour for Professional Services provided by Group Physicians to Clinic Patients; and

(b) One Hundred Twenty Dollars (\$120) per hour for Professional Services provided by Group AHPs to Clinic Patients.

2. **Additional Services.** In recognition of the mutual obligations of the Parties hereunder, Health Department and Contractor acknowledge that there shall be no monetary compensation to Contractor for the Additional Services set forth in Exhibit 1.1(b) furnished by Contractor hereunder.

3. **Timing.** Health Department shall pay the Compensation after Contractor's submission of the monthly invoice of preceding month's activity and time report in accordance with this Agreement; provided, however, that if Contractor does not submit an invoice and time sheet within sixty (60) days of the end of the month during which Clinic Services were performed, Health Department shall not be obligated to pay Contractor for Clinic Services performed during that month. The County of Monterey Standard Payment Terms for contracts/PSAs and paying invoices is "30 days after receipt of the certified invoice in the Auditor-Controller's Office".

Exhibit 6.3

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“Agreement”), effective upon the Effective Date of the Professional Services Agreement to which it is attached as this Exhibit 6.3 (“Effective Date”), is entered into by and among the County of Monterey, a political subdivision of the State of California, on behalf of the Health Department (“Covered Entity”) and CEP America - AUC, PC (“Business Associate”) (each a “Party” and collectively the “Parties”).

Business Associate provides certain services for Covered Entity (“Services”) that involve the use and disclosure of Protected Health Information that is created or received by Business Associate from or on behalf of Covered Entity (“PHI”). The Parties are committed to complying with the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, Subparts A and E as amended from time to time (the “Privacy Rule”), and with the Security Standards, 45 C.F.R. Part 160 and Part 164, Subpart C as amended from time to time (the “Security Rule”), under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as amended by the Health Information Technology for Economic and Clinical Health Act and its implementing regulations (“HITECH”). Business Associate acknowledges that, pursuant to HITECH, 45 C.F.R. §§ 164.308 (administrative safeguards), 164.310 (physical safeguards), 164.312 (technical safeguards), 164.316 (policies and procedures and documentation requirements) and 164.502 *et. seq.* apply to Business Associate in the same manner that such sections apply to Covered Entity. The additional requirements of Title XIII of HITECH contained in Public Law 111-005 that relate to privacy and security and that are made applicable with respect to covered entities shall also be applicable to Business Associate. The Parties are also committed to complying with the California Confidentiality of Medical Information Act, Ca. Civil Code §§ 56 *et seq.* (“CMIA”), where applicable. Business Associate acknowledges that the CMIA prohibits Business Associate from further disclosing the PHI it receives from Covered Entity where such disclosure would be violative of the CMIA. The Parties are also committed to complying with applicable requirements of the Red Flag Rules issued pursuant to the Fair and Accurate Credit Transactions Act of 2003 (“Red Flag Rules”). This Agreement sets forth the terms and conditions pursuant to which PHI, and, when applicable, Electronic Protected Health Information (“EPHI”), shall be handled. The Parties further acknowledge that state statutes or other laws or precedents may impose data breach notification or information security obligations, and it is their further intention that each shall comply with such laws as well as HITECH and HIPAA in the collection, handling, storage, and disclosure of personal data of patients or other personal identifying information exchanged or stored in connection with their relationship.

The Parties agree as follows:

1. DEFINITIONS

All capitalized terms used in this Agreement but not otherwise defined shall have the meaning set forth in the Privacy Rule, Security Rule and HITECH.

