

EMPLOYMENT AGREEMENT (PHYSICIAN)

THIS AGREEMENT OF EMPLOYMENT ("Agreement") is entered into as of the date set forth below by and between the **COUNTY of MONTEREY** ("County" or "Employer"), on behalf of its Health Department ("MCHD") and **Emily Todd, M.D., Ph.D.** ("Employee").

1. **Employment of Physician.** Employer and Employee agree respectively to provide and accept "At-Will" employment which shall be pursuant to and governed solely and exclusively by the attached Terms and Conditions and Exhibits of this contractual Agreement, Paragraphs I through XVII, and those other Attachments (if any) appended hereto, which are incorporated herein by this reference and form an integral part of this Agreement as if recited herein in full over the signatures affixed below. No external reference(s) are intended, and none are to be implied unless specifically identified and referenced in this Agreement.

2. **Term.** The term of employment shall commence on **July 6, 2020** and continue through **July 2, 2021**. Thereafter, it may be renewed from time to time, if the parties mutually agree to do so, until terminated in the manner provided in the Terms and Conditions of the Agreement.

3. **Letters.** Reference in this Agreement to the letters below shall be to the information set forth following each letter.

- (A) Name of Employee: **Emily Todd, M.D., Ph.D.**
California Medical License No.: **123697**
- (B) MCHD Division: **Behavioral Health**
- (C) Program (*if any*): **Adult/Children Services**
Tele-Psychiatry: July 6, 2020 to September 11, 2020
On-Site: September 12, 2020 to July 2, 2021
- (D) Percentage of full-time equivalent employment status:
50 % FTE July 6, 2020 to September 11, 2020
100% FTE September 12, 2020 to July 2, 2021
[260 days = 100% FTE.]
- (E) Attachment(s): Ex. "A" – Terms and Conditions of Employment Agreement;
Ex. "B" – Scope of Work
Ex. "C" – Reassignment of Electronic Health Record
("EHR") Incentive Payments
- (F) Annual Base Salary: **Three Hundred Twenty-Two Thousand Nine Hundred Eighty-Four and 00/100 Dollars (\$322,984.00)** per year.
Hourly Wage: \$171.80 July 6, 2020 thru July 2, 2021.

Special Assignment Pay shall not exceed **(not applicable)**

The combined amount of this Agreement shall not exceed a total of **Three Hundred Twenty-Two Thousand Nine Hundred Eighty-Four and 00/100 Dollars (\$322,984.00)** per year.

- (G) Annual Leave Accrual Rate:
- “UL002” 7.08 (decimal), 7:05 (hour: minute) per pay period July 6, 2020 thru September 11, 2020.
- “UL002” 3.54 (decimal), 3:32 (hour: minute) per pay period September 12, 2020 thru July 2, 2021.
- (H) Bargaining Unit: “U”

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year executed by both parties.

DATED: 7/6 2020

EMPLOYER:

By


Elsa Jimenez, Director of Health

MONTEREY COUNTY HEALTH DEPARTMENT

DATED: 7/6, 2020

EMPLOYEE:

By



, M.D., Ph.D.
Emily Todd, M.D., Ph.D.

APPROVED AS TO LEGAL FORM:

DocuSigned by:



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Deputy County Counsel

DATE: 6/23/2020 | 10:54 AM PDT

APPROVED AS TO FISCAL:

DocuSigned by:



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Auditor-Controller

DATE: 6/24/2020 | 10:38 AM PDT

EXHIBIT “A”**TERMS AND CONDITIONS****Table of Contents**

<u>Paragraph</u>	<u>Page</u>
I. Employment and Duties	6
A. Employment	6
B. Duties	6
C. Performance Standards	6
D. Practice Site	7
II. Term	7
A. Term	7
B. Termination by Notice	7
C. Special Termination	7
III. Status of Employee	8
IV. Compensation	8
V. Employment Benefits and Benefit Programs	9
A. Limited Entitlement to Benefits and Benefit Programs	9
B. Benefits and Benefit Programs	9
VI. Leave of Absence	13
A. Scheduling Vacations and Continuing Medical Education	13
B. Leave of Absence Without Pay	13
C. Unavailability or Absence After Notice of Termination	13
VII. Medical/Mental Examinations and Testing	14
VIII. Charges for Services and Other Fees; Compliance With Laws & Regulations . .	15
A. Fees and Charges	15
B. Reports and Records of Charges	16
C. Representations and Compliance	16
IX. Compliance With Ethics and Laws	16
A. Representations	16
B. Notice of Action	17
C. Ethics	17
D. Discrimination, Sexual Harassment and Workplace Violence	17

X.	Termination of Employment	17
A.	Termination of "At-Will" Employment	17
B.	Termination for Breach of Agreement	18
C.	Proration	20
D.	Advancing Termination	20
E.	Withholding Amounts Owed by Employee to Employer on Termination	20
F.	Employer's Assets	20
XI.	Termination Because of Death or Illegality	20
XII.	Release of Employment Records or Required Reports	21
A.	Material Information	21
B.	Disclosure	21
C.	Release & Hold Harmless Agreement	21
D.	Confidentiality	21
E.	Survival	22
XIII.	Patient Records	22
A.	Files and Records	22
B.	Patient Record Requests	22
C.	Storage of Records	22
XIV.	Protection of Proprietary Rights	22
A.	Non-solicitation of Patients	22
B.	Confidential Information	23
C.	Non-solicitation of Employees	23
D.	Liquidated Damages	23
E.	Survival	23
XV.	Doctor - Patient Relationship; Nondiscrimination.	24
XVI.	Payor Contracts	24
A.	Agreement to be Bound	24
B.	Confidential	24
C.	Power of Attorney For Third Party Payor Contracts	24
D.	Non-Solicitation	24
XVII.	General Provisions	25
A.	Notices in Writing	25
B.	Waiver of Breach	25
C.	Integration, Modification, Waiver of Agreement	25
D.	Interpretation	26
E.	Partial Invalidity	26
F.	Severability	26
G.	Binding Effect	26
H.	Survival	26

I.	Confidentiality	26
J.	Construction of Agreement	26
K.	Agreement to Perform Necessary Acts	26
L.	Statutes and Regulations	27
M.	Governing Law	27
N.	Cumulation of Remedies	27
O.	Successors and Assigns	27
P.	Time of Essence	27
Q.	Counterparts	27

TERMS AND CONDITIONS

I. Employment and Duties.

A. Employment. Subject to and strictly within the terms, conditions and provisions of applicable law and regulations, and the MCHD's policies and procedures, the Employer hereby employs **Emily Todd, M.D., Ph.D.**, a physician and surgeon or other licensed health care provider (hereinafter collectively called "Physician") who is qualified and licensed to practice medicine or other health care profession in the State of California, to render and perform medical or other health care services under the direction and designation of the Employer, on an "at-will" basis, in the Behavioral Health Division. All references hereinafter to "practice of medicine," "medical" or "medical practice" shall include those other health care practices and services for which Employee is appropriately licensed and that are the subject of Employee's employment hereunder.

B. Duties. The Employee agrees to comply with all policies concerning the attending of patients and medical practice at the Employer's various practice sites that are established by the Employer, its Departments or Divisions from time to time during the term of this Agreement, or any extension thereof. The Employee agrees to practice in accordance with the applicable provisions of MCHD's policies and procedures.

The Employee understands that Employer's medical practice includes patients under a variety of payment programs and, within the scope of Employee's medical specialty, Employee agrees to provide care to all patients, of any payor type, that may be assigned to him/her or that may request his/her services, subject to any policy of Employer permitting the transfer or reassignment of patients. During the term of this Agreement, the Employee shall render all such medical care and treatment in accordance with the Scope of Services attached to this Agreement as **Exhibit "B."**

Employee shall comply with all applicable County personnel and other County policies and procedures, as adopted or amended from time to time, whether referenced in this Agreement or not. The Employee may be required to maintain medical staff privileges at NMC and/or other health care facilities designated by Employer, and shall cooperate with and participate in Employer's quality assurance, utilization review, peer review, and MCHD compliance plan processes. Employee shall complete and file all forms and make written acknowledgment of such policies as are required by the County. Employee shall abide by all applicable laws, regulations and County policies in the performance of his/her duties and obligations under this Agreement.

C. Performance Standards. Employer from time to time establishes standards of performance for employees. The purposes of these standards are: (i) to provide a visible benchmark for evaluation of the medical care and service rendered by providers; (ii) to create a feedback mechanism so that excellent performance can be encouraged and unsatisfactory performance can be identified and addressed, and (iii) to develop a basis for compensation adjustments. Performance standards may include the following areas:

1. Work Productivity / Patient Scheduling
2. Cost of Care / Resource Management

3. Patient Satisfaction
4. Utilization Review / Quality Assurance
5. Compliance with Employer's Policies & Procedures
6. Compliance with Employer's Billing Policies & Procedures
7. Work Ethic
8. Peer Review

MCHD, at its option and within its sole discretion, may seek evaluation of contractual performance by requesting input from Employee's Division and from other professionals within the MCHD.

