

AGREEMENT
between
COUNTY OF SANTA BARBARA
and
SANTA BARBARA COTTAGE HOSPITAL
for
HOSPITALIST AND OUTPATIENT PROFESSIONAL SERVICES
FOR THE PERIOD JULY 1, 2019 THROUGH JUNE 30, 2022

THIS AGREEMENT (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter COUNTY) and Santa Barbara Cottage Hospital, a California nonprofit public benefit corporation, having its principal place of business at Pueblo and Bath Streets, Santa Barbara, California 93105 (hereafter CONTRACTOR) wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the services specified herein.

WHEREAS, COUNTY and CONTRACTOR have worked collaboratively to provide both outpatient and hospital based medical services to the uninsured and underinsured patients of Santa Barbara County through the Cottage Health Residency Program;

WHEREAS, Internal Medicine and Surgery Residents benefit from the opportunity to provide medical care to a diverse population of patients, having access to a vast array of ancillary and support services in the COUNTY's facilities, while enhancing their medical skills under the supervision of experienced physicians;

WHEREAS, The community benefits from this historical partnership and from the opportunity to receive medical care from recently graduated medical students who have learned current perspectives and techniques in medicine;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. DESIGNATED REPRESENTATIVE

Dana Gamble at phone number (805) 681-5171 is the representative of COUNTY and will administer this Agreement for and on behalf of County. Edmund Wroblewski, MD, Vice President for Medical Affairs and Chief Medical Officer at (805) 569-7314 is the authorized representative for CONTRACTOR. Changes in designated representatives shall be made only after advance written notice (including email) to the other party.

2. NOTICES

Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by personal delivery or facsimile, or with postage prepaid by first class mail, registered or certified mail, or express courier service, as follows:

To County: Dana Gamble, Assistant Deputy Director
Santa Barbara County

Public Health Department
300 N. San Antonio Road
Santa Barbara, CA 93110
FAX: 805-681-5200

To Contractor: Edmund Wroblewski, MD, Vice President for Medical Affairs & Chief Medical Officer
Santa Barbara Cottage Hospital
400 West Pueblo Street
Santa Barbara, CA 93105

or at such other address or to such other person that the parties may from time to time designate in accordance with this Notices section. If sent by first class mail, notices and consents under this section shall be deemed to be received five (5) days following their deposit in the U.S. mail. This Notices section shall not be construed as meaning that either party agrees to service of process except as required by applicable law.

3. SCOPE OF SERVICES

CONTRACTOR agrees to provide services to COUNTY in accordance with EXHIBIT A attached hereto and incorporated herein by reference.

4. TERM

CONTRACTOR shall commence performance on July 1, 2019 and shall continue in full force and effect for three (3) years, terminating on June 30, 2022 unless otherwise directed by COUNTY or unless earlier terminated.

5. COMPENSATION OF CONTRACTOR

In full consideration for CONTRACTOR'S services, Contractor shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference.

6. INDEPENDENT CONTRACTOR

It is mutually understood and agreed that CONTRACTOR (including any and all of its officers, agents, and employees), shall perform all of its services under this Agreement as an independent contractor as to COUNTY and not as an officer, agent, servant, employee, joint venturer, partner, or associate of COUNTY. Furthermore, COUNTY shall have no right to control, supervise, or direct the manner or method by which CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the terms and conditions hereof. CONTRACTOR understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating to payment of CONTRACTOR's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement.

7. STANDARD OF PERFORMANCE

CONTRACTOR represents that it has the skills, expertise, and licenses and/or permits necessary to perform the services required under this Agreement. Accordingly, CONTRACTOR shall perform all such services in the manner and according to the standards observed by a competent

practitioner of the same profession are engaged. All products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement, shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR'S profession. Permits and/or licenses shall be obtained and maintained by CONTRACTOR without additional compensation.

8. DEBARMENT AND SUSPENSION

CONTRACTOR certifies to COUNTY that to the best of its knowledge CONTRACTOR, its employees, and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. CONTRACTOR certifies that it shall not knowingly contract with a subcontractor that is so debarred or suspended.

9. TAXES

CONTRACTOR shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement and shall make any and all payroll deductions required by law. COUNTY shall not be responsible for paying any taxes on CONTRACTOR'S behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes include, but are not limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

10. CONFLICT OF INTEREST

CONTRACTOR covenants that CONTRACTOR presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CONTRACTOR. CONTRACTOR must promptly disclose to COUNTY, in writing, any potential conflict of interest. COUNTY retains the right to waive a conflict of interest disclosed by CONTRACTOR if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to CONTRACTOR in writing.

11. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

COUNTY shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, all photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials, and any material necessary for the practical use of such items, from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. CONTRACTOR shall not release any of such items to other parties except after prior written approval of COUNTY.

