

AGREEMENT FOR PROFESSIONAL LEGAL SERVICES

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 Hooper, Lundy & bookman, P.C., with an address at 1875 Century Park East, Suite 1600, Los Angeles, CA 90067 (hereafter ATTORNEY) wherein ATTORNEY agrees to provide and COUNTY agrees to accept the services specified herein.

WHEREAS, COUNTY requires the services of outside counsel to assist COUNTY and its Department of Behavioral Wellness with matters relating to the County's Psychiatric Health Facility (PHF) recertification survey conducted in 2016, including, but not limited to, extension of response time and review of County's Plan of Correction;

WHEREAS, COUNTY's Board of Supervisors, under the provisions of Section 31000 of the California Government Code, is empowered to contract for special legal services; and

WHEREAS, ATTORNEY represents that it is specially trained, skilled, experienced, and competent to perform the special services required by COUNTY and COUNTY desires to retain the services of ATTORNEY pursuant to the terms, covenants, and conditions herein set forth.

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

1. **DESIGNATED REPRESENTATIVE.** Rachel Van Mullem at phone number 805-568-2950 is the designated representative of COUNTY and will administer this Agreement for and on behalf of

COUNTY. Jodi P. Berlin at phone number 310-551-8135 is the designated representative for ATTORNEY. Changes in designated representatives shall be made only after advance written notice 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: Rachel Van Mullem
Chief Assistant Chief Counsel
Office of County Counsel
County of Santa Barbara
105 East Anapamu Street, #201
Santa Barbara, CA 93101
Fax. No. 805-568-2982

To ATTORNEY: Jodi P. Berlin
Partner
Hooper, Lundy & Bookman, P.C.
1875 Century Park East
Suite 1600
Los Angeles, CA 90067
Fax. No. 310-551-8181

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

4. **TERM.** ATTORNEY shall commence performance on August 1, 2016 and end performance upon completion, but no later than October 31, 2016 unless otherwise directed by COUNTY or unless earlier terminated.

5. **COMPENSATION OF ATTORNEY.** In full consideration for ATTORNEY's services, ATTORNEY shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference. Billing shall be made by invoice, which shall include the contract number assigned by COUNTY and which is delivered to the address given in Section 2 **NOTICES.** above following completion of the increments identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from presentation of invoice.

6. **INDEPENDENT CONTRACTOR.** It is mutually understood and agreed that ATTORNEY, (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 ATTORNEY shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to verify that ATTORNEY is performing its obligations in accordance with the terms and conditions hereof. ATTORNEY 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. ATTORNEY shall be solely

liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, ATTORNEY shall be solely responsible and save COUNTY harmless from all matters relating to payment of ATTORNEY'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, ATTORNEY may be providing services to others unrelated to the COUNTY or to this Agreement.

7. **STANDARD OF PERFORMANCE.** ATTORNEY represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, ATTORNEY shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which ATTORNEY is engaged. All products of whatsoever nature, which ATTORNEY 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 ATTORNEY's profession. ATTORNEY shall correct or revise any errors or omissions, at COUNTY'S request without additional compensation. All required permits and/or licenses shall be obtained and maintained by ATTORNEY without additional compensation.

8. **DEBARMENT AND SUSPENSION.** ATTORNEY certifies to COUNTY that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state or county government contracts. ATTORNEY certifies that it shall not contract with a subcontractor that is so debarred or suspended.

9. **TAXES.** ATTORNEY 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 ATTORNEY's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, ATTORNEY agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These

taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

10. **CONFLICT OF INTEREST.** Except as provided in this paragraph 10, ATTORNEY covenants that ATTORNEY 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. ATTORNEY further covenants that in the performance of this Agreement, no person having any such interest shall be employed by ATTORNEY. ATTORNEY has conducted a conflicts evaluation and has discovered no potential conflicts, other than those disclosed to COUNTY prior to this Agreement. ATTORNEY shall inform COUNTY immediately of any potential ethical issues or conflicts that may arise in the course of ATTORNEY's representation of the COUNTY in this matter or at any time in the future, as soon as such an issue or conflict becomes known. COUNTY retains the right to waive a conflict of interest disclosed by ATTORNEY if COUNTY's designated representative determines it to be immaterial, and such waiver is only effective if provided by COUNTY's designated representative to ATTORNEY in writing.

11. **EXPERTS/CONSULTANTS/OTHER LAW FIRMS.** ATTORNEY shall get COUNTY's written approval prior to retaining any expert/consultant, or other outside attorney to assist with any matter covered by this Agreement.