D. Work Site: Employer retains at all times hereunder the right and sole discretion to designate at which site the Employee shall be assigned or reassigned from time to time to render services under this Agreement. Employer in making or changing any such designation will, to the extent practical, consult with Employee regarding Employee's preferences.

II. TERM.

A. Term. The commencement date and term of employment hereunder are set forth on Page 1, in Paragraph 2 of this Agreement. Employment is subject, however, to earlier termination as provided hereinafter.

B. Termination by Notice. Independent of and separately from the provisions of Paragraph X.B., the Employer and the Employee each individually reserve the right, pursuant to Paragraph X.A., to terminate the employment of Employee at the sole discretion of each without cause or penalty and conditioned only upon written notice by one to the other given not less than ninety (90) calendar days prior to the effective date. The effective date of termination may be shortened by mutual agreement of the parties.

C. Special Termination. Notwithstanding any other provision to the contrary, Employer shall have the right to terminate Employee's employment (1) upon notice effective immediately in the event the facility used by Employee in conducting Employer's medical practice becomes unusable for patient care or treatment, or (2) upon thirty (30) days' written notice for the purpose of modifying or revising this Agreement.

III. Status of Employee.

1. **"Full-time Employment"** under the provisions of this Agreement is defined as the rendering of professional and/or administrative services on behalf of the Employer for the equivalent of at least 260 days per year. A day for purposes of this Agreement shall be determined by Employer in accordance with the policies and procedures of Employer as adopted and modified from time to time, but shall otherwise not be less than eight (8) hours.

2. **"At-Will" Employment Status.** In executing this Agreement, Employee specifically acknowledges that his/her employment status pursuant to this Agreement is "At-Will," subject only to the terms and conditions contained or specifically referenced herein. It is

expressly agreed by the parties hereto that no work, act, commission or omission of the Employee shall be construed to make or render him/her a "permanent" County and/or MCHD Employee with a vested property right to continued County and/or MCHD employment, or to any County employee benefits other than those specifically set forth herein. Without limiting the foregoing, no offer or obligation of permanent employment with the County or with the MCHD is intended or implied in any manner by this Agreement.

3. The parties acknowledge and understand that Employee, as a licensed professional physician, is exempt from the provisions of the statutes and regulations of the Fair Labor Standards Act, Title 29 U.S.C. Section 200, *et seq.*

IV. Compensation.

A. **Base Salary.** The Employee shall be compensated during the term of this Agreement at a Base Salary rate of **Three Hundred Twenty-Two Thousand Nine Hundred Eighty-Four and 00/100 Dollars (\$322,984.00)** per year, which shall be paid in equal bi-weekly installments, in arrears, commencing with the Employer's first payroll after the beginning of the term hereof. Compensation shall be prorated for actual service, and shall be subject to all required or customary withholding(s) and deduction(s) and any authorized payroll deductions. Notwithstanding anything to the contrary in this Agreement, the Employee acknowledges that the Employer, in its sole discretion, has the right to adjust Employee's Salary rate on an annualized basis. Any such adjustment will be determined by MCHD in accordance with its practices, procedures and policies as adopted, modified and rescinded from time to time. The Base Salary shall include normal and routine administrative and teaching functions as set forth in **Exhibit "A"** that is attached hereto and made a part hereof, in addition to the provision of professional medical services. Additional duties such as, *e.g.*, call coverage and/or medical director duties, that may be assigned from time to time and are in excess of those duties included within the Employee's Base Salary shall be compensated as Special Assignments.

B. **Special Assignment Pay.** In addition to Base Salary, the Employee may from time to time be given special assignments and become entitled to compensation for performing such duties. Compensation shall be equivalent to that set forth in Personnel Policies and Practices Resolution Section A.12 "Special Benefits-Physicians," as currently amended, for any duties listed therein that are performed as special assignments by the Employee. Section A.12 is incorporated herein and made a part hereof by this reference, as though set forth in full. Any Special Assignment Pay to Employee made pursuant to the provisions of Section A.12, when combined with Base Salary, shall not exceed the annual amount of **Three Hundred Twenty-Two Thousand Nine Hundred Eighty-Four and 00/100 Dollars (\$322,984.00)** per year during the term of this Agreement, without appropriate amendment of this Agreement.

V. Employment Benefits and Benefit Programs.

A. **Limited Entitlement to Benefits and Benefit Programs.** The parties specifically acknowledge and mutually agree that this Agreement has been structured to provide limited Employee benefits on the one hand, while maximizing compensation to the Employee on the other hand. In establishing compensation under this Agreement, the value of certain permanent County Employee benefits has been considered. Accordingly, Employee

acknowledges and agrees that he/she shall be entitled to participate in County Employee benefit programs only in the manner and only to the extent specifically set forth in this Agreement and/or its attached Exhibits. The provisions of the Personnel Policies and Practices Resolution apply to this Agreement only where and to the extent specifically referenced herein. Employee shall not become entitled by virtue of this Agreement, and shall have no claim whatsoever under this Agreement, or otherwise, against the County or MCHD for any type or form of employment benefit(s) or benefit program(s) that are not specifically provided for herein.

B. Professional Liability Insurance Benefit. In addition to the general liability coverage that Monterey County carries on each and every Employee, the Employer shall, at its own cost and expense, obtain and maintain in force during the term hereof a professional liability insurance policy or policies, in amounts to be determined by Employer covering only those medical services and administrative services rendered by the Employee within the course and scope of his/her employment hereunder. Such insurance coverage shall include any self-insured retention by Employer. Employer may change deductibles, modify any self-insured retention, and/or adopt any other insurance arrangement as Employer deems appropriate within its sole discretion, so long as Employer maintains the minimum liability insurance coverage for the medical and administrative services rendered by the Employee that is required by the MCHD policies and/or Natividad Medical Center Medical Staff Bylaws, as currently amended.

1. The Employer maintains "claims made" professional liability insurance coverage. As a condition of employment, Employee shall be required from time to time to complete all insurance forms and supply other information deemed necessary or appropriate by Employer or by any insurer who provides or may provide coverage to Employer.

2. **"Tail" Coverage.** Because Employer has procured professional liability insurance covering EMPLOYEE on a "claims made" basis, Employer shall hereafter at its sole cost and expense obtain and maintain extended reporting coverage ("Tail Coverage") that covers the Employee when any of the following occur: (i) this Agreement terminates or expires; or (ii) there is any further change in professional liability coverage; or (iii) there is an amendment, reduction or other material change in the then-existing professional liability coverage for Employee, if such termination, expiration, amendment, reduction or other material change in professional liability insurance coverage would otherwise result in a gap in Employee coverage. Tail Coverage shall have liability limits in the amounts set forth above, and shall continue in existence until the longest statute of limitations period for professional liability for acts and omissions has expired.

3. **Investigation of Professional Liability Claims.** To the extent that (1) a professional liability insurance policy or policies is/are provided pursuant to this Paragraph V.B.3, and/or (2) the Employee was acting within the course and scope of his/her duties under this Agreement at the time of the alleged act or omission, the insurer and/or Employer shall have the complete authority to process and administer any investigation and/or defense of any claims brought either (1) under the professional liability insurance policy, or any claim within the retained limits of such policy, or (2) based on the employer-Employee relationship, on behalf of or for the benefit of Employee. Such authority shall include, without limiting the foregoing, authority to appoint an agent to process and administer the investigation and/or defense of (i) all claims within the limits of such professional liability policy, and (ii) all claims within the

retained limits of such professional liability policy. The applicable provisions of the Governmental Tort Claims Act, Government Code §810, *et seq.*, shall govern the Employer's duty to defend and indemnify the Employee. Employee shall have a duty to cooperate fully with Employer and/or the insurer in any and all such matters, without additional compensation, in the prosecution and/or defense of any threatened or initiated legal proceeding, claim, investigation, or hearing of any nature whatsoever with respect to which the Employer's and/or Employee's liability is at issue or the Employer is/may be entitled to indemnification hereunder. Such duty shall survive the termination of this Agreement for any incident(s) occurring, either all or in part, within the term of this Agreement.

C. Public Employees' Retirement System ("PERS"). Pursuant to Government Code §§ 20305 and 20502, the Employee is required as a condition of employment, to participate in and contribute to the Public Employees' Retirement System ("PERS") plan offered by the Employer. The employee's portion is the sole expense of the physician.

D. County Deferred Compensation Plan. Employee shall be entitled to participate in the County's Deferred Compensation Plan, pursuant to the applicable rules and regulations of that plan and the rules and regulations of the Internal Revenue Service.

E. Health Insurance Benefits. An Employee who works at least half-time (50% FTE) shall be entitled to purchase healthcare coverage for him/herself, his/her spouse and/or dependents in Employer's health insurance program (health, dental and vision) at his/her own expense.