Unless otherwise specified in Exhibit A, CONTRACTOR hereby assigns to COUNTY all copyright, patent, and other intellectual property and proprietary rights to all data, documents, reports, photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials prepared or provided by CONTRACTOR pursuant to this Agreement (collectively referred to as "Copyrightable Works and Inventions"). COUNTY shall have the unrestricted authority to copy, adapt, perform, display, publish, disclose, distribute, create derivative works from, and otherwise use in whole or in part, any Copyrightable Works and Inventions. CONTRACTOR agrees to take such actions and execute and deliver such documents as may be needed to validate, protect and confirm the rights and assignments provided hereunder. CONTRACTOR warrants that any Copyrightable Works and Inventions and other items provided under this Agreement will not infringe upon any intellectual property or proprietary rights of any third party. CONTRACTOR at its own expense shall defend, indemnify, and hold harmless COUNTY against any claim that any Copyrightable Works or Inventions or other items provided by CONTRACTOR hereunder infringe upon intellectual or other proprietary rights of a third party, and CONTRACTOR shall

pay any damages, costs, settlement amounts, and fees (including attorneys' fees) that may be incurred by COUNTY in connection with any such claims. This Ownership of Documents and Intellectual Property provision shall survive expiration or termination of this Agreement.

12. NO PUBLICITY OR ENDORSEMENT

CONTRACTOR shall not use COUNTY'S name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. CONTRACTOR shall not use COUNTY'S name or logo in any manner that would give the appearance that the COUNTY is endorsing CONTRACTOR. CONTRACTOR shall not in any way contract on behalf of or in the name of COUNTY. CONTRACTOR shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the COUNTY or its projects, without obtaining the prior written approval of COUNTY.

13. COUNTY PROPERTY AND INFORMATION

All of COUNTY'S property, documents, and information provided for CONTRACTOR'S use in connection with the services shall remain COUNTY'S property, and CONTRACTOR, at its option, shall return or destroy any such items whenever requested by COUNTY and whenever required according to the Termination section of this Agreement. CONTRACTOR may use such items only in connection with providing the services. CONTRACTOR shall not disseminate any COUNTY property, documents, or information without COUNTY'S prior written consent.

14. RECORDS, AUDIT, AND REVIEW

CONTRACTOR shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting principles. COUNTY shall have the right to audit and review all such documents and records at any time during CONTRACTOR's regular business hours or upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the California State Auditor, at the request of the COUNTY or as part of any audit of the COUNTY, for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). CONTRACTOR shall participate in any audits and reviews, whether by COUNTY or the State, at no charge to COUNTY.

If federal, state or COUNTY audit exceptions are made relating to this Agreement, CONTRACTOR shall reimburse all costs incurred by federal, state, and/or COUNTY governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from COUNTY, CONTRACTOR shall reimburse the amount of the audit exceptions and any other related costs directly to COUNTY as specified by COUNTY in the notification.

15. INDEMNIFICATION AND INSURANCE

COUNTY agrees to defend, indemnify, and hold harmless CONTRACTOR and its employee Residents against any claim, lawsuit or judgment arising out of Residents providing medical services in any of COUNTY'S clinics as contemplated by this Agreement. CONTRACTOR agrees to defend, indemnify, and hold harmless COUNTY against any claim, lawsuit or judgment arising out of Residents providing medical services at Santa Barbara Cottage Hospital as contemplated by this Agreement.

COUNTY and CONTRACTOR shall each carry professional liability insurance in an amount not less than \$1 million per occurrence and \$3 million aggregate, or provide and maintain a self-insurance program funded to meet these minimum limits. Insurance is against professional errors and omissions (malpractice) in providing services under the terms of this Agreement and for the protection of the interests and property of COUNTY and CONTRACTOR, and their respective employees and agents.

CONTRACTOR shall also ensure that each Resident is insured under an automobile liability policy while in the course and scope of their respective duties under this and that CONTRACTOR carries appropriate Workers' Compensation insurance for each Resident.

16. **NONDISCRIMINATION**

COUNTY hereby notifies CONTRACTOR that COUNTY'S Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance.

17. **NONEXCLUSIVE AGREEMENT**

CONTRACTOR understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

18. **NON-ASSIGNMENT**

CONTRACTOR shall not assign, transfer or subcontract this Agreement or any of its rights or obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign, subcontract or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

19. **TERMINATION**

A. COUNTY or CONTRACTOR may, by written notice to each other, terminate this Agreement in whole or in part at any time with one hundred eighty days (180 days) notice. Upon termination, each party shall immediately discontinue all services effected (unless the notice directs otherwise), and deliver to each other all data, estimates, graphs, summaries, reports, and all other records, documents or papers as may have been accumulated or produced by the other party in performing this Agreement, whether completed or in process, excepting medical records. Each party shall maintain possession of medical records produced in their respective facilities.