2. **PERMITTED USES AND DISCLOSURES OF PHI**

2.1 Unless otherwise limited herein, Business Associate may:

(a) use or disclose PHI to perform functions, activities or Services for, or on behalf of, Covered Entity as requested by Covered Entity from time to time, provided that such use or disclosure would not violate the Privacy or Security Rules or the standards for Business Associate Agreements set forth in 45 C.F.R. § 164.504(e), exceed the minimum necessary to accomplish the intended purpose of such use or disclosure, violate the additional requirements of HITECH contained in Public Law 111-005 that relate to privacy and security, or violate the CMIA;

(b) disclose PHI for the purposes authorized by this Agreement only: (i) to its employees, subcontractors and agents; (ii) as directed by this Agreement; or (iii) as otherwise permitted by the terms of this Agreement;

(c) use PHI in its possession to provide Data Aggregation Services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B);

(d) use PHI in its possession for proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate as permitted by 45 C.F.R. § 164.504(e)(4)(i);

(e) disclose the PHI in its possession to third parties for the proper management and administration of Business Associate to the extent and in the manner permitted under 45 C.F.R. § 164.504(e)(4)(ii); provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the persons to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached;

(f) use PHI to report violations of law to appropriate Federal and state authorities, consistent with 45 C.F.R. § 164.502(j)(1);

(g) de-identify any PHI obtained by Business Associate under this Agreement for further use or disclosure only to the extent such de-identification is pursuant to this Agreement, and use such de-identified data in accordance with 45 C.F.R. § 164.502(d)(1).

3. **RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO PHI**

3.1 Responsibilities of Business Associate. With regard to its use and/or disclosure of PHI, Business Associate shall:

(a) use and/or disclose the PHI only as permitted or required by this Agreement or as otherwise Required by Law;

(b) report to the privacy officer of Covered Entity, in writing, (i) any use and/or disclosure of the PHI that is not permitted or required by this Agreement of which Business Associate becomes aware, and (ii) any Breach of unsecured PHI as specified by HITECH, within two (2) days of Business Associate's determination of the occurrence of such unauthorized use and/or disclosure. In such event, the Business Associate shall, in consultation with the Covered Entity, mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper use or disclosure. The notification of any Breach of unsecured PHI shall include, to the extent possible, the identification of each individual whose unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, used or disclosed during the Breach.

(c) use commercially reasonable safeguards to maintain the security of the PHI and to prevent use and/or disclosure of such PHI other than as provided herein;

(d) obtain and maintain an agreement with all of its subcontractors and agents that receive, use, or have access to, PHI pursuant to which agreement such subcontractors and agents agree to adhere to the same restrictions and conditions on the use and/or disclosure of PHI that apply to Business Associate pursuant to this Agreement;

(e) make available all internal practices, records, books, agreements, policies and procedures and PHI relating to the use and/or disclosure of PHI to the Secretary for purposes of determining Covered Entity or Business Associate's compliance with the Privacy Rule;

(f) document disclosures of PHI and information related to such disclosure and, within ten (10) days of receiving a written request from Covered Entity, provide to Covered Entity such information as is requested by Covered Entity to permit Covered Entity to respond to a request by an individual for an accounting of the disclosures of the individual's PHI in accordance with 45 C.F.R. § 164.528, as well as provide an accounting of disclosures, as required by HITECH, directly to an individual provided that the individual has made a request directly to Business Associate for such an accounting. At a minimum, the Business Associate shall provide the Covered Entity with the following information: (i) the date of the disclosure, (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person; (iii) a brief description of the PHI disclosed; and (iv) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure. In the event the request for an accounting is delivered directly to the Business Associate, the Business Associate shall, within two (2) days, forward such request to the Covered Entity. The Business Associate shall implement an appropriate recordkeeping process to enable it to comply with the requirements of this Section;

(g) subject to Section 4.4 below, return to Covered Entity within twenty-one (21) days of the termination of this Agreement, the PHI in its possession and retain no copies, including backup copies;

(h) disclose to its subcontractors, agents or other third parties, and request from Covered Entity, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder;

(i) if all or any portion of the PHI is maintained in a Designated Record Set:

(i) upon ten (10) days' prior written request from Covered Entity, provide access to the PHI in a Designated Record Set to Covered Entity or, as directed by Covered Entity, the individual to whom such PHI relates or his or her authorized representative to meet a request by such individual under 45 C.F.R. § 164.524; and