F. Professional License Renewal Reimbursement(s). Employee shall at his/her sole cost and expense, be responsible for fulfilling on a timely basis all licensure, medical organization membership, and continuing medical education requirements imposed by law or regulation, except that:

1. An Employee who works at least four-fifths time (80% FTE) shall be entitled to the following reimbursements, for any renewal that occurs during the term of this Agreement:

a. The cost(s) of renewing his/her California medical license and any other necessary license(s) required for Employee to engage in the practice of medicine (*e.g.*, the fee for any required DEA narcotic license) which, when combined, shall not exceed \$400.00 per year.

G. Continuing Medical Education Benefits.

1. **Physician's Educational Conference Leave.** Upon approval of the Director of Health an Employee who works at least four-fifths time (80% FTE) shall be entitled to up to five (5) working days per fiscal year for attendance at schools, seminars and conferences, subject to the conditions and limitations set forth in Personnel Policies and Practices Resolution Section A.12.2.b), c) and d).

2. **Reimbursement for Professional Meetings and Conferences.** In

accordance with applicable MCHD and County policies, the Employee's expenses incurred in attending professional meetings, schools or conventions away from the MCHD may be reimbursed as set forth below, but only where (1) the Employer has determined in advance that such attendance will benefit the MCHD and its patients, *and* (2) has required in writing that the Employee attend. Reimbursement shall be subject to the conditions and limitations set forth in Personnel Policies and Practices Resolution Section A.12.2.a) and g), as well as the following:

i. Reimbursement of the registration fees, travel and lodging expenses shall be subject to the practices, procedures and limits established, amended or adopted by the MCHD, the County of Monterey and the County's Auditor-Controller from time to time;

ii. The Employer reserves the right to offset against the expenses of attendance at any such meeting or convention the amount of any benefit that has been paid to or received by the EMPLOYEE from another person or organization for the purpose of defraying the cost of attendance at said meeting or convention; and

iii. All reimbursement(s) eligible under this Paragraph for part-time Employees shall be determined according to the FTE ratio of Employee's employment; except that Employees designated at eighty percent (80%) or greater full-time equivalent status shall be entitled to the maximum non-accruable amount.

iv. Accuracy of Expense Reports. By the submission of any expense report or request for reimbursement of a business or other expense pursuant to this Paragraph, the Employee shall be deemed to represent and warrant to the Employer that the report or request is accurate and complete to the best of his/her knowledge, and that Employee is entitled to such reimbursement under all applicable policies and procedures of the Employer and provisions of this Agreement.

H. Honoraria are subject to the policies, practices and procedures that are adopted, amended or revoked from time to time by or under the authority of the County's Board of Supervisors or County Administrative Officer. Employee shall be solely responsible for payment of any and all applicable taxes and withholdings thereon.

I. Outside Professional Services. In the event that the parties agree that Employee may from time to time provide consulting or other professional services to organizations other than MCHD, Employee agrees to follow and abide by County and MCHD rules and procedures for approval of outside employment. (See, e.g., Personnel Policies & Procedures Resolution No. 98-334, Section B.14.) In any provision of outside consulting services by Employee:

1. Employee shall provide all outside professional services on his/her own personal time and not during hours he/she is obligated to provide services to MCHD. Employee's outside activities shall not exceed N/A () days per year.

2. Employee shall make no claim(s) to be an agent or representative of MCHD when providing or negotiating for the provision of outside professional services.

3. The outside professional services provided by Employee shall in no way be permitted to interfere with the Employee's performance of job duties or the ability to provide services to MCHD as described in this Agreement and its attachments.

4. No outside employment shall be undertaken by the Employee that does or may present a conflict of interests, or that has or may have the appearance of a conflict of interests with the duties and obligations of the Employee under the provisions of this Agreement and its attachments.

5. Employee shall provide no outside professional services to hospitals or hospital systems in exchange for compensation within the Relevant Geographic Area except when it is mutually determined by MCHD and Employee after discussion that such outside activities do not detrimentally affect the services or quality of care rendered hereunder. MCHD agrees that it shall not unreasonably withhold such determination. The phrase "Relevant Geographic Area," as used herein, means that geographic area of California composed of the following counties: Monterey, Santa Cruz, San Benito, Santa Clara, San Luis Obispo, and San Mateo; provided however, in the event that such geographic area exceeds the maximum area permitted by law or for any other reason does not state an appropriate geographic area within which the provisions of this section shall apply, then within the maximum geographic area as renegotiated by the parties in good faith or as reformed by a court.

6. Income received from professional honoraria, writings, patents, licenses, public appearances, lectures (outside of and apart from Employee's contractual obligations pursuant to this Agreement), medical business ventures and non-medical activities shall belong to Employee, who shall be solely responsible for payment of any and all applicable taxes thereon and deductions therefrom; and Employee shall have the sole right to set the fees for such matters.

J. Annual Leave and Holidays.

1. **Annual Leave.** Employee shall be entitled to accrue and use Annual Leave in lieu of sick leave and vacation time in the same manner as "X" Unit Employees, as set forth in the applicable provisions of Personnel Policies and Procedures Resolution, Section A.30.1 through A.30.6.

2. **Holidays.** Employee shall observe the same legal/County holidays as "X" Unit Employees, except for the floating holiday, which shall not be observed. Payment for holidays is included within the Base Salary set forth above in Section IV.A of this Agreement. Designated County holidays shall not accrue. If Employee is required to work on a holiday, for each such holiday worked, the Employee shall be entitled to compensatory time off on an hour-for-hour basis for up to a maximum of eight (8) hours for such work on a County holiday. There shall be no compensation or compensatory time off to the Employee for time worked on a County holiday in excess of eight (8) hours.

VI. Leave of Absence.

A. **Scheduling Vacations and Continuing Medical Education.** Scheduling of vacations, continuing medical education and holiday observances are matters to be arranged between Employee and the clinic manager or director, which shall be achieved in such a manner as to promote the most efficient functioning of the MCHD in providing patient care. Scheduling

shall be accomplished pursuant to such MCHD rules and procedures as may be promulgated and/or modified from time to time.

B. Leave of Absence Without Pay. Employee may qualify for approval of a leave of absence without pay within the discretion of the Employer, subject to applicable law and regulations, and the practices, policies and procedures of the County, as amended or modified by the County's Board of Supervisors from time to time.

C. Unavailability or Absence After Notice of Termination. If an Employee is absent or unavailable to perform the duties set forth in this Agreement because of illness, accident or injury, or because of required jury duty (but not an absence for the purpose of giving expert witness testimony or required testimony in a professional liability suit or other court or administrative proceeding involving the Employer's employees or patients), or for any other reason not specifically approved in advance in writing by the Employer, after the delivery of a termination notice by either party in accordance with Paragraph II.B:

1. Employee shall not be entitled to receive Salary, or receive payment of any expenses incurred during that absence or unavailability as described in this Paragraph VI.C of the Agreement.

2. However, Employee shall continue to receive the benefits described in Paragraph V. B.

3. Any health insurance coverage being maintained for the Employee and his/her spouse/dependents through the Employer shall be continued subject to the Employee's reimbursement to the Employer of the cost of such coverage within five (5) days of demand therefor; and if reimbursement is not so made, the Employer may, at its option and within its sole discretion, thereafter terminate the Employee and/or dependent medical coverage in accordance with applicable law and regulations.

VII. Medical / Mental Examinations and Testing.

A. Employee represents that he/she is physically and mentally capable of safely and competently performing the services required by this Agreement. During the term of this Agreement, the Employer, at its sole discretion, may require the Employee to undergo medical/mental examination(s), including all necessary testing, which will be performed by physicians and/or other health care professionals designated by the Employer and at the Employer's sole expense, to verify that Employee is currently capable of safely and competently rendering the services required by this Agreement; and if not, to determine those limitations to which the Employee is subject. The Employee agrees to undergo such medical examination(s) if requested by the Employer, in accordance with the MCHD and County policy, as adopted and amended from time to time.

B. It is the policy of Employer to maintain a workplace that is free of alcohol and drugs, in order to protect patients and co-workers, and Employer has adopted policies to that effect in compliance with federal and state law. Employee represents that he/she is now and will remain in compliance with this policy, so that he/she can safely and competently perform all of

the services required by this Agreement. The parties mutually agree that abuse of drugs or alcohol is incompatible with health, safety, efficiency and the successful delivery of high quality healthcare to patients. Employees who are under the influence of or impaired by a drug or alcohol on the job endanger their own health and safety, as well as that of patients.

1. The conduct prohibited by this policy includes but is not limited, to the following:

- a. the abuse of any legal drug;
- b. the possession or use of any illegal drug;
- c. the abuse of alcohol; and
- d. working while impaired by the use of a legal drug, an illegal drug, and/or alcohol.

