

AGREEMENT

I. INTRODUCTION

THIS AGREEMENT is entered into as of _____ between the COUNTY OF TULARE, referred to as COUNTY, and PREM KAMBOJ, M.D. d/b/a TULARE CHILDREN'S MEDICAL CLINIC PC., a California professional corporation, referred to as CONTRACTOR, with reference to the following:

II. RECITALS

- A. COUNTY and CONTRACTOR entered into Tulare County Agreement No. 23658 as of July 29, 2008;
- B. COUNTY wishes to update various terms to Agreement No. 23658, including but not limited to Exhibits A and B.
- C. COUNTY and CONTRACTOR agree this Agreement shall replace and supersede any and all terms contained in Agreement No. 23658; and
- D. CONTRACTOR agrees to such changes and is willing to enter into this Agreement with COUNTY upon terms and conditions set forth herein:

ACCORDINGLY, IT IS AGREED:

III. SPECIFIC TERMS

- 1. **TERM:** This Agreement shall become effective as of December 1, 2011 and shall expire at 11:59 PM on January 31, 2014 unless otherwise terminated as provided in this Agreement.
- 2. **SERVICES TO BE PERFORMED:** See attached **EXHIBIT A**
- 3. **PAYMENT FOR SERVICES:** See attached **EXHIBIT B**.

IV. GENERAL TERMS

4. INDEPENDENT CONTRACTOR STATUS:

(a) This Agreement is entered into by both parties with the express understanding that CONTRACTOR will perform all services required in Exhibit A under this Agreement as an independent contractor. Nothing in this Agreement shall be construed to constitute the CONTRACTOR or any of its agents, employees or officers as an agent, employee or officer of COUNTY.

(b) CONTRACTOR agrees to advise everyone it assigns or hires to perform any duty under this agreement that they are not employees of COUNTY. Subject to any performance criteria contained in this Agreement, CONTRACTOR shall be solely responsible for determining the means and methods of performing the specified services and COUNTY shall have no right to control or exercise any supervision over CONTRACTOR as to how the services will be

performed. As CONTRACTOR is not COUNTY'S employee, CONTRACTOR is responsible for paying all required state and federal taxes. In particular, COUNTY will not:

1. Withhold FICA (Social Security) from CONTRACTOR'S payments.
2. Make state or federal unemployment insurance contributions on CONTRACTOR'S behalf.
3. Withhold state or federal income tax from payments to CONTRACTOR.
4. Make disability insurance contributions on behalf of CONTRACTOR.
5. Obtain unemployment compensation insurance on behalf of CONTRACTOR.

(c) Notwithstanding this independent contractor relationship, COUNTY shall have the right to monitor and evaluate the performance of CONTRACTOR to assure compliance with this Agreement.

5. **COMPLIANCE WITH LAW:** CONTRACTOR shall provide services in accordance with applicable Federal, State, and local laws, regulations and directives. With respect to CONTRACTOR'S employees, CONTRACTOR shall comply with all laws and regulations pertaining to wages and hours, state and federal income tax, unemployment insurance, Social Security, disability insurance, workers' compensation insurance, and discrimination in employment.

6. **GOVERNING LAW:** This Agreement shall be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. The parties agree that this contract is made in and shall be performed in Tulare County, California.

7. **RECORDS AND AUDIT:** CONTRACTOR shall maintain complete and accurate records with respect to the services rendered under this Agreement. All such records shall be prepared in accordance with generally accepted accounting procedures, shall be clearly identified, and shall be kept readily accessible. All records created and/or maintained pursuant to this Agreement shall be the exclusive property of the COUNTY. CONTRACTOR shall provide the COUNTY with access to such records and CONTRACTOR's system upon request. Contractor shall make available to County, State or Federal officials for examination all of its records with respect to all matters covered by this Agreement and will permit County, State or Federal officials to audit, examine and make excerpts or transcripts from such records, and to make audits of all information regarding clients receiving services and other data or documents relating to all matters covered by this Agreement. If an audit is conducted, it will be done in accordance with generally accepted government auditing standards as described in "Government Auditing Standards," published for the United States General Accounting Office. Upon request, CONTRACTOR shall also make such records available to Tulare County to the Auditor of Tulare County and to its agents and representatives, for the purpose of auditing and/or copying such records for a period of five (5) years from the date of final payment under this Agreement.