12. **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. ATTORNEY shall not

release any of such items to other parties except after prior written approval of COUNTY. Unless otherwise specified in Exhibit A, ATTORNEY 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 ATTORNEY pursuant to this Agreement (collectively referred to herein 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. ATTORNEY 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. ATTORNEY 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. ATTORNEY 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 ATTORNEY hereunder infringe upon any intellectual property or other proprietary rights of a third party, and ATTORNEY 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 the Agreement.

13. **NO PUBLICITY OR ENDORSEMENT.** ATTORNEY shall not use COUNTY's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. ATTORNEY shall not use COUNTY's name or logo in any manner that would give the appearance that the COUNTY is endorsing ATTORNEY. ATTORNEY shall not in any way contract on behalf of or in the name of COUNTY. ATTORNEY 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.

14. **COUNTY PROPERTY AND INFORMATION.** All of COUNTY's property, documents, and information provided for ATTORNEY's use in connection with the services shall remain COUNTY's property, and ATTORNEY shall return any such items whenever requested by COUNTY and whenever required according to the Termination section of this Agreement. ATTORNEY may use such items only in connection with providing the services. ATTORNEY shall not disseminate any COUNTY property, documents, or information without COUNTY's prior written consent.

15. **RECORDS, AUDIT, AND REVIEW.** ATTORNEY shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of ATTORNEY'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 practices. COUNTY shall have the right to audit and review all such documents and records at any time during ATTORNEY's regular business hours or upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00) ATTORNEY shall be subject to the examination and audit of the State Auditor General for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). ATTORNEY shall participate in any audits and review, whether by COUNTY or the State, at no charge to COUNTY.

16. **INDEMNIFICATION AND INSURANCE.** ATTORNEY agrees to the indemnification and insurance provisions as set forth in EXHIBIT C attached hereto and incorporated herein by reference.

17. **NONDISCRIMINATION.** COUNTY hereby notifies ATTORNEY 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 ATTORNEY agrees to comply with said ordinance.

18. **NONEXCLUSIVE AGREEMENT.** ATTORNEY 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 ATTORNEY as the COUNTY desires.

19. **NON-ASSIGNMENT.** ATTORNEY 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.

20. **TERMINATION.**

A. **By COUNTY.** COUNTY may, by written notice to ATTORNEY, terminate this Agreement in whole or in part, whether for COUNTY's convenience, for nonappropriation of funds, or because of the failure of ATTORNEY to fulfill the obligations herein.

1. For Convenience. COUNTY may terminate this Agreement in whole or in part upon thirty (30) days written notice. During the thirty (30) day period, ATTORNEY shall, as directed by COUNTY, wind down and cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on COUNTY from such winding down and cessation of services.

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 ATTORNEY 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. Should ATTORNEY default in the performance of this Agreement or materially breach any of its provisions, COUNTY may, at COUNTY's sole option, terminate or suspend this Agreement in whole or in part by written notice. Upon receipt of notice, ATTORNEY shall immediately discontinue all services affected (unless the notice directs otherwise) and notify COUNTY as to the status of its performance. The date of termination shall be the date the notice is received by ATTORNEY, unless the notice directs otherwise.

B. By ATTORNEY. Should COUNTY fail to pay ATTORNEY all or any part of the payment set forth in EXHIBIT B, ATTORNEY may, at ATTORNEY's option terminate this Agreement if such failure is not remedied by COUNTY within thirty (30) days of written notice to COUNTY of such late payment. ATTORNEY may also terminate this Agreement at any time with or without cause upon 30 days' prior written notice.

C. Upon termination, ATTORNEY shall deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers as may have been accumulated or produced by ATTORNEY in performing this Agreement, whether completed or in process, except such items as COUNTY may, by written permission, permit ATTORNEY to retain. Notwithstanding any other payment provision of this Agreement, COUNTY shall pay ATTORNEY for satisfactory services performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall ATTORNEY be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. ATTORNEY shall furnish to COUNTY such financial information as in the judgment of COUNTY is necessary to determine the reasonable value of the services rendered by ATTORNEY. In the event of a dispute as to the reasonable value of the

services rendered by ATTORNEY, the decision of COUNTY shall be final. The foregoing is cumulative and shall not affect any right or remedy which COUNTY may have in law or equity.

21. **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.

22. **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.

23. **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.

24. **TIME IS OF THE ESSENCE.** Time is of the essence in this Agreement and each covenant and term is a condition herein.

25. **NO WAIVER OF DEFAULT.** No delay or omission of COUNTY 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 shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

26. **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.

27. **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.