2. If Employer has a reasonable suspicion that Employee is performing services in an impaired condition, Employer may refer the matter to the MCHD Clinic Services Division Medical Director and/or MCHD Clinic Services Director for handling in accordance with applicable law and regulations, MCHD policies and procedures and/or County policies, as amended and adopted from time to time. Employee's refusal to cooperate with the process shall be deemed, within the Employer's sole discretion, a major breach of this Agreement.

VIII. Charges for Services and Other Fees; Compliance With Laws and Regulations.

A. **Fees and Charges.** Unless otherwise specifically provided herein, all charges and accounts receivable for professional services rendered by the Employee shall be the sole property of the Employer, and the Employer shall have the exclusive authority to establish all fees to be charged for services rendered by the Employee. The parties agree that Employee shall not bill or charge any other party or entity including, without limitation, the Medicare program or any other third party payor, for contractual services rendered pursuant to this Agreement. To the extent permitted by law, MCHD shall be solely responsible for billing and collecting fees and charges from patients, payers or other responsible third parties for any professional medical services performed by Employee under this Agreement.

1. **Medicare Assignment.** Employee agrees to be a "participating physician" in the Medicare Program as defined in the Social Security Act, if required in order to permit MCHD to bill for Employee's services.

2. Employee shall be reasonably available to participate in any appeal or other action by or against any payor, reimbursement or payment program in connection with any denial, refund, or other payment dispute in which Employee's performance of professional medical services is at issue. Neither Employee nor any other person shall attempt to bill and collect from any patient, payor or any other person for any of Employee's professional medical services, other than as described in this Agreement.

3. The term "charges for services rendered" shall include any and all fees received for testimony as an expert witness or any income or fees derived from professional medical services provided by the Employee pursuant to this Agreement, except as set forth in Paragraph V. I., above.

B. Reports and Records of Charges. Employee shall promptly prepare and file, in accordance with the time lines, policies and procedures established by the Employer from time to time, full, accurate and complete medical records and reports of all examinations, procedures and other medical services performed by Employee hereunder. Upon the Employee's failure to complete medical records and reports within established time lines, the Employer may withhold the Employee's compensation in accordance with MCHD policies until such records of professional services have been properly completed.

1. Employee shall cooperate with Employer in preparing and completing any and all records, reports or claim forms required to be completed in order for Employer to bill and/or to be paid or reimbursed by third-party payors for medical services rendered by Employee. Employee shall assist the Employer in analyzing or interpreting any and all reports prepared by Employee to the extent requested.

C. Representations and Compliance. In performing services and preparing records under this Agreement, Employee shall at all times comply with all applicable Medicare and/or MediCal rules and regulations.

1. By the submission of any record or report of any examination, procedure or other medical services, Employee shall be deemed to represent and warrant to Employer that: (1) the record or report is full, accurate and complete to the best of his/her knowledge; (2) the services performed were medically necessary for diagnosis and/or treatment of the patient; (3) the services described were actually performed for the patient indicated; (4) Employee personally performed all services described in the record or report; and (5) the level and character of services performed is accurately described.

2. **Laboratory Test Utilization Monitoring.** Employee shall take appropriate measures to monitor laboratory testing for each patient, so as to assure that tests ordered are medically necessary for diagnosis and/or treatment. Any bundled tests shall be reviewed by Employee prior to ordering, so as to assure that all tests included within the bundle are individually medically necessary and appropriate for the particular patient.

3. **Review of Office of the Inspector General ("OIG") Medicare & MediCal Compliance Bulletins.** The OIG from time to time issues Medicare and MediCal compliance alert bulletins, which are received by the MCHD. The MCHD undertakes to make both new and prior OIG Medicare and MediCal compliance bulletins available to Employee during the term of this Agreement, and Employee shall review, be familiar with and comply with all applicable requirements of such OIG compliance bulletins.

IX. Compliance With Ethics and Laws.

A. Representations. The Employee hereby represents that he/she is a physician or other health care provider duly licensed to practice medicine or other health care profession in the State of California, is in good standing with the Medical Board of California, or other governing board (the "Board") and that he/she has never been and is not now the subject of any pending disciplinary action by the Board or the equivalent medical licensing authority of any

other state in the United States, other than such action(s) previously fully disclosed to the Employer in writing. At all times during the term hereof, the Employee shall be and remain licensed to practice medicine or other health care profession in the State of California.

1. The Employee hereby further certifies that he/she is not currently suspended or barred from participation in Medicare and MediCal programs, or the subject of a Medicare and MediCal compliance audit or investigation.

2. In providing the professional physician, and/or teaching and administrative services under this Agreement, Employee shall at all times comply with: (i) all applicable laws, rules and regulations of each governmental authority having jurisdiction over the MCHD and the clinics including, without limitation, Titles 22 and 24 of the California Code of Regulations, federal and state laws which apply to MCHD, and to the provision of professional medical services; (ii) the MCHD, rules and regulations; and with (iii) the MCHD peer review, quality assurance, utilization review, and MCHD compliance plan functions. (iv) In addition, in providing services pursuant to the terms of this Agreement, Employee shall actively assist the MCHD to meet the standards and requirements of MCHD licensure, and/or third party payor certification requirements applicable to MCHD.

B. Notice of Action. The Employee agrees to give the Employer prompt written notice of any action, pending or threatened, concerning any matter of which the Employee acquires knowledge which may affect his/her license to practice medicine or other health care profession, or medical staff privileges at any health care facility.

C. Ethics. The Employee covenants that in performing his/her duties for the Employer, the Employee will comply with all of the ethics, laws and regulations governing the practice of medicine in the State of California, including all applicable rules and regulations of the applicable California Board, and all federal, state and/or local statutes, regulations or ordinances applicable to the practice of medicine.

D. Discrimination, Sexual Harassment and Workplace Violence. The Employer has policies which prohibit discrimination in any of its forms, including sexual harassment, and which forbid violence in the workplace or anywhere else having a nexus with the workplace. Employee's signature on this Agreement constitutes Employee's promise to become and remain informed regarding such policies, and to fully comply therewith.

X. Termination of Employment.

A. Termination of "At-Will" Employment. The Employee and Employer each acknowledge that employment pursuant to this Agreement is "At-Will" employment, that the terms of this Agreement and any documents specifically referenced therein constitute their entire working relationship, and that there is no other or additional agreement or covenant, either express or implied, between the Employee and the Employer, for long-term or permanent employment. The Employee and the Employer each has the separate and independent right to terminate this employment relationship at any time, without cause, within the sole discretion of each of them, subject only to the procedural requirements of Paragraphs II.B and C., and Section X of this Agreement.

1. Written notice of any early termination of this Agreement by Employer shall be given. If Employer gives such notice of termination, the Employee shall have the right, upon request, to discuss the termination of this Agreement with Employer prior to the effective date thereof. As set forth hereinabove, Employee shall not accrue any vested property right to or legally protected interest in continued or permanent employment because of this Agreement. The procedure(s) for termination of this employment Agreement shall be limited to that which is specifically set forth in this Agreement, or any mutually agreed upon amendment hereto.

2. To the extent permitted by law, the expiration of this Agreement or its earlier termination shall not require adherence to or compliance with any of the procedures set forth in Natividad Medical Center's Medical Staff Bylaws, such as a Medical Staff hearing or other procedures. In addition, upon the expiration or termination of this Agreement, any exclusive rights or privileges of Employee derived solely under this Agreement shall thereupon immediately terminate without necessity of compliance with any NMC Medical Staff Bylaws, rules or procedures.

B. Termination For Breach of Agreement. The employment of the Employee shall terminate immediately upon the occurrence of any one or more of the following events:

1. The suspension or revocation of the Employee's license to practice of medicine or health care profession by the applicable California licensing Board;

2. The suspension or disbarment from participation in Medicare and/or MediCal programs.

3. The restriction or termination of the Employee's medical staff privileges at any hospital or other health care facility; provided, however, that temporary suspension or loss of medical staff privileges as a result of the failure to pay medical staff dues, or failure to comply with administrative requirements of the hospital or because of insufficient patient care activities at a hospital shall not result in the termination of Employee's employment under this Agreement, unless the loss of hospital staff privileges renders Employee unable to perform his/her duties hereunder; and provided that the Employee takes prompt effective action to have his/her medical staff privileges restored;

4. The Employee is unable to qualify or is unable to remain qualified at standard premium rates for the professional liability insurance coverage maintained by the Employer;