8. **CONFLICT OF INTEREST:**

(a) CONTRACTOR agrees to, at all times during the performance of this Agreement, comply with the law of the State of California regarding conflicts of interests and appearance of conflicts of interests, including, but not limited to Government Code Section 1090 et seq., and the Political Reform Act, Government Code Section 81000 et seq. and regulations promulgated pursuant thereto by the California Fair Political Practices Commission. The statutes, regulations and laws previously referenced include, but are not limited to, prohibitions against any public officer or employee, including CONTRACTOR for this purpose, from making any decision on behalf of COUNTY in which such officer, employee or consultant/contractor has a direct or indirect financial interest. A violation can occur if the public officer, employee or consultant/contractor participates in or influences any COUNTY decision which has the potential to confer any pecuniary benefit on CONTRACTOR or any business firm in which CONTRACTOR has an interest, with certain narrow exceptions.

(b) CONTRACTOR agrees that if any facts come to its attention which raise any questions as to the applicability of conflicts of interests laws, it will immediately inform the COUNTY designated representative and provide all information needed for resolution of this question.

9. **INSURANCE:** Prior to approval of this Agreement by COUNTY, CONTRACTOR shall file with the submitting department evidence of required insurance as set forth in **EXHIBIT C** attached. Insurance policies shall not be used to limit CONTRACTOR'S liability or to limit the indemnification provisions and requirements of this contract or act in any way to reduce the policy coverage and limits available from the insurer(s). Malpractice coverage shall be submitted annually for review by Tulare County Risk Manager.

10. **INDEMNIFICATION:** Both COUNTY and CONTRACTOR shall hold harmless, defend and indemnify the other party, its agents, officers directors, trustees, and employees (together "Employees and Agents") from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, including COUNTY property, arising from, or in connection with, the performance by CONTRACTOR or its Employees and/or Agents under this Agreement, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of the non-indemnifying party's Employees and Agents. CONTRACTOR further agrees to hold harmless, defend, and indemnify COUNTY for any fines, penalties, liabilities or any other such costs associated with any audit findings resulting from CONTRACTOR's failure to keep, create, or maintain adequate records. Each party shall notify the other party immediately in writing of any claim of injury or damage related to activities performed pursuant to this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities of this Agreement, provided that nothing shall require either party to disclose any documents, records or communications protected under attorney-client privilege or attorney work-product privilege. This indemnification specifically includes any claims that may be made against COUNTY by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement, and any claims made against COUNTY alleging civil rights violations by CONTRACTOR under Government Code sections 12920 et seq. (California Fair Employment and Housing Act), and any fines or penalties imposed on COUNTY for

CONTRACTORS failure to provide form DE-542, when applicable. This indemnification obligation shall continue beyond the term of this Agreement as to any acts or omissions occurring under this Agreement or any extension of this Agreement.

11. TERMINATION:

(a) Without Cause: Both COUNTY and CONTRACTOR will have the right to terminate this Agreement without cause by giving one-hundred twenty (120) days prior written notice of intention to terminate pursuant to this provision, specifying the date of termination. County will pay to the CONTRACTOR the compensation earned for work performed and not previously paid for to the date of termination. County will not pay lost anticipated profits or other economic loss. The payment of such compensation is subject to the restrictions on payment of compensation otherwise provided in this Agreement, and is conditioned upon receipt from CONTRACTOR of any and all plans, specifications and estimates, and other documents prepared by CONTRACTOR in accordance with this Agreement. No sanctions will be imposed.

(b) With Cause: This Agreement may be terminated by either party should the other party:

- (1) be adjudged a bankrupt, or
- (2) become insolvent or have a receiver appointed, or
- (3) make a general assignment for the benefit of creditors, or
- (4) suffer any judgment which remains unsatisfied for 30 days, and which would substantively impair the ability of the judgment debtor to perform under this Agreement, or
- (5) materially breach this Agreement.