28. **COMPLIANCE WITH LAW.** ATTORNEY 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. The judgment of any court of competent jurisdiction, or the admission of ATTORNEY in any action or proceeding against ATTORNEY, whether COUNTY is a party thereto or not, that ATTORNEY has violated any such ordinance or statute, shall be conclusive of that fact as between ATTORNEY and COUNTY.

29. **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.

30. **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.

31. **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(ies), 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, ATTORNEY hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which ATTORNEY is obligated, which breach would have a material effect hereon.

32. **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.

33. **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.

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

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Agreement for Professional Legal Services between the County of Santa Barbara and Hooper, Lundy & Bookman, P.C.

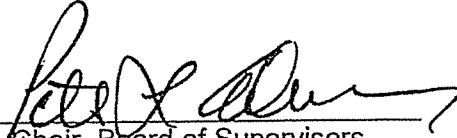
IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by COUNTY.

ATTEST:

COUNTY OF SANTA BARBARA:

Mona Miyasato
County Executive Officer
Clerk of the Board

By: 
Deputy Clerk

By: 
Chair, Board of Supervisors

Date 8-23-16

RECOMMENDED FOR

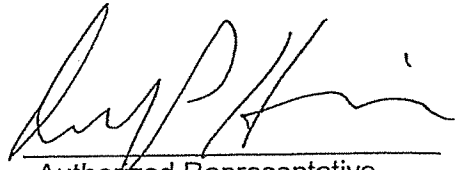
ATTORNEY:

APPROVAL:

COUNTY COUNSEL

HOOPER, LUNDY & BOOKMAN, P.C.

By: 
Department Head

By: 
Authorized Representative

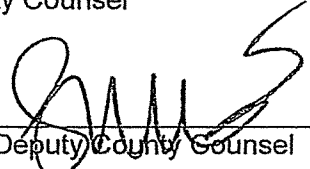
Name David P. Henning
Title Principal

APPROVED AS TO FORM:

Michael C. Ghizzoni

County Counsel

By:


Deputy County Counsel

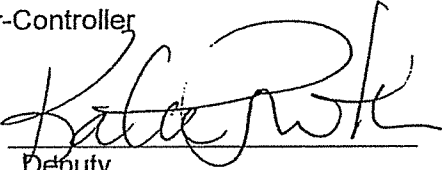
APPROVED AS TO ACCOUNTING

FORM:

Theodore A. Fallati, CPA

Auditor-Controller

By:


Deputy

APPROVED AS TO FORM:

Risk Management

By:

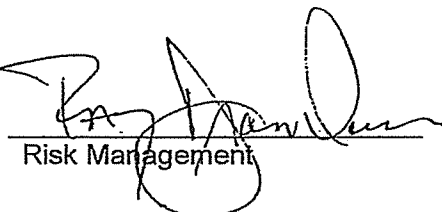

Risk Management

EXHIBIT A

STATEMENT OF WORK

As requested by COUNTY, ATTORNEY shall assist COUNTY and its Department of Behavioral Wellness with matters relating to the County's Psychiatric Health Facility (PHF) recertification survey conducted on June 27, 2016, including, but not limited to, advice on extension of response time, drafting of County's Plan of Correction, and interfacing as necessary with COUNTY's consultants and State and federal agencies, including without limitation the California Department of Public Health and Region IX of the Centers for Medicare and Medicaid Services. All work by ATTORNEY shall be coordinated through and at the direction of Santa Barbara County Counsel.

Jodi P. Berlin shall be the attorney personally responsible for providing all services hereunder. She shall be assisted by any partners, associates and paralegals at her direction and under her supervision. The hourly billing rate for partners shall not exceed \$795.00, for associates \$585.00, and for paralegals \$325.00.

EXHIBIT B

PAYMENT ARRANGEMENTS

Periodic Compensation (with attached Schedule of Fees)

- A. For ATTORNEY services to be rendered under this Agreement, ATTORNEY shall be paid a total contract amount, including cost reimbursements, not to exceed \$40,000.00. Before rendering services exceeding thirty thousand dollars (\$30,000), ATTORNEY shall either (a) confirm to the COUNTY in writing that ATTORNEY will complete the services required by this Agreement without exceeding the \$40,000 limit, or (b) meet and confer to determine a mutually agreeable course of action.
- B. Payment for services and/or reimbursement of costs shall be made upon ATTORNEY's satisfactory performance, based upon the scope and methodology contained in **EXHIBIT A** as determined by COUNTY. Payment for services and/or reimbursement of costs shall be based upon the costs, expenses, overhead charges and hourly rates for personnel, as defined in **Attachment B-1 (Schedule of Fees)**. Invoices submitted for payment must contain sufficient detail to enable an audit of the charges and ATTORNEY must provide supporting documentation if requested.
- C. Monthly, ATTORNEY shall submit to the COUNTY DESIGNATED REPRESENTATIVE an invoice or certified claim on the County Treasury for the service performed over the period specified. These invoices or certified claims must cite the assigned Board Contract Number. COUNTY DESIGNATED REPRESENTATIVE shall evaluate the quality of the service performed and/or item(s) delivered and if found to be satisfactory and within the cost basis of **Attachment B-1**, shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory work within 30 days of receipt of correct and complete invoices or claims from ATTORNEY.