5. Within the sole and complete discretion of the Employer, termination of this Agreement may result immediately in the event of the occurrence of any one or more of the following:

a. The Employer determines that the Employee has violated Employer's policies for an alcohol/drug free workplace;

b. Suspension from or revocation of the ability to participate in the Medicare and/or MediCal program;

c. The Employee is charged with serious violations of law, regulation, or professional ethics that the Employer determines may result in harm either to patient care or to the reputation of the Employer;

d. The Employer determines that the Employee is in violation or breach of any provision of this Agreement, and thirty (30) days has passed since written notice of the violation or breach has been given by the Employer, without remedy thereof by the Employee to the satisfaction of the Employer;

e. The Employer determines that any representation made by the Employee in this Agreement, including but not limited to Paragraph VII, Paragraph VIII.C.1, Paragraph IX.A, or Paragraph X.B., hereinabove, is in any material respect false, untrue or misleading, including any material omission;

f. The Employer determines that the Employee has failed to give prompt written notice to the Employer of the existence of an investigation concerning the professional competence of the Employee by the medical staff of a hospital or health care facility at which the Employee has been granted staff privileges, by the applicable California licensing Board or the equivalent licensing authority of any other state, or of the existence of any pending or threatened action or proceeding concerning the Employee involving allegations of professional misconduct, malpractice or incompetence, or sexual harassment on the part of the Employee, or of the existence of any pending or threatened action of proceeding concerning the Employee involving allegations of Medicare and MediCal fraud;

g. The Employer determines that there exists "medical disciplinary cause or reason," as that term is defined by Business & Professions Code §805(a)(6), pursuant to the procedures established by the Employer in accordance with Business & Professions Code §§809 through 809.9;

h. The Employee fails to participate or cooperate in Employer's peer review, utilization review, quality assurance and/or MCHD compliance plan activities or functions, or has violated the confidentiality provisions of Paragraph XII.D of this Agreement.

i. A finding of "Reasonable Cause" to believe, after investigation, that the Employee has committed acts of discrimination, and/or sexual harassment, and/or workplace violence, either in or having a nexus with the workplace.

j. A finding, after investigation, that the Employee has violated a workplace policy and/or procedure that the Employer determines has resulted in harm either to patient care or to the reputation of the Employer.

6. With respect to any material breach not specifically listed hereinabove, including the Employee's failure to meet the performance criteria established by the Employer, as modified from time to time, for either the provision of medical services or for teaching or administrative performance, the parties mutually agree that each party shall give the other notice

of any such breach, and shall afford the other a reasonable amount of time, not to exceed thirty (30) days, to cure said breach prior to giving notice of termination of this Agreement for cause.

C. Proration. Except as otherwise provided in this Agreement, the Employee's compensation and benefits under this Agreement shall be prorated to the last day during which the Employee actually performs services for the Employer.

D. Advancing Termination. If a notice of termination is given by the Employer, Employer may advance the effective date of termination as it deems advisable within its sole discretion, by paying to Employee the Salary, less withholdings and deductions, that would be earned had Employee worked from the advanced effective date of termination to the end of the applicable notice period. If a notice of termination is given by Employee, Employer may advance the effective date of termination as it deems advisable within its sole discretion, by paying to Employee the Salary, less withholdings and deductions, that would have been earned had Employee worked from the advanced effective date of termination for an additional thirty (30) days. In order to do so, the Employer must make a determination that circumstances exist that make the immediate removal of the Employee in the best interests of the County, and that the Employee cannot be effectively used in his/her job classification within the MCHD.

E. Withholding of Amounts Owed by Employee to Employer at Termination. The Employer shall have the right to withhold from the Employee's compensation any amounts owed by the Employee to the Employer at the termination of employment, and the Employee hereby expressly consents to such withholding.

F. Employer's Assets. Upon termination of employment, Employee shall have no right or claim to any of Employer's medical practice or the assets thereof, including, without limitation, its accounts receivable, equipment, telephone numbers, patient lists and records, including x-rays and photographs, or any other assets or proprietary rights of any kind or type belonging to Employer.

XI. Termination Because of Death or Illegality.

A. In the event of the Employee's death during the term hereof, Employee's employment hereunder shall terminate immediately.

B. Notwithstanding anything to the contrary herein contained, in the event performance by either party hereto of any term, covenant, condition or provision of this Agreement should jeopardize the license of either party, its participation in or reimbursement from the Medicare, Medi-Cal, Blue Cross or other reimbursement or payment programs, its tax-exempt status or the tax-exempt status of interest earned on any of its bonds or other financial obligations, or its full accreditation by any other state or nationally recognized accreditation organization, or if for any other reason said performance should be in violation of any statute, ordinance, or be otherwise deemed illegal, or be deemed unethical by any recognized body, agency, or association in the medical or hospital fields, the parties shall use their best efforts to resolve the illegality through the renegotiation of the applicable portions of this Agreement. If the parties are unable to reach agreement on such changes within thirty (30) days after initiating negotiations, MCHD may, at its option, terminate this Agreement upon thirty (30) days' prior written notice to the other party.

XII. Release of Employment Records or Required Reports.

A. Material Information. In the event that the Employer at any time has reasonable cause to believe that a complaint has been made against the Employee by a patient, the California Medical Board, or any other person, or that the California Medical Board or any health care facility at which the Employee has been granted staff privileges is conducting or has conducted an investigation relating to the Employee's professional credentials or competence, the Employer shall have the right to obtain and/or review any material information regarding any such complaint or investigation from any such health care facility, the California Medical Board, or the National Practitioner Data Bank. The Employee hereby consents to the release and disclosure of any such information by any such agency or health care facility to the Employer and agrees to cooperate with the Employer upon request to permit the Employer access to such information, including the execution of such consents and waivers as may be required by any such health care facility, the California Medical Board, or the National Practitioner Data Bank.

B. Disclosure. The Employee hereby consents to the disclosure by the Employer of any material information relating to the Employee's professional credentials or competence to any health care facility at which the Employee has been granted staff privileges, and to any HMO, PPO, third-party payor, or similar organization for whom the Employer provides, or may provide, medical services, the California Medical Board, and the National Practitioner Data Bank.

C. Release & Hold Harmless Agreement. The Employee agrees, as a condition of entering into this Agreement of Employment, to release from liability and hold harmless the Employer, its Board of Supervisors, officers, Employees and agents, to the fullest extent permitted by law, for their act(s) and communication(s) of information and documents in connection with the Employer's participation in peer review, utilization review, quality assurance and/or MCHD compliance plan functions and activities for the purposes of monitoring or evaluating the Employee's training and experience, performance, competence, character, conduct and judgment. Further, the Employee releases all such parties from liability, to the fullest extent permitted by law, for the communication of all information and documents between the Employer and any other persons, organizations or health care entities of any kind with which the Employee may have been or may become affiliated, for purposes of such evaluation.

D. Confidentiality. The EMPLOYEE understands that the Employer performs peer review, utilization review, quality assurance and/or MCHD compliance plan functions and activities, and that the EMPLOYEE may be requested or required to participate in those activities. The EMPLOYEE understands that confidentiality is essential to the effective performance of peer review, utilization review, quality assurance (see, *e.g.*, Evidence Code §1157) and/or MCHD compliance plan activities, and is required by law (*e.g.*, California Civil Code §56; Health Insurance Portability & Accountability Act of 1996 ("HIPAA") and accompanying Federal Regulations) of both Employer and EMPLOYEE. The EMPLOYEE therefore agrees to maintain the confidentiality of all information received by the EMPLOYEE pertaining to such activities and agrees not to voluntarily disclose such information to any person or entity, except for persons specifically authorized to receive it in the conduct of the Employer's affairs or as directed by the Employer's authorized officers. The EMPLOYEE acknowledges

that a breach of this provision may result in irreparable harm and legal liability to the Employer and affected practitioners, and that any breach or threat of breach of this provision is grounds for legal action against the EMPLOYEE, including but not limited to an injunction to prevent such disclosure, or for damages resulting from such disclosure.

E. Survival. The provisions setting forth the obligations, rights and duties of the parties contained in this Paragraph shall survive the termination or expiration of this Agreement.

XIII. Patient Records.

A. Files and Records. Any patient files and medical records created or compiled by, or added to by Employee during the term of Employee's employment are and shall remain the sole property of Employer, and Employee shall have no right to or property interest in such patient files, medical records, or the accounts receivable due from patients. Further, Employee will not disclose or use in any way adverse to the Employer or any patient, any such confidential information, patient lists or other proprietary information belonging to Employer.

B. Patient Record Requests. Following the termination of Employee's employment, any patient who makes a request will be provided with the forwarding business telephone number of the Employee, if former Employee provides Employer with such a number in writing. Patients may submit a written request to have a copy of their medical records delivered to the former Employee, provided that a reasonable copying charge is paid to Employer by the former Employee. However, nothing contained in this Paragraph XIII.B shall be construed to relieve the former Employee from the prohibitions contained in Paragraph XVI.D against solicitation of former patients or encouraging them to seek medical care other than from Employer.

C. Storage of Records. The parties agree that after the termination of Employee's employment, Employer shall continue to store and maintain its patient medical records for the period required by law, and Employee shall be allowed reasonable access to such records for purposes relating to the defense of any threatened or pending medical malpractice action(s).

XIV. Protection of Proprietary Rights.

A. Non-solicitation of Patients. Employee expressly acknowledges and agrees that all of the patients to whom Employee renders medical services pursuant to this Agreement are and will remain patients of Employer, and Employee shall not urge or encourage said patients to seek medical care elsewhere unless required by medical necessity. For a period of one (1) year after the termination of Employee's employment, Employee will not solicit or contact patients of Employer for the purpose of urging or encouraging patients of Employer to seek medical care elsewhere.