1. **For Convenience.** Either party may terminate this Agreement upon one hundred eighty (180) days written notice.
2. **For Nonappropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, state or COUNTY governments, or funds are not otherwise available for payments in the fiscal year(s) covered by the term of this Agreement, then COUNTY will notify CONTRACTOR of such occurrence and COUNTY may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the term.
3. **For Cause.** In the event of a material breach of this Agreement, either party may initiate termination of the Agreement. The aggrieved party shall serve the other party with a thirty (30) day notice to cure the breach. The notice must specify in detail the nature of the alleged material breach, including the supporting factual basis and any relevant documentation.
4. The party receiving the notice shall have ten (10) days from the date of receipt to respond to the alleged breach by either requesting in writing a meeting with the noticing party, curing the breach, or if the breach is of such a nature that it cannot be reasonably cured within thirty (30) days, commence curing the breach within said period and notifying the other party of the

actions taken. If a meeting is requested by the party receiving the notice, it shall be scheduled within ten (10) days of the date notice is received. If corrective action is not taken by the party receiving notice, or the parties do not reach an agreement during the notice period, this Agreement shall terminate upon completion of the thirty (30) days notice period at the option of the noticing party, notwithstanding any other provision of this Agreement.

20. SECTION HEADINGS

The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

21. SEVERABILITY

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

22. REMEDIES NOT EXCLUSIVE

No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

23. TIME IS OF THE ESSENCE

Time is of the essence in this Agreement and each covenant and term is a condition herein.

24. NO WAIVER OF DEFAULT

No delay or omission of COUNTY or CONTRACTOR to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY or CONTRACTOR shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY or CONTRACTOR, as the case may be.

25. ENTIRE AGREEMENT AND AMENDMENT

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

26. SUCCESSORS AND ASSIGNS

All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns

27. COMPLIANCE WITH LAW

Each Party shall, at its sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement that are applicable to a Party's performance under this Agreement. The judgment of any court of competent jurisdiction, or the admission of a Party in any action or proceeding against the other Party, whether a Party is a party thereto or not, that such Party has violated any such ordinance or statute, shall be conclusive of that fact as between the Parties.

28. CALIFORNIA LAW AND JURISDICTION

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

29. EXECUTION OF COUNTERPARTS

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

30. AUTHORITY

All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(s), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, Contractor hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which Contractor is obligated, which breach would have a material effect hereon.

31. SURVIVAL

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

32. PRECEDENCE

In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

33. BUSINESS ASSOCIATE

The parties agree to the terms and conditions set forth in Exhibit C - HIPAA Business Associate Agreement (BAA), attached hereto and incorporated herein by reference.

34. IMMATERIAL CHANGES

CONTRACTOR and COUNTY agree that immaterial changes to the Agreement such as the Designated Representative, CONTRACTOR'S address for purposes of Notice, or other clerical error correction which will not result in a material change to the Agreement, Statement of Work, or total contract amount may be authorized by Public Health Director, or designee in writing, and will not constitute an amendment to the Agreement.

Any amendments or modifications that do not materially change the terms of this Agreement for Services of Independent Contractor between the **County of Santa Barbara** and **Santa Barbara Cottage Hospital**.

Agreement for Services of Independent Contractor between the **County of Santa Barbara** and **Santa Barbara Cottage Hospital**.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on July 1, 2019.

ATTEST:

Mona Miyasato
County Executive Officer
Clerk of the Board

By: _____
Deputy Clerk

COUNTY OF SANTA BARBARA:

Steve Lavagnino

By: _____
Chair, Board of Supervisors

Date: _____

RECOMMENDED FOR APPROVAL:

Van Do-Reynoso, MPH, PhD

By: _____
Department Head

APPROVED AS TO ACCOUNTING FORM:

Betsy M. Schaffer, CPA
Auditor-Controller

By: _____
Auditor-Controller

APPROVED AS TO FORM:

County Counsel

By: _____
Deputy County Counsel

APPROVED AS TO FORM:

Risk Management

By: _____
Risk Management

Agreement for Services of Independent Contractor between the **County of Santa Barbara** and **Santa Barbara Cottage Hospital**.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on July 1, 2019.

SANTA BARBARA COTTAGE HOSPITAL

By: _____
Brett D. Tande, Senior Vice President & Chief Financial Officer

Date_____

By: _____
Steven A. Fellows, Executive Vice President & COO

By: _____
Andrew Gersoff, MD, Designated Institutional Official for Graduate Medical Education

Tax ID Number: 95-1644629

EXHIBIT A

STATEMENT OF WORK

CONTRACTOR provides and operates an accredited postgraduate Medical Education Program offering training for Residents in Internal Medicine and General Surgery; and COUNTY, through the Public Health Department (PHD), provides an ambulatory care setting for these Residents to experience a broad range of clinical care encounters. The Internal Medicine Residents, under supervision from the hospital-assigned Attending Physicians, will also provide Hospitalist services at Santa Barbara Cottage Hospital for PHD patients.

I. DEFINITIONS:

“Attending Physicians” shall be defined as either COUNTY’s or CONTRACTOR’s staff physicians who shall be responsible for supervising the work of the Residents at either the PHD Clinics or the hospital.

“Clinic” shall be defined as the medical department where patients are given treatment or advice, for example Internal Medicine Clinic, Rheumatology Clinic, Endocrinology Clinic, etc.

“County patients” shall be defined as patients who are registered and have been treated at one of the Public Health Clinics within the past three (3) years.

“Hospital” shall be defined as the Santa Barbara Cottage Hospital.

“IM” shall be defined as Internal Medicine.