In addition, COUNTY may immediately terminate this Agreement based on:

- (6) material misrepresentation, either by CONTRACTOR or anyone acting on CONTRACTOR's behalf, as to any matter related in any way to COUNTY's retention of CONTRACTOR, or
- (7) other misconduct or circumstances which, in the sole discretion of the COUNTY, either impair the ability of CONTRACTOR to competently provide the services under this Agreement, or expose the COUNTY to an unreasonable risk of liability, or

For any of the occurrences except item (5), termination may be immediately effected upon written notice by the terminating party, unless such notice specifies the effective date of termination. Upon a material breach, the Agreement may be terminated following the failure of the defaulting party to remedy the breach to the satisfaction of the non-defaulting party within (5) days of written notice specifying the breach. If the breach is not remedied within that (5) day period, the non-defaulting party may terminate the Agreement on further written notice specifying the date of termination.

County will pay to the CONTRACTOR the compensation earned for work performed and not previously paid for to the date of termination. The payment of such compensation is subject to the restrictions on payment of compensation otherwise provided in this Agreement, and is conditioned upon receipt from CONTRACTOR of any and all plans, specifications and estimates, and other documents prepared by CONTRACTOR by the date of termination in

accordance with this Agreement. County will not pay lost anticipated profits or other economic loss, nor will the County pay compensation or make reimbursement to cure a breach arising out of or resulting from such termination. If this Agreement is terminated and the expense of finishing the CONTRACTOR's scope of work exceeds the unpaid balance of the agreement, the CONTRACTOR must pay the difference to the County. Sanctions taken will be possible rejection of future proposals based on specific causes of non performance.

(c) Effects of Termination: Expiration or termination of this Agreement shall not terminate any obligations to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination contract activities. Where CONTRACTOR's services have been terminated by the County, said termination will not affect any rights of the County to recover damages against the CONTRACTOR.

(d) Suspension of Performance: Independent of any right to terminate this Agreement, the authorized representative of COUNTY for which CONTRACTOR's services are to be performed, may immediately suspend performance by CONTRACTOR, in whole or in part, in response to health, safety or financial emergency, or a failure or refusal by CONTRACTOR to comply with the provisions of this Agreement, until such time as the cause for suspension is resolved, or a notice of termination becomes effective.

12. **LOSS OF FUNDING**: If COUNTY loses the funding for the program or its designation as a Federally Qualified Health Center (FQHC), this Agreement shall automatically terminate on the date funding or designation ends. COUNTY shall provide notice immediately to CONTRACTOR if it receives notice that either of these events has occurred. COUNTY shall make reasonable efforts to maintain the funding and its designation as an FQHC.

13. **NOTICES**:

(a) Except as may be otherwise required by law, any notice to be given shall be written and shall be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

COUNTY:

CONTRACT UNIT

TULARE HEALTH & HUMAN SERVICES AGENCY

5957 S. Mooney Boulevard

Visalia, CA 93277

Phone No.: 559-737-4059

Fax No.: 559-737-4686

With A Copy To:

CONTRACTOR:

TULARE CHILDREN'S MEDICAL CLINIC PC

Attn: Prem Kamboj, M.D.

Phone No.: 559-686-3824

Fax No.: _____

(b) Notice personally delivered is effective when delivered. Notice sent by facsimile transmission or electronic mail is deemed to be received upon successful transmission. Notice sent by first class mail shall be deemed received on the fifth day after the date of mailing. Either party may change the above address by giving written notice pursuant to this paragraph.

14. **ASSIGNMENT/SUBCONTRACTING:** Unless otherwise provided in this Agreement, COUNTY is relying on the personal skill, expertise, training and experience of CONTRACTOR and CONTRACTOR'S employees and no part of this Agreement may be assigned or subcontracted by CONTRACTOR without the prior written consent of COUNTY.