B. Confidential Information. Employee expressly acknowledges that during the course of his/her employment with Employer, he/she may have access to trade secrets, proprietary information and confidential information of Employer including, but not limited to, patient files and records, patient volumes, market share, strategic business planning, referring physicians, the identity, names, addresses, telephone numbers and medical history of existing

patients and prospective patients, the terms of provider agreements with HMO's, PPO's and third-party payors, as well as the referral sources and methods of doing business of Employer. Employee expressly agrees that all such information shall be and remain confidential and the property of Employer. Employee shall not communicate such information, records or property to any third persons, duplicate, photocopy, transcribe, remove any such information, records or property from the premises of Employer, or otherwise make use of such information. Further, Employee agrees that both during and after his/her term of employment, Employee shall protect and preserve the confidential and proprietary nature of all such information, records or property and shall not: (i) disclose such information to any other person or entity, except to the extent required by law or medical ethics; or (ii) use such information to the advantage of him/herself or any other person or entity.

C. Non-solicitation of Employees. At all times during the term of Employee's employment, and for a period of one (1) year after the termination of this Agreement or any extension/amendment thereof, Employee agrees that he/she shall not solicit or contact any Employee(s) or personnel employed by Employer at any time during the term of Employee's employment for the purpose or urging or encouraging any of the Employees of Employer to seek medical employment elsewhere, or employ any such person.

D. Liquidated Damages. Employer and Employee agree and acknowledge that it would be impractical or extremely difficult at best to measure the actual damages suffered by Employer as a result of a breach by Employee of his/her obligations pursuant to this Paragraph XIV. Accordingly, in the event of any such breach by Employee (factually determined by Employer to have occurred, after a reasonable investigation into an alleged breach), Employee shall pay the sum of Fifty Thousand Dollars (\$50,000) to Employer as liquidated damages, and not as a penalty. Employer and Employee agree that such amount of liquidated damages is a reasonable amount for liquidated damages for breach of this Paragraph XIV under the circumstances existing at the time this Agreement is entered into. In consideration of the payment of such liquidated damages, Employer shall be deemed to have waived all other claims for damages or relief at law or equity under this Agreement.

E. Survival. The provisions setting forth the obligations, rights and duties of the parties contained in this Paragraph shall survive the termination or expiration of this Agreement.

XV. Doctor - Patient Relationship; Nondiscrimination.

A. Nothing contained herein shall be construed to modify, alter or change in any manner or respect, as to patients of the Employer served by the Employee, the ethical relationship of doctor and patient.

B. Except to the extent that a circumstance such as age, sex, preexisting medical condition, or physical or mental disability is medically significant to the provision of appropriate medical care to the patient, Employee shall ensure that he/she shall not refuse to respond to a request for any administrative, professional or other service described herein on the basis of a patient's race, ethnicity, religion, national origin, citizenship, age, sex, sexual preference, preexisting medical condition, physical or mental disability, insurance status, economic status, or ability to pay for medical services.

XVI. Payor Contracts.

A. Agreement to be Bound. Employee agrees to participate in and be bound by all applicable provisions of any health care contracts to which Employer is now, or hereafter becomes a party, and any other agreements under which Employer provides medical services. Employee agrees to do all such acts as are required in furtherance of such participation, including completion of necessary forms and provision of requested or required information. Employee understands that such agreements may impose procedural or protocol requirements and quality assessment and/or utilization guidelines upon Employee, and Employee agrees to abide by such requirements.

B. Confidentiality. Employee agrees that all such health care contracts are confidential, and Employee shall not use, disclose, or disseminate to any person or entity information concerning the terms, conditions, or provisions of such agreements. Further, Employee shall not enter into any health care contract on behalf of Employer, unless Employer first approves said contract in writing and specifically requests Employee to execute such contract.

C. Power of Attorney For Third Party Payor Contracts. Employee appoints the Chair of the Board of Supervisors, MCHD's Director of Health and MCHD's Finance Manager to be and act as Employee's true and lawful attorney-in-fact and agent, with full power of substitution and re-substitution, to act in Employee's name, place, and stead, for the purpose of executing on behalf of Employee any and all health care contracts with third-party payors.

D. Non-Solicitation. Following termination of Employee's employment, Employee shall not solicit any patients or employers or enrollees participating in any health care contracts or plans for which Employer is a provider of medical services.

E. Survival. The provisions setting forth the obligations, rights and duties of the parties contained in this Paragraph shall survive the termination or expiration of this Agreement.

XVII. General Provisions.

A. Notices in Writing. Notices under this Agreement shall be sent to the parties by personal delivery, by electronic facsimile, or by certified registered mail, return receipt requested, postage prepaid in the United States Postal Service at the addresses set forth below.

Employer

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

Employee

Emily Todd, M.D., Ph.D.
2336 Timberlee Dr.
Holland, MI 49424
(615) 522-1505

Notice shall be deemed effective upon delivery or transmission if delivered or sent by facsimile and on the third (3rd) day after mailing. All notices required by this Agreement shall be sufficient if given in writing that is delivered to Employee personally or to Employee's

residence, or sent by first class or by registered mail to the Employee's residence as to the Employee, or to the Employer's Administrative office as to the Employer. Employee undertakes to keep Employer notified at all times of Employee's current address and telephone number. Either party hereto may change its respective address by written notice in accordance with this Agreement.

B. Waiver of Breach. The waiver by either party of a specific breach of any provision of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach by the other party.

C. Integration, Modification, Waiver of Agreement. Each party agrees that the making, execution and delivery of this Agreement by the parties has not been induced by any representations, statements, warranties or agreements other than those herein expressed. This Agreement, including the recitals, attachments and exhibits hereto, embodies the entire understanding of the parties. There are no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof, unless expressly referred to by reference herein. Without limiting the foregoing, this Agreement shall supersede all prior agreements between the parties as of the effective date hereof. This Agreement may be amended or modified only by an instrument in writing, signed by the party to be charged.

The parties mutually agree that no evidence of any waiver or modification of any provision of this Agreement shall be offered or received in evidence in any administrative or court proceeding, or in any litigation between the parties hereto arising out of or affecting this Agreement, or the rights or obligations of any party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid. The parties further agree that the provisions of this section may not be waived except as herein set forth.

D. Interpretation. Article and Paragraph headings in this Agreement are not to be considered a part of this Agreement; they are included solely for convenience and reference, and are not intended to be full or accurate descriptions of the content thereof. They shall therefore not be interpreted to affect the validity of this Agreement or to limit or affect any rights, obligations, or responsibilities of the parties arising hereunder. This Agreement is to be interpreted as a whole document, taking into account the intent of its various provisions. Throughout this Agreement, the singular shall include the plural and one gender shall include the other gender wherever necessary.

E. Partial Invalidity. Except as otherwise provided in Paragraph XI.B hereof, if any provision of this Agreement is found to be invalid or unenforceable by any court, such provision shall be ineffective only to the extent that it is in contravention of applicable laws or regulations, without invalidating the remaining provisions hereof, unless such invalidity or unenforceability would defeat an essential business purpose of this Agreement.

F. Severability. If any provision of this Agreement shall be for any reason invalid or unenforceable, the remaining provisions shall nevertheless be effective.

G. Binding Effect. This Agreement shall bind and shall inure to the benefit of the heirs, successors and assigns of the parties. Notwithstanding the foregoing, this Agreement, and

the rights, duties and obligations created hereunder are personal to the Employee and may not be assigned or delegated by the Employee.

H. Survival. Except as otherwise expressly provided in this Agreement, all covenants, agreements, representations and warranties, express and implied, shall survive the execution of this Agreement, and shall remain in effect and binding upon the parties until they have fulfilled all of their obligations hereunder and the statute of limitations shall not commence to run until the time such obligations have been fulfilled.

I. Confidentiality. Employer and Employee shall each comply with all applicable federal and state laws regarding the confidentiality of any and all patient medical records in the MCHD.

J. Construction of Agreement. The parties agree that each party and its counsel, if any, have fully participated in the review and revision of this Agreement, and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment or exhibit hereto.

K. Agreement to Perform Necessary Acts. Each party agrees to perform any further acts and to execute and deliver any further documents as may be reasonably necessary to fully effectuate the provisions of the Agreement during the term thereof.

L. 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.

M. Governing Law. This Agreement is executed and is intended to be performed solely in the State of California. Any dispute as to the validity, construction, enforcement, or performance of this Agreement or any provision hereof shall be determined in accordance with the laws of the State of California. Venue for any legal action brought by a party pursuant to this Agreement shall be in the Courts of Monterey County.