D. COUNTY's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY's right to require ATTORNEY to correct such work or billings or seek any other legal remedy.

ATTACHMENT B-1

(Schedule of Fees)

HOURLY RATES

ATTORNEY's hourly rates are as follows:

Jodi P. Berlin's hourly rate is \$670.00

The hourly billing rate for partners shall not exceed \$795.00, for associates shall not exceed \$585.00, and for paralegals shall not exceed \$325.00.

Amounts to be charged to this Agreement shall not exceed \$25,000.00.

COSTS AND EXPENSES

COUNTY shall reimburse ATTORNEY for certain costs and expenses actually incurred and reasonably necessary for completing the matter for which COUNTY has engaged ATTORNEY, as long as COUNTY's charges for costs and expenses are competitive with other sources of the same products or services.

COUNTY shall reimburse ATTORNEY in accordance with the following guidelines:

Billable costs and expenses: COUNTY shall reimburse ATTORNEY at the COUNTY's reimbursement rates for reasonable costs and expenses incurred by it in performing services for the COUNTY, such as photocopying, messenger and delivery service, computerized research, travel (including mileage, parking, airfare, lodging, meals, and transportation), long-distance telephone, and filing fees.

Nonbillable overhead and administration: COUNTY does not expect to be charged for and will not pay for any of the following: attorney time spent preparing time sheets or bills, conflicts checks, local phone service, local travel costs, secretarial services, word processing services, librarian services, other clerical activities such as creating, organizing and maintaining files, distributing documents, overtime, or any other services traditionally considered overhead or administrative.

Photocopying: COUNTY will reimburse ATTORNEY at a maximum of \$.15 per page for normal photocopying and will not be responsible for time spent by photocopying personnel. ATTORNEY shall give COUNTY an opportunity to use its own internal staff to duplicate documents or an outside photocopying vendor if certain jobs can be less expensively performed by the COUNTY or by the vendor.

Computerized research: ATTORNEY shall perform any computerized research in a low-cost manner. Computerized research charges such as Lexis/Nexis or Westlaw that are billed to COUNTY shall be billed at ATTORNEY's cost and shall be accompanied by a copy of the invoice received by ATTORNEY.

Document delivery: For document delivery costs that are billed to COUNTY, ATTORNEY shall use the most economical delivery method or service available. To help minimize such costs, ATTORNEY shall use messengers and overnight delivery only where necessary in the interests of urgency and reliability.

Multiple billing: If an attorney works simultaneously on the COUNTY's matter and a matter for another client of ATTORNEY's firm, COUNTY shall be billed only for the proportionate amount of time spent on the COUNTY's matter.

Travel: COUNTY will reimburse ATTORNEY at the COUNTY's reimbursement rates for reasonable travel expenses directly related to ATTORNEY's work for COUNTY when ATTORNEY has obtained COUNTY's prior approval. First class airfare, luxury accommodations and lavish meals are considered unreasonable expenses and will not be paid. ATTORNEY shall not bill for travel time.

BILLING PROCEDURE

All invoices must include the following information, in addition to the information specified in Exhibit B:

- Matter description and number;
- A chronological listing and informative description of all legal activity performed (whether or not billed) broken down by date, identity of timekeeper, time spent in increments of one-tenth of an hour, and amounts billed;
- A summary of the names and corresponding billing rates of each attorney or other personnel working on the matter with the total number of hours billed by each during the time period covered by the invoice;
- The total number of hours billed for the matter during the time period covered by the invoice;
- The total charges for the matter for the time period covered by the invoice, for the year to date, and for the matter to date; and
- The last payment, the total payments made by the COUNTY and any outstanding balances for the matter.

Reimbursable expenses must be included on each bill and should be broken down by category.