15. **DISPUTE RESOLUTION:** If a dispute arises out of or relating to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by non-binding mediation before resorting to litigation or some other dispute resolution procedure, unless the parties mutually agree otherwise. The mediator shall be mutually selected by the parties, but in case of disagreement, the mediator shall be selected by lot from among two nominations provided by each party. All costs and fees required by the mediator shall be split equally by the parties, otherwise each party shall bear its own costs of mediation. If mediation fails to resolve the dispute within 30 days, either party may pursue litigation to resolve the dispute.

16. **FURTHER ASSURANCES:** CONTRACTOR shall follow all COUNTY policies and standards regarding the provision of medical services. CONTRACTOR shall ensure that all employees performing services under this Agreement have a copy of the COUNTY manual. Each party will execute any additional documents and perform any further acts that may be reasonably required to effect the purposes of this Agreement.

17. **CONSTRUCTION:** This Agreement reflects the contributions of all undersigned parties and accordingly the provisions of Civil Code section 1654 shall not apply to address and interpret any alleged uncertainty or ambiguity.

18. **HEADINGS:** Section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning or intent of the provisions under the headings.

19. **NO THIRD-PARTY BENEFICIARIES INTENDED:** Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.

20. **WAIVERS:** The failure of either party to insist on strict compliance with any provision of this Agreement shall not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by either party of either performance or payment shall not be considered to be a waiver of any preceding breach of the Agreement by the other party.

21. **EXHIBITS AND RECITALS:** The recitals and the exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

22. **CONFLICT WITH LAWS OR REGULATIONS/SEVERABILITY:** This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court or other legal authority, or is agreed by the parties to be, in conflict with any code or regulation governing its subject matter, only the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at the option of the affected party. In all other cases the remainder of the Agreement shall continue in full force and effect.

23. **ASSURANCES OF NON-DISCRIMINATION:** CONTRACTOR shall not discriminate in employment or in the provision of services on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.

(a) It is recognized that both the Contractor and the County have the responsibility to protect County employees and clients from unlawful activities, including discrimination and sexual harassment in the workplace. Accordingly, Contractor agrees to provide appropriate training to its employees regarding discrimination and sexual harassment issues, and to promptly and appropriately investigate any allegations that any of its employees may have engaged in improper discrimination or harassment activities. The County, in its sole discretion, has the right to require Contractor to replace any employee who provides services of any kind to County pursuant to this Agreement with other employees where County is concerned that its employees or clients may have been or may be the subjects of discrimination or harassment by such employees. The right to require replacement of employees as aforesaid shall not preclude County from terminating this Agreement with or without cause as provided for herein.

24. **HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA):**

(a) CONTRACTOR shall comply with the HIPAA Business Associate terms, as set forth in **EXHIBIT D** attached.

(b) At termination of this Agreement, CONTRACTOR shall, if feasible, return or destroy all protected health information received from, or created or received by, CONTRACTOR on behalf of the COUNTY that CONTRACTOR still maintains in any form, and retain no copies of such information ; or, if such return or destruction is not feasible, extend the protections of this Agreement to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information feasible.

(c) COUNTY may immediately terminate this Agreement if COUNTY determines that CONTRACTOR has violated a material term of this provision.

25. **ENTIRE AGREEMENT REPRESENTED:** This Agreement represents the entire agreement between CONTRACTOR and COUNTY as to its subject matter and no prior oral or written understanding shall be of any force or effect. No part of this Agreement may be modified without the written consent of both parties.

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THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

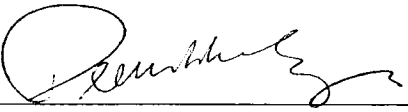
COUNTY OF TULARE

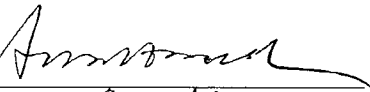
Date: _____ BY _____
Chairman, Board of Supervisors

ATTEST: JEAN M. ROUSSEAU
County Administrative Officer/Clerk of the Board
of Supervisors of the County of Tulare

By _____
Deputy Clerk

CONTRACTOR

Date: 11/21/11 By 
TITLE _____

Date: 11/21/11 By 
TITLE Secretary

Corporations Code section 313 requires that contracts with a corporation be signed by both (1) the chairman of the Board of Directors, the president or any vice-president, and (2) the secretary, any assistant secretary, the chief financial officer, or any assistant treasurer, unless the contract is accompanied by a certified copy of the corporation's Board of Directors' resolution authorizing the execution of the contract.