“Residents” shall be defined as physicians receiving specialized clinical training in a hospital/ambulatory care facility under the supervision of licensed, teaching physicians and in compliance with the regulations of the Medical Board of California in an approved post-graduate training program.

“R1” shall be defined as a first year Resident Physician

“R2” shall be defined as a second year Resident Physician

“R3” shall be defined as a third year Resident Physician

“R4” shall be defined as a fourth year Resident Physician

“R5” shall be defined as a fifth year Resident Physician

“Session” shall be defined as a four hour block of time during which one or more Residents provide direct outpatient care of County Patients under the supervision of an Attending Physician.

II. CONTRACTOR’S RESPONSIBILITIES:

A. **Delivery of Medical Services by Residents.** CONTRACTOR will provide ambulatory services to County Patients by assigning up to 31 (thirty-one) IM Residents and 20 (twenty) General Surgery Residents who will deliver the medical services outlined in this Agreement.

1. **Hospital Services:**

1.1 For those County Patients admitted to the Hospital, the Residents will treat and discharge the County Patients for follow-up care to their respective PHD clinic, as appropriate.

2. **Ambulatory Services at the Santa Barbara Health Care Center:**

2.1 CONTRACTOR will be responsible for assigning Residents to perform clinic based medical care in COUNTY’s Santa Barbara based Walk-In (WIN), Same Day IM (SDIM), IM Continuity, and Specialty clinics. It is estimated that under the Attending Physician’s practice, the Residents will see approximately 3,000 patient visits in Urgent

Care and approximately 2,500 patient visits in the IM Clinic each year. The Residents will be assigned to the following clinics with these specific scheduling parameters:

- a. **Same Day IM (SDIM):** One (1) IM Resident will be assigned to this clinic Wednesday 1:00pm - 5:00pm and Friday 8:00am -12:00pm, the clinic is open for a total of 2 sessions per week for up to 52 weeks per year. (CONTRACTOR will provide the schedule to the Health Center Administrator and the Office Supervisor for the Same-Day IM clinic 30 days prior to the clinic.)
- a) **IM Continuity Clinic:** Up to three (3) IM Residents will be assigned to a maximum of seven sessions per week. There will be 5 afternoon sessions and 2 morning sessions. Each IM Resident will be scheduled monthly and each will have a range of 40-44 clinics per year. CONTRACTOR will provide the schedule to the Health Center Administrator and the Office Supervisor 60 days prior to the date of the clinic.
- b) **Walk In Clinic (WIN):** 1 IM Resident assigned up to 8 half-day sessions per week for up to 52 weeks per year.
- b. Assignments to Internal Medicine Specialty clinics will be made upon mutual agreement between CONTRACTOR and the COUNTY.
- c. Continued resident support in any Specialty clinic(s) will be reevaluated on a periodic basis, to be determined by the parties, based upon the educational value to the residents of said participation.

2.2 COUNTY in consultation with CONTRACTOR may modify IM Continuity Clinic appointment schedules to allow for adequate supervision for seven sessions per week.

2.3 COUNTY may add, delete or modify the frequency and type of medical specialty clinics as necessary to meet patient need with advanced notice to CONTRACTOR. Two (2) month notice is the preference, with the understanding that some changes are beyond the County's control and may occur with shorter notice, such as specialty provider notification of schedule change.

2.3 Except in unusual circumstances, CONTRACTOR will provide two weeks written notice to COUNTY when the individual schedule for an IM Resident is to be cancelled or rescheduled and three weeks written notice to COUNTY if an entire clinic session is to be cancelled. (The IM Residency Program, in conjunction with the Resident, will provide clear instruction to the Health Center Administrator and the Office Supervisor as to how/when the patients should be rescheduled.) Additionally, it is expected that Residents will be on time for clinics and complete the scheduled clinic, which is typically 4 hours in duration. A Resident's request to leave the clinic early must be approved by his or her COUNTY Attending Physician.

3. **Ambulatory Surgery Clinics:**

3.1 There will be approximately 52 General Surgery clinics per year and 3 Specialty clinics where the Surgical Residents are assigned and scheduled by the CONTRACTOR. (CONTRACTOR will provide the schedule to the Health Center Administrator and Office Supervisor for said clinics 30 days prior to the clinics.)

- a. **General Surgery Clinic:** Three (3) Surgical Residents (R1, R2, R3, R4 and R5) will be assigned for 1 session 1 time per week to the clinics for approximately 48-50 sessions per year.

COUNTY in consultation with CONTRACTOR may modify General Surgery Clinic appointment schedules to allow for adequate supervision for one session per week. COUNTY may add, delete or modify as necessary the frequency and type of Surgical Specialty clinics to meet patient need with two (2) weeks advanced notice to CONTRACTOR.

- B. **Recruitment and Employment of Residents.** CONTRACTOR is responsible for the recruitment/employment and payment of the salaries/expenses (including group health and workers' compensation insurance) of its Residents. The method of recruiting and the selection of the Residents is determined by the CONTRACTOR Medical Education Advisory Committee. The master list of new Residents is made available to the COUNTY as soon as it is ready and preferably 60 days prior to the start of the new Residents' assignment.
- C. **Credentialing.** CONTRACTOR is responsible for "credentialing" (as appropriate for graduate medical programs) the Residents and maintaining their file in good standing. Should there be a change of this good standing, CONTRACTOR will notify COUNTY immediately.