EXHIBIT C

Indemnification and Insurance Requirements (For Professional Contracts)

INDEMNIFICATION

To the extent not covered by ATTORNEY's insurance, ATTORNEY agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of negligent acts or omissions from services provided by ATTORNEY under this Agreement including the acts, errors or omissions of ATTORNEY'S agents and representatives and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. ATTORNEY's indemnification obligation does not apply to claims arising solely from COUNTY's negligence or willful misconduct.

NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

ATTORNEY shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

INSURANCE

ATTORNEY shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance

of the work hereunder and the results of that work by ATTORNEY, its agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 or a materially equivalent form covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if ATTORNEY has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Professional Liability (Errors and Omissions)** Insurance appropriate to ATTORNEY's profession, with limit of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If ATTORNEY maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by ATTORNEY. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of ATTORNEY including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to ATTORNEY's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
2. **Primary Coverage** – For any claims related to this Agreement, ATTORNEY's insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of ATTORNEY's insurance and shall not contribute with it.
3. **Notice of Cancellation** – ATTORNEY shall provide notice to the County prior to any cancellation of the above- referenced insurance policies..
4. **Waiver of Subrogation Rights** – ATTORNEY hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said ATTORNEY may acquire against the COUNTY by virtue of the payment of any loss under such insurance. ATTORNEY agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be disclosed to and approved by the COUNTY. The COUNTY may require ATTORNEY to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
7. **Verification of Coverage** – ATTORNEY shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive ATTORNEY's obligation to provide them. ATTORNEY shall furnish evidence of renewal of coverage throughout the term of the Agreement.
8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
9. **Subcontractors** – ATTORNEY shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and ATTORNEY shall require and verify that COUNTY is an additional insured on insurance of subcontractors.
10. **Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:
 - i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
 - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.

- iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, ATTORNEY must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

11. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by a written amendment to this Agreement executed by both parties.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.

EXHIBIT D

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("BAA") is entered into by and between the County of Santa Barbara, a political subdivision of the State of California ("CE") and Hooper, Lundy & Bookman, P.C. ("HLB" or "Business Associate"). This BAA is effective August 1, 2016 ("Effective Date").

RECITALS

WHEREAS, CE is a "Covered Entity" as that term is defined under the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191, as amended, and the regulations promulgated thereunder by the U.S. Department of Health and Human Services ("HIPAA");

WHEREAS, HLB provides legal services to CE (the "Services");

WHEREAS, CE may transmit or otherwise provide protected health information ("PHI"), as defined below, to HLB to enable HLB to provide the Services;

WHEREAS, in providing Services and receiving such PHI from CE, HLB may function as a "Business Associate" of CE, as defined below;

WHEREAS, CE and HLB intend to protect the privacy and provide for the security of PHI disclosed to HLB and this BAA in compliance with HIPAA, the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("HITECH Act"), and other applicable laws;

WHEREAS, as a Covered Entity, CE is required under HIPAA to enter into this BAA with HLB, governing HLB's use and disclosure of PHI, and this BAA is an integral part of HLB's provision of legal services to CE.

NOW, THEREFORE, in consideration of the recitals, conditions and mutual promises below, HLB and CE agree as follows:

AGREEMENT

1. Definitions

- a. **Breach** shall have the meaning given under 42 U.S.C. § 17921(1) and 45 C.F.R. § 164.402.
- b. **Business Associate** shall have the meaning given to such term under 42 U.S.C. § 17938 and 45 C.F.R. § 160.103.
- c. **CE** shall include, as applicable, CE and any Covered Entities under common ownership or control of CE, whether for-profit or non-profit, including, without limitation, any providers or suppliers.
- d. **Common ownership** exists if the CE possesses greater than a five percent (5%) ownership or equity interest in a Covered Entity.
- e. **Common Control** exists if the CE has the power, directly or indirectly, significantly to influence or direct the actions or policies of a Covered Entity.
- f. **Covered Entity** shall have the meaning given to such term under 45 C.F.R. § 160.103.
- g. **Data Aggregation** shall have the meaning given to such term under 45 C.F.R. § 164.501.
- h. **Data Breach Notification Rule** shall mean the HIPAA Regulations that are codified at 45 C.F.R. Parts 160 and 164, Subparts A and D.
- i. **Designated Record Set** shall have the meaning given to such term under 45 C.F.R. § 164.501.
- j. **Electronic Protected Health Information or ePHI** means Electronic Protected Health Information that is maintained in or transmitted by electronic media.