N. Cumulation of Remedies. The various rights, options, elections, powers, and remedies of the respective parties hereto contained in, granted, or reserved by this Agreement, are in addition to any others that said parties may be entitled to by law, shall be construed as cumulative, and no one of them is exclusive of any of the others, or of any right or priority allowed by law.

O. Subcontracting, Delegation of Performance and Assignment. This Agreement and the rights, privileges, duties and obligations of the parties hereunder shall not be subcontracted, delegated and/or assigned by the Employee to a third party.

P. Time of Essence. The parties agree that time is of the essence throughout the term of this Agreement and any extension or renewal thereof, and of every provision hereof in which time is an element. No extension of time for performance of any obligations or acts shall be deemed an extension of time for performance of any other obligations or acts.

Q. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

EXHIBIT "B"
SCOPE OF SERVICES

- I. **IN GENERAL.** You are being employed as a Physician in a **100 percent (100% FTE)** position with the County of Monterey on behalf of its Health Department ("MCHD") pursuant to the requirements of the Bronzan-McCorquodale Act (California Welfare and Institutions Code Section 5600 et seq.), Part 2.5 of Division 5 of the California Welfare and Institutions Code, and Titles 9 and 22 of the California Code of Regulations.
- II. **IDENTIFICATION OF PROVIDER**
Emily Todd, M.D., Ph.D.
2336 Timberlee Dr.
Holland, MI 49424
(615) 522-1505
- III. **SERVICE NARRATIVE**
Provide psychiatric services, diagnostic services, treatment planning, and medication monitoring to clients of the Monterey County Behavioral Health Division and other agency partners.
- IV. **SERVICE REQUIREMENTS / OBJECTIVES**
A. **You will provide:**
1. Psychiatric evaluations for Behavioral Health clients (IP/OP).
 2. Medication monitoring for clients on psychiatric medication.
 3. Psychiatric consult and treatment for Behavioral Health clients; Behavioral Health contract agencies; clients referred to Behavioral Health from the juvenile justice system, Department of Social Services, Monterey County schools, adult justice system, and Central Coast Alliance for Health; other mental health providers; and community and County hospitals as authorized.
 4. Training and consultation with team members.
 5. Consultations and reports for social service agencies.
 6. Formulate and implement treatment plans for admitted patients at Natividad Medical Center (NMC) Mental Health Unit (MHU).
 7. Follow up assigned patients admitted in the MHU and implement discharge plans.
 8. Provide back-up psychiatric consults for NMC patients in other hospital wards other than the MHU, if time allows and the consults do not interfere with required work on the inpatient unit
 9. Complete all legal documents and testifies in administrative hearings and/or court hearings as ordered by the court.
 10. Provide clinical supervision for Crisis Intervention Specialists and review and sign their clinical evaluations.
 11. Supervise and sign physical examinations by Physician Assistants.
 12. Complete medical record documentation per requirement of the Monterey County Health Department-Behavioral Health Bureau (MCHD-BHB), NMC and State Department of Mental Health.

13. Communicate any clinical information to outpatient/inpatient psychiatrists.
14. Provide training to MCHD-BHB staff, NMC staff, and other agencies.
15. Participate in Quality Improvement functions at NMC and MCHD-BHB.
16. Complete fiscal documentation as required.
17. Complete disability reports in a timely manner.
18. Evaluate and complete necessary legal documentation for establishment or reestablishment of LPS conservatorship.
19. Job productivity standards (75% billable productivity) as established by the Medical Director.
20. Use a 5-day work time to attend educational meetings which are continuing accredited medical education with prior approval from the Medical Director.
21. Perform other duties as assigned by the Medical Director.

B. **Schedule(s)**. Schedule shall be arranged by the Medical Director.

V. **ON-CALL PROVISION OF PROFESSIONAL SERVICES:**

1. **No Weeknight "on-call" coverage, except during week of float coverage occurring every fourth week**, as scheduled by the Medical Services Director.
2. **No Weekend "on-call" coverage, except during week of float coverage occurring every fourth week**, as scheduled by the Medical Services Director.
3. **Holiday coverage up to Four (4) days**, as scheduled by the Medical Services Director.
If Employee is required to work on a holiday, for each such holiday worked, the Employee, at management's discretion, shall be entitled to compensatory time off or compensatory pay, based on the Employee's hourly rate, on an hour-for-hour basis for up to a maximum of eight (8) hours for such work on a County holiday. There shall be no compensation or compensatory time off to the Employee for time worked on a County holiday in excess of eight (8) hours.
4. You must comply with all Bylaws, Policies, Rules and Regulations of Natividad Medical Center and Behavioral Health and with all State and Federal laws and regulations regarding the transfer and treatment of clients.

VI. **SERVICE LOCATION(S)**

July 6, 2020 to September 11, 2020

Tele-Psychiatry

September 12, 2020 to July 2, 2021

Behavioral Health Bureau Psychiatric Inpatient Unit
1441 Constitution Boulevard, Building 940
Salinas, CA 93906

Children's System of Care Clinic
971-B Blanco Circle
Salinas, CA 93901

And, as designated by Medical Director.

VII. SERVICE DATE(S) AND TIME(S)

The professional psychiatric services that are the subject of this Contract are to be:

July 6, 2020 to September 11, 2020

Twenty (20) hours per each normal business week (Monday-Friday).

September 12, 2020 to July 2, 2021

Four-week rotating night float model:

Seven days of day-time coverage Monday through Sunday

Seven days of night-time coverage Monday through Sunday

Five days of day-time coverage Monday through Friday

Nine days off Saturday through Sunday

Day time coverage will include fifteen (15) hours a week in Out-Patient Children's System of Care Clinics.

This schedule is subject to change if mutually agreed upon.

VIII. CLAIRIFICATION(S)

Annual Leave Accrual for a full-time (100%) employee: Twenty-three (23) days/year @ 7.08 (decimal), 7:05 (hour: minutes) per pay period. If less than a full-time employee, annual leave accrual will be prorated.

IX. DESIGNATED CONTRACT MONITOR

Mark Alexakos, M.D.

Monterey County Health Department Behavioral Health Medical Director

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EXHIBIT "C"

I. REASSIGNMENT OF EHR INCENTIVE PAYMENTS

1.1 Generally. In consideration of the significant expenditures which have been and/or will be made by County to establish an electronic health record ("EHR") System which will be utilized by Employee, and as a condition of Employee's employment by County, Employee hereby agrees that to the extent Employee is eligible to receive EHR Incentive Payments, Employee voluntarily assigns or reassigns, as applicable, the entire amount of Employee's EHR Incentive Payments to Employer as set forth in this Section I.

1.2 Definitions Applicable to Reassignment of EHR Incentive Payments.

(a) **Certified EHR Technology** has the meaning assigned to such term under 45 C.F.R. § 170.102.

(b) **EHR Incentive Payments** means Medicare Incentive Payments and Medicaid Incentive Payments, collectively.

(c) **EHR Incentive Program** means the EHR technology incentive program created by the HITECH Act, including without limitation the provisions set forth at 42 U.S.C. § 1395w-4(o), 42 U.S.C. § 1395ww(n), 42 U.S.C. § 1396b(t), and the regulations set forth at 42 C.F.R. Part 495, as amended from time to time.

(d) **Eligible Professional or EP** has the meaning assigned to such term under 42 C.F.R. § 495.100.

(e) **Employee's EHR Incentive Payments** means EHR Incentive Payments for which Employee is eligible.

(f) **Entity Promoting the Adoption of Certified EHR Technology** has the meaning set forth at 42 C.F.R. § 495.310(k). County anticipates that Hospital will be designated by the State of California as an Entity Promoting the Adoption of Certified EHR Technology.

(g) **HITECH Act** means the Health Information Technology for Economic and Clinical Health Act of 2009, Pub. L. No. 111-5 and the regulations promulgated thereunder, as amended from time to time.

(h) **Meaningful EHR User** has the meaning assigned to such term under 42 C.F.R. § 495.4.

(i) **Meaningful Use Demonstration Requirements** means the requirements for demonstrating meaningful use set forth at 42 C.F.R. § 495.8.

(j) **Meaningful Use Objectives and Measures** means the objectives and measures set forth at 42 C.F.R. § 495.6.

(k) **Medicaid Incentive Payments** means the EHR Incentive Payments to EPs as set forth at 42 C.F.R. § 495.310.

(l) **Medicaid Incentive Payment Reassignment Limitations** has the meaning set forth at 42 C.F.R. § 495.310(k).

(m) **Medicare Incentive Payments** means the EHR Incentive Payments to EPs as set forth at 42 C.F.R. § 495.102.

(n) **Medicare Incentive Payment Reassignment Limitations** has the meaning set forth at 42 C.F.R. § 495.10(f).

(o) **Payment Year** has the meaning assigned to such term at 42 C.F.R. § 495.4.