III. COUNTY'S RESPONSIBILITIES:

- A. **Nursing and Ancillary Care Providers.** COUNTY shall provide the Registered/Licensed Vocational Nurses, Medical Assistants, Administrative clerks, Nursing and Ancillary Care Supervisors, and ancillary services to properly staff the Santa Barbara Health Care Center where the Residents will conduct their Walk-In, IM Continuity, and Surgery Specialty clinics. COUNTY shall ensure that the clinic facilities are maintained in proper order to conduct appropriate clinical care and procedures. COUNTY will provide an environment that is conducive to proper teaching and supervision.
- B. **Attending Physician(s).**
 - 1. COUNTY will provide Board Certified Attending Physicians in the PHD ambulatory medical and surgical clinics. The Attending Physicians will be COUNTY employees or contractors.
 - 2. The Attending Surgeon for COUNTY General Surgery Clinic will be the Director of the SBCH Surgery Residency unless a satisfactory contract cannot be secured. The COUNTY reserves the right to contract with another Board Certified General Surgeon on active staff with CONTRACTOR if performance issues arise with the Director of the SBCH Surgery Residency that are irresolvable among the COUNTY, CONTRACTOR and physician. COUNTY will select an Attending Surgeon who is acceptable to CONTRACTOR.
 - 3. The primary Attending Physician for the COUNTY Internal Medicine Continuity Clinic will be a COUNTY employed or contracted Board Certified Internal Medicine physician whose selection is acceptable to the CONTRACTOR and is a member of the Medical Education Advisory Committee with CONTRACTOR.
 - 4. COUNTY may contract or employ additional, appropriately Board Certified Attending Physicians for Walk-In, Specialty Medical and Surgical clinics, who are acceptable to CONTRACTOR to supplement the primary Attending Physician for IM Continuity Clinic with two (2) weeks advanced notice to CONTRACTOR.

- C. **Patient and Resident Satisfaction.** COUNTY will, from time to time, query the patients to assess their satisfaction with the clinic. COUNTY will also conduct surveys with IM Residents to obtain Resident feedback about the clinic and share this data with CONTRACTOR. COUNTY will seek CONTRACTOR's assistance to forward to COUNTY findings and data results from surveys that are conducted by CONTRACTOR to evaluate IM Resident practice at the clinics and/or Hospital for COUNTY patients. This data will be combined with other such results to consistently evaluate the program and its outcomes and/or benefits to the community.
- D. **Performance Measures.** COUNTY desires to continually improve patient services including those provided pursuant to this Agreement, therefore, the COUNTY will gather specific measures of Resident performance.
- E. **Quality Improvement.** The COUNTY engages in specific quality improvement activities and projects. As applicable, these will be implemented in the clinics staffed by Residents.
- F. **Resident Evaluation.** The COUNTY will, in cooperation with CONTRACTOR, assess Resident performance and provide that data to CONTRACTOR. If COUNTY or CONTRACTOR determine that a Resident is not meeting the expected standard of performance, each party will inform the other.

IV. GENERAL CONDITIONS:

- A. The Residents will adhere to all PHD Policy/Protocol/Procedures pertaining to Provider Services, Billing, Compliance, Cybersecurity, Clinical Operations, HIPAA Privacy, Provider Orientation and other pertinent manuals. As these are updated regularly, annual trainings will be required to ensure compliance. Because Cottage requires all employees to complete an annual online protected health information training module, Residents with documented completion of CONTRACTOR'S HIPAA Privacy training may substitute CONTRACTOR'S HIPAA Privacy training for the County's version.
- B. CONTRACTOR and COUNTY agree, in good faith, to appropriately staff the clinics to the best of their control with a goal to provide good quality care.
- C. The primary Attending Physician for the COUNTY Internal Medicine Continuity Clinic will serve as the PHD representative on the Medical Education Advisory Committee.
- D. CONTRACTOR shall ensure that a HIPAA Business Associate Agreement is maintained between COUNTY and the Accreditation Council for Graduate Medical Education (ACGME). COUNTY understands the importance of the ACGME accreditation which CONTRACTOR maintains. COUNTY agrees to cooperate in establishing policies that assist CONTRACTOR with this accreditation and will not modify existing programs/clinics that may jeopardize the accreditation without discussing the change with CONTRACTOR.

EXHIBIT B

PAYMENT ARRANGEMENTS

July 1, 2019

This Agreement is a mutually beneficial service agreement whereby no payment will be received by either party. Agreement maximum amount is not to exceed \$0.00.

EXHIBIT C

HIPAA BUSINESS ASSOCIATE AGREEMENT (BAA)

This Business Associate Agreement (“BAA”) supplements and is made a part of the Agreement between COUNTY (referred to herein as “Covered Entity”) and CONTRACTOR (referred to herein as “Business Associate”).