- k. **Electronic Health Record** shall have the meaning given to such term under 42 U.S.C. § 17921(5).
- l. **Health Care Operations** shall have the meaning given to such term 45 C.F.R. § 164.501.
- m. **Privacy Rule** shall mean the HIPAA Regulations that are codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.
- n. **Protected Health Information or PHI** means that information defined in 45 C.F.R. § 160.103 which is created or received by HLB from or on behalf of CE.
- o. **Security Rule** shall mean the HIPAA Regulations that are codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.
- p. **Subcontractor** shall mean a person to whom a business associate delegates a function, activity, or service, other than in the capacity of a member of the workforce of such business associate, pursuant to 45 C.F.R. § 160.103.
- q. **Unsecured PHI** shall have the meaning given to such term under 42 U.S.C. § 17932(h), 45 C.F.R. § 164.402 and guidance issued pursuant to the HITECH Act and corresponding regulations.

Terms used but not otherwise defined in this BAA shall have the same meaning as those terms in 45 C.F.R. Part 160 and Part 164, including sections 160.103, 164.103, 164.304 and 164.501.

2. **Obligations of Business Associate**

- a. **Permitted Uses and Disclosures.** HLB shall not use or disclose PHI other than for purposes of providing the Services or as permitted or required by this BAA or as permitted or required by law. Further, HLB shall not use PHI in any manner that would

constitute a violation of the Privacy Rule or the HITECH Act if so used by CE. However, HLB may use PHI from CE for Data Aggregation purposes for the Health Care Operations of CE in accordance with the Privacy Rule. To the extent Business Associate carries out Covered Entity's obligations under the Privacy Rule, it must comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of such obligations.

- b. **Business Associate Management and Administration.** Business Associate may use Covered Entity's PHI for the management and administration of Business Associate's law practice and to carry out Business Associate's own legal and ethical responsibilities. Business Associate may disclose PHI for these purposes if Business Associate is required to do so by law, or if Business Associate obtains reasonable assurances from the recipient of the information: (1) that it will be held confidentially, and used or further disclosed only as required by law or for the purpose for which it was disclosed to the recipient; and (2) that the recipient will notify Business Associate of any instances of which the recipient is aware in which the confidentiality of the information is breached.
- c. **Appropriate Safeguards.** HLB shall implement appropriate safeguards and comply where applicable, with the HIPAA Security Rule with respect to Electronic Protected Health Information to prevent the use or disclosure of PHI other than as permitted or required by this BAA or other applicable laws. To the extent HLB creates, maintains, receives or transmits ePHI on CE's behalf, HLB shall use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of such ePHI.
- d. **Mitigation.** HLB shall mitigate, to the extent practicable, any harmful effect that is known to HLB of a use or disclosure of PHI in violation of this BAA.
- e. **Reporting of Improper Access, Use or Disclosure.** HLB shall promptly report to CE in writing: (i) any access, use or disclosure of PHI not permitted by the agreement for legal

services between HLB and CE, this BAA or applicable law; (ii) any security incident, as defined in the Security Rule; and (iii) any Breaches of Unsecured Protected Health Information of which it becomes aware as required by the Data Breach Notification Rule (45 C.F.R. § 164.410).

- f. **Business Associate's Subcontractors.** HLB shall ensure that any Subcontractors to whom it provides PHI, or who create, receive, maintain or transmit Protected Health Information on HLB's behalf agrees in writing to the same restrictions and conditions that apply to HLB with respect to such PHI, including without limitation, the duty to notify HLB of the discovery of any Breach of Unsecured PHI without unreasonable delay and in no event later than sixty (60) days after discovery.

- g. **Access to PHI.** To the extent HLB maintains a Designated Record Set on CE's behalf, HLB shall make the PHI that HLB, or its Subcontractors maintain in Designated Record Sets available to CE for inspection and copying within fifteen (15) days of CE's request to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. § 164.524. If HLB maintains an Electronic Health Record, HLB shall provide such information in electronic format to enable CE to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. § 17935(e). HLB may charge a reasonable fee including its labor costs in responding to a request to access PHI and a cost-based fee for the production of non-electronic media copies. HLB shall notify CE within fifteen (15) days of receipt of any request for access to PHI.