(ii) upon ten (10) days' prior written request from Covered Entity, make any amendment(s) to the PHI that Covered Entity directs pursuant to 45 C.F.R. § 164.526;

(j) maintain policies and procedures to detect and prevent identity theft in connection with the provision of the Services, to the extent required to comply with the Red Flag Rules;

(k) notify the Covered Entity within five (5) days of the Business Associate's receipt of any request or subpoena for PHI. To the extent that the Covered Entity decides to assume responsibility for challenging the validity of such request, the Business Associate shall cooperate fully with the Covered Entity in such challenge;

(l) maintain a formal security program materially in accordance with all applicable data security and privacy laws and industry standards designed to ensure the security and integrity of the Covered Entity's data and protect against threats or hazards to such security

The Business Associate acknowledges that, as between the Business Associate and the Covered Entity, all PHI shall be and remain the sole property of the Covered Entity.

3.2 Additional Responsibilities of Business Associate with Respect to EPHI. In the event that Business Associate has access to EPHI, in addition to the other requirements set forth in this Agreement relating to PHI, Business Associate shall:

(a) implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity as required by 45 C.F.R. Part 164, Subpart C;

(b) ensure that any subcontractor or agent to whom Business Associate provides any EPHI agrees in writing to implement reasonable and appropriate safeguards to protect such EPHI; and

(c) report to the privacy officer of Covered Entity, in writing, any Security Incident involving EPHI of which Business Associate becomes aware within two (2) days of Business Associate's discovery of such Security Incident. For purposes of this Section, a Security Incident shall mean (consistent with the definition set forth at 45 C.F.R. § 164.304), the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system. In such event, the Business Associate shall, in consultation with the Covered Entity, mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper use or disclosure.

3.3 Responsibilities of Covered Entity. Covered Entity shall, with respect to Business Associate:

(a) provide Business Associate a copy of Covered Entity's notice of privacy practices ("Notice") currently in use;

(b) notify Business Associate of any limitations in the Notice pursuant to 45 C.F.R. § 164.520, to the extent that such limitations may affect Business Associate's use or disclosure of PHI;

(c) notify Business Associate of any changes to the Notice that Covered Entity provides to individuals pursuant to 45 C.F.R. § 164.520, to the extent that such changes may affect Business Associate's use or disclosure of PHI;

(d) notify Business Associate of any changes in, or withdrawal of, the consent or authorization of an individual regarding the use or disclosure of PHI provided to Covered Entity pursuant to 45 C.F.R. § 164.506 or § 164.508, to the extent that such changes may affect Business Associate's use or disclosure of PHI; and

(e) notify Business Associate, in writing and in a timely manner, of any restrictions on use and/or disclosure of PHI as provided for in 45 C.F.R. § 164.522 agreed to by Covered Entity, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

4. TERMS AND TERMINATION

4.1 Term. This Agreement shall become effective on the Effective Date and shall continue in effect unless terminated as provided in this Article 4. Certain provisions and requirements of this Agreement shall survive its expiration or other termination as set forth in Section 5.1 herein.

4.2 Termination. Either Covered Entity or Business Associate may terminate this Agreement and any related agreements if the terminating Party determines in good faith that the terminated Party has breached a material term of this Agreement; provided, however, that no Party may terminate this Agreement if the breaching Party cures such breach to the reasonable satisfaction of the terminating Party within thirty (30) days after the breaching Party's receipt of written notice of such breach.

4.3 Automatic Termination. This Agreement shall automatically terminate without any further action of the Parties upon the termination or expiration of Business Associate's provision of Services to Covered Entity.

4.4 Effect of Termination. Upon termination or expiration of this Agreement for any reason, Business Associate shall return all PHI pursuant to 45 C.F.R. § 164.504(e)(2)(ii)(I) if, and to the extent that, it is feasible to do so. Prior to doing so, Business Associate shall recover any PHI in the possession of its subcontractors or agents. To the extent it is not feasible for Business Associate to return or destroy any portion of the PHI, Business Associate shall provide Covered Entity a statement that Business Associate has determined that it is infeasible to return or destroy all or some portion of the PHI in its possession or in possession of its subcontractors or agents. Business Associate shall extend any and all protections, limitations and restrictions contained in this Agreement to any PHI retained after the termination of this Agreement until such time as the PHI is returned to Covered Entity or destroyed.