RECITALS

Covered Entity wishes to disclose certain information to Business Associate pursuant to the terms of the Agreement, some of which may constitute Protected Health Information (“PHI”) (defined below).

Covered Entity and Business Associate intend to protect the privacy and provide for the security of PHI disclosed to Business Associate pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (“HITECH Act”), and 45 CFR Parts 160 and 164, Subpart C (the “Security Rule”), Subpart D (the “Data Breach Notification Rule”) and Subpart E (the “Privacy Rule”) (collectively, the “HIPAA Regulations”).

As part of the HIPAA Regulations, the Privacy Rule and the Security Rule (defined below) require Covered Entity to enter into a contract containing specific requirements with Business Associate prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e) and 164.504(e) of the Code of Federal Regulations (C.F.R.) and contained in this BAA.

In consideration of the mutual promises below and the exchange of information pursuant to this BAA, the parties agree as follows:

A. Definitions

1. **Breach** shall have the meaning given to such term under the HITECH Act [42 U.S.C. Section 17921].
2. **Business Associate** shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.
3. **Covered Entity** shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.
4. **Data Aggregation** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
5. **Designated Record Set** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
6. **Electronic Protected Health Information** means Protected Health Information that is maintained in or transmitted by electronic media.
7. **Electronic Health Record** shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921.
8. **Health Care Operations** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

9. **Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.
10. **Protected Health Information or PHI** means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501. Protected Health Information includes Electronic Protected Health Information [45 C.F.R. Sections 160.103, 164.501].
11. **Protected Information** shall mean PHI provided by Covered Entity to Business Associate or created or received by Business Associate on Covered Entity's behalf.
12. **Security Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.
13. **Unsecured PHI** shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h).

B. Obligations of Business Associate

1. **Permitted Uses.** Business Associate shall not use Protected Information except for the purpose of performing Business Associate's obligations under the Agreement and as permitted under the Agreement and this BAA. Further, Business Associate shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by Covered Entity. However, Business Associate may use Protected Information (i) for the proper management and administration of Business Associate, (ii) to carry out the legal responsibilities of Business Associate, or (iii) for Data Aggregation purposes for the Health Care Operations of Covered Entity [45 C.F.R. Sections 164.504(e)(2)(ii)(A) and 164.504(e)(4)(i)].
2. **Permitted Disclosures.** Business Associate shall not disclose Protected Information except for the purpose of performing Business Associate's obligations under the Agreement and as permitted under the Agreement and this BAA. Business Associate shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by Covered Entity. However, Business Associate may disclose Protected Information (i) for the proper management and administration of Business Associate; (ii) to carry out the legal responsibilities of Business Associate; (iii) as required by law; or (iv) for Data Aggregation purposes for the Health Care Operations of Covered Entity. If Business Associate discloses Protected Information to a third party, Business Associate must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such Protected Information will be held confidential as provided pursuant to this BAA and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify Business Associate of any breaches of confidentiality of the Protected Information, to the extent the third party has obtained knowledge of such breach [42 U.S.C. Section 17932; 45 C.F.R. Sections 164.504(e)(2)(i), 164.504(e)(2)(i)(B), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(ii)].
3. **Prohibited Uses and Disclosures.** Business Associate shall not use or disclose Protected Information for fundraising or marketing purposes. Business Associate shall not disclose Protected Information to a health plan for payment or health care operations purposes if the

patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates [42 U.S.C. Section 17935(a)]. Business Associate shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of Covered Entity and as permitted by the HITECH Act, 42 U.S.C. section 17935(d)(2); however, this prohibition shall not affect payment by Covered Entity to Business Associate for services provided pursuant to the Agreement. Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Agreement, the BAA, or the HIPAA Regulations.

4. **Appropriate Safeguards.** Business Associate shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information otherwise than as permitted by the Agreement or this BAA, including, but not limited to, administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Protected Information, in accordance with 45 C.F.R. Sections 164.308, 164.310, and 164.312. [45 C.F.R. Section 164.504(e)(2)(ii)(B); 45 C.F.R. Section 164.308(b)]. Business Associate shall comply with the policies and procedures and documentation requirements of the HIPAA Security Rule, including, but not limited to, 45 C.F.R. Section 164.316 [42 U.S.C. Section 17931].
5. **Reporting of Improper Access, Use or Disclosure.** Business Associate shall report to Covered Entity in writing of any access, use or disclosure of Protected Information not permitted by the Agreement and this BAA, and any Breach of Unsecured PHI, as required by the Data Breach Notification Rule, of which it becomes aware without unreasonable delay and in no case later than 60 calendar days after discovery [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)].
6. **Business Associate's Subcontractors and Agents.** Business Associate shall ensure that any agents and subcontractors to whom it provides Protected Information, agree in writing to the same restrictions and conditions that apply to Business Associate with respect to such PHI and implement the safeguards required by paragraph (c) above with respect to Electronic PHI [45 C.F.R. Section 164.504(e)(2)(ii)(D); 45 C.F.R. Section 164.308(b)]. Business Associate shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation (see 45 C.F.R. Sections 164.530(f) and 164.530(e)(1)).
7. **Access to Protected Information.** To the extent that the Covered Entity keeps a designated record set then Business Associate shall make Protected Information maintained by Business Associate or its agents or subcontractors in Designated Record Sets available to Covered Entity for inspection and copying within five (5) days of a request by Covered Entity to enable Covered Entity to fulfill its obligations under state law [Health and Safety Code Section 123110] and the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.524 [45 C.F.R. Section 164.504(e)(2)(ii)(E)]. If Business Associate maintains an Electronic Health Record, Business Associate shall provide such information in electronic format to enable Covered Entity to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17935(e).
8. **Amendment of PHI for Business Associate who is Required to Maintain a Record Set.** If Business Associate is required to maintain a designated record set on behalf of the Covered Entity the Business Associate shall within ten (10) days of receipt of a request from Covered Entity for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, Business Associate or its agents or subcontractors shall make such Protected Information available to Covered Entity for amendment and incorporate any such