- h. **Amendment of PHI.** To the extent HLB maintains a Designated Record Set on CE's behalf, within thirty (30) days of receipt of a request from the CE or an individual for an amendment of PHI or a record about an individual contained in a Designated Record Set, HLB or its Subcontractors shall make any amendments that CE directs or agrees to in accordance with the Privacy Rule. HLB may charge a reasonable fee including its labor

costs in responding to a request to amend PHI and a cost-based fee for the production of non-electronic media copies. HLB shall notify CE within fifteen (15) days of receipt of any request for amendment to PHI.

i. **Accounting Rights.** Within thirty (30) days of notice by CE of a request for an accounting of PHI disclosures, HLB and its Subcontractors shall make available to CE the information required to provide an accounting of the PHI disclosures to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. § 164.528, and its obligations under the HITECH Act, as determined by CE. The provisions of this Section 2(i) shall survive the termination of this BAA. The accounting must be provided without cost to the individual or the requesting party if it is the first accounting requested by such individual within any twelve (12) month period. For subsequent accountings within a twelve (12) month period, HLB may charge the individual or party requesting the accounting a reasonable fee including its labor costs in responding to the request and a cost-based fee for the production of non-electronic media copies, so long as HLB informs the individual or requesting party in advance of the fee and the individual or requesting party is afforded an opportunity to withdraw or modify the request. HLB shall notify CE within fifteen (15) days of receipt of any request by an individual or other requesting party for an accounting of disclosures.

j. **Governmental Access to Records.** HLB shall make its internal practices, books and records relating to the use and disclosure of PHI available to the Secretary of the U.S. Department of Health and Human Services ("**Secretary**") for purposes of determining CE's compliance with HIPAA. Nothing in this Section shall be construed to require HLB to disclose or produce to the Secretary communications that are subject to the attorney-client privilege or that otherwise may require HLB to violate its ethical obligations to CE or its professional responsibilities.

- k. **Attorney-Client Privilege.** Notwithstanding any provisions to the contrary in this BAA and to the maximum extent permitted by applicable law, CE hereby reserves and retains applicable attorney-client or other privileges in which CE has an interest with respect to HLB's performance of the Services or its obligations under this BAA. To the maximum extent permitted by applicable law, HLB hereby reserves and retains all applicable work product or other privileges or rights in which HLB has an interest with respect to its performance of its obligations under this BAA or the provision of Services to CE.
- l. **Minimum Necessary.** HLB (and its Subcontractors) shall request, use and disclose only the minimum amount of PHI necessary to accomplish the purpose of the request, use or disclosure.

3. **Obligations of CE**

- a. CE shall notify HLB of any limitation in its privacy practices, to the extent such limitation may affect HLB's access to or use or disclosure of PHI.
- b. CE shall notify HLB of any changes in, or revocation of an individual's authorization for CE to use or disclose PHI to the extent that such changes may affect HLB's access to or use or disclosure of PHI.
- c. CE shall notify HLB of any restriction to the use or disclosure of PHI that CE has agreed to (including, without limitation any agreement by CE not to disclose PHI to a health plan for payment or health care operations purposes) to the extent that such restriction may affect HLB's access to or use or disclosure of PHI.
- d. CE shall notify HLB of any amendments required to be made to PHI that HLB possesses in a Designated Record Set.

4. **Termination**

- a. **Term.** The term of this BAA shall be effective as of the Effective Date and shall terminate when all of the PHI that CE provided to HLB, or that HLB created or received on CE's behalf, is destroyed or returned to CE.
- b. **Material Breach by Business Associate.** Upon HLB's material breach of this BAA, CE shall provide HLB with written notice of the breach and HLB shall cure the breach within thirty (30) business days of receiving the written notice. If HLB does not cure the breach within the designated time period, CE shall have the right to terminate this BAA. CE will remain responsible for any and all fees incurred relating to the Services, up to and including the effective date of the termination of this BAA.
- c. **Material Breach by CE.** Pursuant to 42 U.S.C. § 17934(b), if HLB knows of a pattern of activity or practice of the CE that constitutes a material breach or violation of the CE's obligations under the BAA, HLB must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, HLB may be required to terminate this BAA or the provision of Services, if feasible. When evaluating its obligations upon discovering a pattern or practice of CE that may constitute a material breach of HIPAA, HLB will construe its obligations in accordance with its ethical obligations to the CE and general professional responsibilities.
- d. **Effect of Termination.** Upon termination of this BAA for any reason, HLB shall, at CE's option, return or destroy all PHI that HLB or its Subcontractors still maintain in any form, and shall retain no copies of the PHI unless such return or destruction is infeasible. CE acknowledges that HLB's professional obligations may require it to retain a record of the Services, and that return or destruction may not be feasible. If return or destruction of the PHI is not feasible, as determined by HLB, HLB shall continue to extend the protections of this BAA to such information, and limit further use of the PHI to those purposes that make the return or destruction of such PHI infeasible.