1.3 Reassignment of Employee's EHR Incentive Payments Exclusively to Employer. To the extent permitted by applicable laws and the requirements of the Medicare and/or Medi-Cal programs, and provided that Employee is eligible to receive EHR Incentive Payments, Employer shall submit requests to receive, and shall collect, the entire amount of Employee's EHR Incentive Payments. Employee hereby grants and assigns or reassigns, as applicable, to Employer any rights Employee may have to submit claims for and receive Employee's EHR Incentive Payments to the California Medi-Cal program, the Medicare program, or any other applicable federal or state governmental authority. Employee shall cooperate with Employer as necessary to obtain maximum allowable Employee EHR Incentive Payments, including without limitation cooperating with Employer as necessary to demonstrate that Employee is a Meaningful EHR User. Employee authorizes Employer to submit claims for any EHR Incentive Payments to which Employee is entitled to the Medicare or Medi-Cal programs, or their designees, as applicable, and for this purpose, Employee hereby assigns or reassigns, as applicable, directly to Employer all rights to and interests in the entire amount of all of Employee's EHR Incentive Payments. Such assignment or reassignment shall include, but not be limited to, EHR Incentive Payments received from the

Medicare or Medi-Cal programs, or their designees for administering the EHR Incentive Program, as applicable. Employer shall retain all rights to any of Employee's EHR Incentive Payments accrued prior to the termination or expiration of this Exhibit C. To facilitate such claim submission and collection, if any payor will not accept a claim for Employee's EHR Incentive Payments from Employer, Employee shall cooperate with Employer to allow such claim submission and collection under Employee's name with approvals and assignment or reassignment documentation giving Employer authority as attorney in fact to submit claims for such Employee EHR Incentive Payments in Employee's name.

(a) **EHR Incentive Payments Received by Employee.** To the extent Employee receives any Employee EHR Incentive Payments attributable to time during which Employee was employed by Employer, Employee shall immediately transfer such payments to Employer.

(b) **Effectuating Reassignment.** Employee shall cooperate with Employer in timely completing and submitting any and all forms and documentation necessary to effectuate the valid assignment or reassignment, as applicable, of any EHR Incentive Payments to which Employee is entitled to Employer pursuant to this Exhibit C. In addition, Employee shall execute such other documents as may be necessary to effectuate the intent of this Section 1.3.

1.4 Employer's Sole Right to Submit Claims for Employee's EHR Incentive Payments. To the extent permitted by applicable laws and the requirements of the Medicare and/or Medi-Cal programs, Employer shall be solely entitled to submit claims for and to collect any of Employee's EHR Incentive Payments, including without limitation, Medicare

Incentive Payments or Medicaid Incentive Payments, as applicable. Employee shall not, under any circumstances (including, without limitation, the non payment or insolvency of a third party payor or breach or termination of this Exhibit C), submit claims for or otherwise seek EHR Incentive Payments from the Medicare or Medi-Cal programs for any of Employee's EHR Incentive Payments earned or accrued during the Term of this Exhibit C. Neither Employee nor any agent or employee, representative, trustee, or assignee thereof, may maintain any action at law or in equity against Employer to collect sums owed for Employee's EHR Incentive Payments. Except as disclosed in writing to Employer, Employee has not previously sought to obtain, and in the future will not seek to obtain, EHR Incentive Payments from the Medicare or Medi-Cal programs, nor has Employee previously assigned or reassigned, nor the future will Employee assign or reassign, Employee's right to any such EHR Incentive Payments to any person, organization or entity other than Employer. These requirements shall:

- (a) survive the termination of this Exhibit C regardless of the cause giving rise to such termination;
- (b) be construed for the benefit of any third party payor; and
- (c) supersede any oral or written agreement to the contrary now existing or hereafter entered into between Employee and any other employer or entity (excluding Employer) or person(s) acting on behalf of such employer or entity (excluding Employer).

1.5 Compliance with EHR Incentive Payment Reassignment Limitations.

Each of the Parties shall:

(a) With respect to any EHR Incentive Payments to which Employee is entitled, comply with the Medicare Incentive Payment Reassignment Limitations and/or the Medicaid Incentive Payment Reassignment Limitations, as applicable;

(b) In addition to any other terms contained herein, take any and all steps reasonably necessary to ensure continued compliance with any future guidance issued by CMS, the California Department of Health Care Services, or any other applicable federal or state entity responsible for implementing the EHR Incentive Program, with respect to the valid assignment or reassignment, as applicable, of Employee's EHR Incentive Payments to Employer.

1.6 Obligations of Employer.

(a) **Assistance with Employee's EHR Incentive Program Election..** Employer shall consult with Employee to determine the EHR Incentive Program under which Employee is most likely to obtain the maximum permissible EHR Incentive Payments (i.e., Medicare or Medicaid).

(b) **Medicaid Incentive Payments.** Pursuant to 42 C.F.R § 495.310(k)(ii), to the extent Employer takes assignment or reassignment of Employee's Medicaid Incentive Payments, Employer shall not retain more than five percent (5%) of such payments for costs unrelated to Certified EHR Technology (and support services, including maintenance and training that is for, or necessary for, the operation of such technology).

1.7 Obligations of Employee.

(a) **Compliance with Participation Requirements.** Employee shall cooperate with Employer as reasonably necessary to meet the requirements to participate in the EHR Incentive Program, including, without limitation, the requirements set forth at 42 C.F.R. § 495.10.

(b) **Achievement and Demonstration of Meaningful Use.** Employee shall cooperate with Employer as reasonably necessary to meet the requirements of a Meaningful EHR User, including, without limitation (a) meeting the Meaningful Use Objectives and Measures; and (b) meeting the Meaningful Use Demonstration Requirements, including, without limitation, complying with applicable attestation, reporting, and documentation requirements.

(c) **Use of Certified EHR Technology.** Employee shall use Certified EHR Technology as provided by Employer to the extent required to become and maintain status as a Meaningful EHR User.

(d) **EHR Incentive Program Election.** If Employee qualifies as both a Medicare EP and a Medicaid EP, Employee shall, after consulting with Employer, elect to receive EHR Incentive Payments from the EHR Incentive Program that Employer has determined is most likely to maximize Employee's eligibility for EHR Incentive Payments.

(i) Notification of CMS and Employer of Election. Pursuant to the requirements set forth at 42 C.F.R. § 495.10(e), and to the extent Employee is eligible to receive EHR Incentive Payments, Employee shall notify the Centers for Medicare and Medicaid Services ("CMS") in the manner specified by CMS as to whether Employee elects to participate in the Medicare or the Medicaid EHR Incentive Program; and (b) shall provide

Employer with a copy of Employee's written notification to CMS within five (5) days of the date Employee transmits Employee's notice of election to CMS.

(ii) One-Time Change of Election. If, before 2015, Employee has received at least one EHR Incentive Payment under one EHR Incentive Program and Employer determines that the likely aggregate EHR Incentive Payments to Employee would be greater under the other EHR Incentive Program, Employee shall, upon receipt of a written request from Employer, submit to CMS a change in election to the other EHR Incentive Program in accordance with the then-applicable rules for a one-time switch in EHR Incentive Program election, pursuant to 42 C.F.R. § 495.10(e). Employee shall provide Employer with written notice of such change in election within five (5) days of the date Employee transmits Employee's notice of change in election to CMS.

(e) **Reassignment Only to Employer**. Pursuant to 42 C.F.R. § 495.10(f), Employee covenants and represents that Employee has assigned or reassigned, as applicable, the entire amount of Employee's EHR Incentive Payments only to Employer, and that Employee has not assigned or reassigned any portion of Employee's EHR Incentive Payments to any employer, person, or entity other than Employer. Regardless of whether Employee is associated with other practices unrelated to Employer, Employee shall select Employer's Taxpayer Identification Number ("TIN") to receive any applicable EHR Incentive Payments.

II. TERMINATION

2.1 Immediate Termination. This Exhibit C shall immediately terminate upon the earlier of (i) the termination or expiration of the Employment Agreement; (ii) the failure of Employee to remain eligible to receive EHR Incentive Payments; (iii) EHR Incentive

Payments are no longer available to Employee; (iv) the failure of Employee to remain validly enrolled in the Medicare program, to the extent Employee has reassigned Medicare Incentive Payments to Employer under this Exhibit C; or (v) the failure of Employee to remain validly enrolled in the Medi-Cal program, to the extent Employee has assigned or reassigned Medicaid Incentive Payments to Employer under this Exhibit C.

2.2 Effect of Termination or Expiration of Employment Agreement or Exhibit C. Upon termination or expiration of this Exhibit C or the Employment Agreement for any reason, Employer has no further right to submit claims for or to collect Employee's EHR Incentive Payments accruing after such termination or expiration. Termination of the Employment Agreement or this Exhibit C will not affect the rights and obligations of the parties arising out of any EHR Incentive Payments reassigned prior to the effective date of such termination or expiration.

ACKNOWLEDGED AND AGREED AS TO EXHIBIT C.

"EMPLOYEE"

Emily Todd, M.D., Ph.D.

an individual

By: _____



Print Name: Emily Todd, M.D., Ph.D