5. MISCELLANEOUS

5.1 Survival. The respective rights and obligations of Business Associate and Covered Entity under the provisions of Sections 4.4, 5.1, 5.6, and 5.7, and Section 2.1 (solely with respect to PHI that Business Associate retains in accordance with Section 4.4 because it is not feasible to return or destroy such PHI), shall survive termination of this Agreement until such time as the PHI is returned to Covered Entity or destroyed. In addition, Section 3.1(i) shall survive termination of this Agreement, provided that Covered Entity determines that the PHI being retained pursuant to Section 4.4 constitutes a Designated Record Set.

5.2 Amendments; Waiver. This Agreement may not be modified or amended, except in a writing duly signed by authorized representatives of the Parties. To the extent that any relevant provision of the HIPAA, HITECH or Red Flag Rules is materially amended in a manner that changes the obligations of Business Associates or Covered Entities, the Parties agree to negotiate in good faith appropriate amendment(s) to this Agreement to give effect to the revised obligations. Further, no provision of this Agreement shall be waived, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.

5.3 No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

5.4 Notices. Any notices to be given hereunder to a Party shall be made via U.S. Mail or express courier to such Party's address given below, and/or via facsimile to the facsimile telephone numbers listed below.

If to Business Associate, to:

CEP America-AUC, PC

2100 Powell Street, Suite 900

Emeryville, CA 94608

Attn: President_____

Phone: 510-350-2600_____

Fax: _____

If to Covered Entity, to:

1270 Natividad Road

Salinas, CA 93906

Attn: Elsa Jimenez, Director of Health

Phone: 831-755-4526

Fax: _____

Each Party named above may change its address and that of its representative for notice by the giving of notice thereof in the manner hereinabove provided. Such notice is effective upon receipt of notice, but receipt is deemed to occur on next business day if notice is sent by FedEx or other overnight delivery service.

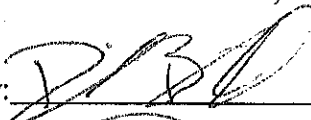
5.5 Counterparts; Facsimiles. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.

5.6 Choice of Law; Interpretation. This Agreement shall be governed by the laws of the State of California; as provided, however, that any ambiguities in this Agreement shall be resolved in a manner that allows Business Associate to comply with the Privacy Rule, and, if applicable, the Security Rule and the CMIA.

5.7 Indemnification. Contractor shall indemnify, defend, and hold harmless the County of Monterey (hereinafter County), its officers, agents, and employees from any claim, liability, loss, injury, cost, expense, penalty or damage, including the County's reasonable cost of providing notification of and of mitigating any acquisition, access, use or disclosure of PHI in a manner not permitted by this BAA, arising out of, or in connection with, performance of this BAA by Contractor and/or its agents, members, employees, or sub-contractors, excepting only loss, injury, cost, expense, penalty or damage caused by the negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this BAA to provide the broadest possible indemnification for the County. Contractor shall reimburse the County for all costs, attorneys' fees, expenses, and liabilities incurred by the County with respect to any investigation, enforcement proceeding or litigation in which Contractor is obligated to indemnify, defend, and hold harmless the County under this BAA. This provision is in addition to and independent of any indemnification provision in any related or other agreement between the Covered Entity and the Business Associate.

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed in its name and on its behalf as of the Effective Date.

CEP AMERICA-AUC, PC

By: 
Print Name: David Birdsell, MD

Print Title: Chief Operations Officer

Date: 2/13/17

**COUNTY OF MONTEREY, ON BEHALF OF
HEALTH DEPARTMENT**

By: _____

Print Name: _____

Print Title: _____

Date: _____