5. **Amendment to Comply with Law.** The parties acknowledge that they may be required to amend this BAA to ensure compliance with state and federal laws relating to data security and privacy. 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, privacy or confidentiality of PHI. Upon either party's request, 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.
6. **No Third-Party Beneficiaries.** Nothing express or implied in this BAA is intended to confer, nor shall anything herein confer upon any person other than CE, HLB and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
7. **Interpretation.** The provisions of this BAA shall prevail over any other agreement between the parties hereto that may conflict or appear inconsistent with any provision in this BAA. This BAA shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act and the regulations promulgated there under, 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. Except as specifically required to implement the purposes of this BAA, or to the extent inconsistent with this BAA, all other terms of any other agreements between the parties shall remain in force and effect.
8. **Regulatory References.** A reference in this BAA to a section of regulations means the section as in effect or as amended, and for which compliance is required.

9. **Professional Responsibility.** This BAA shall not be construed to require HLB to engage in any conduct that would be deemed unprofessional conduct under the laws or ethical requirements applicable to lawyers in any state in which HLB's attorneys are licensed to practice.
10. **Legal Advice.** HLB does not undertake in this BAA to provide legal advice to CE regarding the enforceability or adequacy of this BAA or its substantive provisions. **HLB RECOMMENDS THAT CE REVIEW THIS BAA WITH INDEPENDENT COUNSEL.**
11. **Notices.** Any notice required or desired to be given in respect to this BAA shall be deemed to be given upon the earlier of (i) hand delivery to the intended recipient or its agent; or (ii) the third (3rd) business day following deposit in the United States mail, postage prepaid, and sent by certified or registered mail, return receipt requested. Any such notice shall be delivered to the respective addresses set forth below, or to such other address as a party shall specify in the manner required by this Section 11. The respective addresses are:

If to HLB: **HOOPER, LUNDY & BOOKMAN, P.C.**
1875 Century Park East, Suite 1600
Los Angeles, CA 90067-2799
Attn: Hope Levy-Biehl, Esq.

With copies to: **HOOPER, LUNDY & BOOKMAN, P.C.**
575 Market Street, Suite 2300
San Francisco, CA 94105
Attn: Stephen Phillips, Esq.

If to CE: **OFFICE OF COUNTY COUNSEL**
The County of Santa Barbara
105 East Anapamu Street, #201
Santa Barbara, CA 93101
Attn: Rachel Van Mullem
Chief Assistant Chief Counsel

With copies to: **N/A**

12. **Authority.** This BAA constitutes the parties' legal, valid and binding obligations. Each party represents and warrants that it has the right, power, authority and capacity to execute and deliver this BAA and to perform its respective obligations under this BAA.

13. **Organization.** Each party is duly organized, validly existing and in good standing under the laws of its state of formation and has all requisite legal power, licenses, certifications, and permits to enter into this BAA and to perform its obligations hereunder.
14. **Binding Agreement.** This BAA has been duly executed and delivered by each party and is the legal, valid, and binding obligation of each party, fully enforceable against each party in accordance with the terms contained herein. Neither HLB nor CE is party to any contract, agreement, or obligation that would prevent or hinder it from entering into this BAA or performing its duties hereunder; nor is any approval or consent of any other person, firm, or entity required to be obtained for the authorization or execution of this BAA or the performance of duties hereunder.
15. **Entire Agreement; Amendment.** This BAA supersedes any and all prior and contemporaneous business associate agreements or addenda between the parties and constitutes the final and entire agreement between the parties hereto with respect to the subject matter hereof. Each party to this BAA acknowledges 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 either party's behalf, 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. This BAA or any provision hereof may be modified or amended only by mutual written agreement of the parties. Any such modification or amendment must be in writing, dated and signed by the parties and attached to this BAA.
16. **Headings; Construction.** The headings in this BAA are provided for convenience only and will not affect its construction or interpretation. Whenever the context requires, all capitalized terms defined in the singular shall include the plural, and all capitalized terms defined in the plural shall include the singular.

17. **Partial Invalidity.** In the event any provision of this BAA is found to be legally invalid or unenforceable for any reason, the remaining provisions of this BAA shall remain in full force and effect provided the fundamental rights and obligations remain reasonably unaffected.
18. **Assignment.** Except as otherwise expressly provided herein, this BAA may not be assigned by either party without the prior written consent of the other party hereto; provided that HLB may assign this Agreement, in whole or in part, to any affiliate, or to any party acquiring all or substantially all of HLB's assets or stock. Subject to the foregoing, this BAA shall inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.
19. **Governing Law.** This BAA shall be governed by, construed and enforced under the laws of the State of California, without regard to the conflict-of-law rules of California or any other state.
20. **Jurisdiction.** Any and all disputes arising under or related to this BAA will be subject exclusively to the jurisdiction of the appropriate state court in Los Angeles County, California.
21. **Counterparts.** This BAA may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.