amendment to enable Covered Entity to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.526. If any individual requests an amendment of Protected Information directly from Business Associate or its agents or subcontractors, Business Associate must notify Covered Entity in writing within five (5) days of the request. Any approval or denial of amendment of Protected Information maintained by Business Associate or its agents or subcontractors shall be the responsibility of Covered Entity [45 C.F.R. Section 164.504(e)(2)(ii)(F)].

9. **Accounting Rights.** Within ten (10) days of notice by Covered Entity of a request for an accounting of disclosures of Protected Information, Business Associate and its agents or subcontractors shall make available to Covered Entity the information required to provide an accounting of disclosures to enable Covered Entity to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.528, and the HITECH Act, including but not limited to 42 U.S.C. Section 17935(c), as determined by Covered Entity. Business Associate agrees to implement a process that allows for an accounting to be collected and maintained by Business Associate and its agents or subcontractors for at least six (6) years prior to the request. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that Business Associate maintains an electronic health record and is subject to this requirement. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure. In the event that the request for an accounting is delivered directly to Business Associate or its agents or subcontractors, Business Associate shall within five (5) days of a request forward it to Covered Entity in writing. It shall be Covered Entity's responsibility to prepare and deliver any such accounting requested. Business Associate shall not disclose any Protected Information except as set forth in Sections 2.b. of this BAA [45 C.F.R. Sections 164.504(e)(2)(ii)(G) and 165.528]. The provisions of this subparagraph shall survive the termination of this Agreement.
10. **Governmental Access to Records.** Business Associate shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to Covered Entity and to the Secretary of the U.S. Department of Health and Human Services (Secretary) for purposes of determining Business Associate's compliance with the Privacy Rule [45 C.F.R. Section 164.504(e)(2)(ii)(H)]. Business Associate shall provide to Covered Entity a copy of any Protected Information that Business Associate provides to the Secretary concurrently with providing such Protected Information to the Secretary.
11. **Minimum Necessary.** Business Associate (and its agents or subcontractors) shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request, use, or disclosure [42 U.S.C. Section 17935(b); 45 C.F.R. Section 164.514(d)(3)]. Business Associate understands and agrees that the definition of "minimum necessary" is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes "minimum necessary."
12. **Data Ownership.** Business Associate acknowledges that Business Associate has no ownership rights with respect to the Protected Information.
13. **Business Associate's Insurance.** Business Associate represents and warrants that it purchases commercial insurance to cover its exposure for any claims, damages or losses arising as a result of a breach of the terms of this BAA.

14. **Notification of Possible Breach.** During the term of the Agreement, Business Associate shall notify Covered Entity within twenty-four (24) hours of any suspected or actual breach of security, or any access, use or disclosure of Protected Information not permitted by the Agreement or this BAA or unauthorized use or disclosure of PHI of which Business Associate becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. Business Associate shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations. [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)]
15. **Breach Pattern or Practice by Covered Entity.** Pursuant to 42 U.S.C. Section 17934(b), if the Business Associate knows of a pattern of activity or practice of the Covered Entity that constitutes a material breach or violation of the Covered Entity's obligations under the Agreement or this BAA or other arrangement, the Business Associate must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the Business Associate must terminate the Agreement or other arrangement if feasible, or if termination is not feasible, report the problem to the Secretary. Business Associate shall provide written notice to Covered Entity of any pattern of activity or practice of the Covered Entity that Business Associate believes constitutes a material breach or violation of the Covered Entity's obligations under the Agreement or this BAA or other arrangement within five (5) days of discovery and shall meet with Covered Entity to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.
16. **Audits, Inspection and Enforcement.** Within ten (10) days of a written request by Covered Entity, Business Associate and its agents or subcontractors shall allow Covered Entity to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of Protected Information pursuant to this BAA for the purpose of determining whether Business Associate has complied with this BAA; provided, however, that (i) Business Associate and Covered Entity shall mutually agree in advance upon the scope, timing and location of such an inspection, (ii) Covered Entity shall protect the confidentiality of all confidential and proprietary information of Business Associate to which Covered Entity has access during the course of such inspection; and (iii) Covered Entity shall execute a nondisclosure agreement, upon terms mutually agreed upon by the parties, if requested by Business Associate. The fact that Covered Entity inspects, or fails to inspect, or has the right to inspect, Business Associate's facilities, systems, books, records, agreements, policies and procedures does not relieve Business Associate of its responsibility to comply with this BAA, nor does Covered Entity's (i) failure to detect or (ii) detection, but failure to notify Business Associate or require Business Associate's remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of Covered Entity's enforcement rights under the Agreement or this BAA, Business Associate shall notify Covered Entity within ten (10) days of learning that Business Associate has become the subject of an audit, compliance review, or complaint investigation by the Office for Civil Rights.

C. Termination

1. **Material Breach.** A breach by Business Associate of any provision of this BAA, as determined by Covered Entity, shall constitute a material breach of the Agreement and shall provide grounds for immediate termination of the Agreement, any provision in the Agreement to the contrary notwithstanding [45 C.F.R. Section 164.504(e)(2)(iii)].
2. **Judicial or Administrative Proceedings.** Covered Entity may terminate the Agreement, effective immediately, if (i) Business Associate is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Regulations or other security

or privacy laws or (ii) a finding or stipulation that the Business Associate has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.

3. **Effect of Termination.** Upon termination of the Agreement for any reason, Business Associate shall, at the option of Covered Entity, return or destroy all Protected Information that Business Associate or its agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by Covered Entity, Business Associate shall continue to extend the protections of Section 2 of this BAA to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. [45 C.F.R. Section 164.504(e)(ii)(2)(I)]. If Covered Entity elects destruction of the PHI, Business Associate shall certify in writing to Covered Entity that such PHI has been destroyed.

D. Indemnification

If Business Associate fails to adhere to any of the privacy, confidentiality, and/or data security provisions set forth in this BAA or if there is a Breach of PHI in Business Associate's possession and, as a result, PHI or any other confidential information is unlawfully accessed, used or disclosed, Business Associate agrees to reimburse Covered Entity for any and all costs, direct or indirect, incurred by Covered Entity associated with any Breach notification obligations. Business Associate also agrees to pay for any and all fines and/or administrative penalties imposed for such unauthorized access, use or disclosure of confidential information or for delayed reporting if it fails to notify the Covered Entity of the Breach as required by this BAA.

E. Disclaimer

Covered Entity makes no warranty or representation that compliance by Business Associate with this BAA, HIPAA, the HITECH Act, or the HIPAA Regulations will be adequate or satisfactory for Business Associate's own purposes. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.

F. Certification

To the extent that Covered Entity determines that such examination is necessary to comply with Covered Entity's legal obligations pursuant to HIPAA relating to certification of its security practices, Covered Entity or its authorized agents or contractors, may, at Covered Entity's expense, examine Business Associate's facilities, systems, procedures and records as may be necessary for such agents or contractors to certify to Covered Entity the extent to which Business Associate's security safeguards comply with HIPAA, the HITECH Act, the HIPAA Regulations or this BAA.

G. Amendment to Comply with Law

The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of the Agreement or this BAA may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule and other applicable laws relating to the security or confidentiality of PHI. The parties understand and agree that Covered Entity must receive satisfactory written assurance from Business Associate that Business Associate will adequately safeguard all Protected Information. Upon the request

of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this BAA embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule or other applicable laws. Covered Entity may terminate the Agreement upon thirty (30) days written notice in the event (i) Business Associate does not promptly enter into negotiations to amend the Agreement or this BAA when requested by Covered Entity pursuant to this Section or (ii) Business Associate does not enter into an amendment to the Agreement or this BAA providing assurances regarding the safeguarding of PHI that Covered Entity, in its sole discretion, deems sufficient to satisfy the standards and requirements of applicable laws.

H. Assistance in Litigation of Administrative Proceedings

Business Associate shall make itself, and any subcontractors, employees or agents assisting Business Associate in the performance of its obligations under the Agreement or this BAA, available to Covered Entity, at no cost to Covered Entity, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against Covered Entity, its directors, officers or employees based upon a claimed violation of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule, or other laws relating to security and privacy, except where Business Associate or its subcontractor, employee or agent is named adverse party.

I. No Third-Party Beneficiaries

Nothing express or implied in the Agreement or this BAA is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

J. Effect on Agreement

Except as specifically required to implement the purposes of this BAA, or to the extent inconsistent with this BAA, all other terms of the Agreement shall remain in force and effect.

K. Entire Agreement of the Parties

This BAA supersedes any and all prior and contemporaneous business associate agreements between the parties and constitutes the final and entire agreement between the parties hereto with respect to the subject matter hereof. Covered Entity and Business Associate acknowledge that no representations, inducements, promises, or agreements, oral or otherwise, with respect to the subject matter hereof, have been made by either party, or by anyone acting on behalf of either party, which are not embodied herein. No other agreement, statement or promise, with respect to the subject matter hereof, not contained in this BAA shall be valid or binding.

L. Interpretation

The provisions of this BAA shall prevail over any provisions in the Agreement that may conflict or appear inconsistent with any provision in this BAA. This BAA and the Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule. The parties agree that any ambiguity in this BAA shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.