Approved as to Form
County Counsel

By _____
Deputy

Date _____

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THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

COUNTY OF TULARE

Date: _____

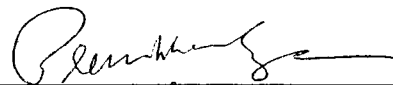
BY _____
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ATTEST: JEAN M. ROUSSEAU
County Administrative Officer/Clerk of the Board
of Supervisors of the County of Tulare

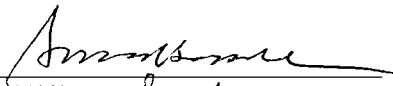
By _____
Deputy Clerk

CONTRACTOR

Date: 11/21/11

By 
TITLE President

Date: 11/21/11

By 
TITLE Secretary

Corporations Code section 313 requires that contracts with a corporation be signed by both (1) the chairman of the Board of Directors, the president or any vice-president, and (2) the secretary, any assistant secretary, the chief financial officer, or any assistant treasurer, unless the contract is accompanied by a certified copy of the corporation's Board of Directors' resolution authorizing the execution of the contract.

Approved as to Form
County Counsel

By _____
Deputy

Date _____

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THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

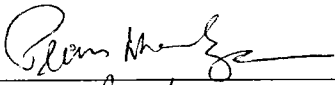
COUNTY OF TULARE

Date: _____ BY _____
Chairman, Board of Supervisors

ATTEST: JEAN M. ROUSSEAU
County Administrative Officer/Clerk of the Board
of Supervisors of the County of Tulare

By _____
Deputy Clerk

CONTRACTOR

Date: 11/21/11 By 
TITLE President

Date: 11/21/11 By 
TITLE Secretary

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Approved as to Form
County Counsel

By _____
Deputy

Date _____

EXHIBIT A

RESPONSIBILITIES AND SERVICES

Contractor shall provide care to Tulare County pediatric patients designated by COUNTY, as defined, for conditions that meet Medi-Cal medical criteria and in accordance with Health Resources and Services Administration (HRSA) requirements for Federally Qualified Health Center (FQHC) Look-Alike facilities. Services shall be performed at the health center at COUNTY's request and such other related services as may be requested from time to time by Tulare County Health and Human Services Agency.

Health Center Site - Contractor shall provide services at the site listed below:

1008 N. Cherry Street
Tulare, CA 93274

Accessible Hours of Operation Contractor shall provide health center coverage for a minimum of 50 hours per week unless exception is approved in writing by County. Contractor shall submit written notification to County's, or designee of any change in the hours of operation of the health center within 45 days of proposed change.

- a. Contractor shall provide services at times that ensure accessibility and meet the needs of the client population served, including but not limited to providing evening and weekend hours of operation.
- b. Health center hours shall be posted in the appropriate languages with internal/external signage clear, properly placed, and sufficient in number.

After Hours Coverage - Contractor shall provide professional coverage during hours when the center is closed. Health center patients shall receive a written or verbal explanation, in the appropriate languages, regarding the procedures for accessing emergency medical/dental care after hours.

- a. County's answering service and/or provider must be able to communicate in the appropriate languages to serve the population.
- b. Contractor's physician/mid-levels on-call coverage system shall establish a process for patients needing care to be seen in an appropriate location and must assure timely follow-up by health center clinicians for patients seen after-hours.

Services Provided

Signage – Contractor shall post in a location visible to patients signage indicating discount/sliding fee schedules available. Signage must be provided in the appropriate languages with internal and external signage clear, properly placed, and in sufficient number. County shall be responsible for providing the appropriate signage for posting by Contractor at the clinic site(s).

Cooperation - County and Contractor agree that, to the extent compatible with the separate and independent management of each, they shall at all times maintain an effective liaison and close cooperation with each other to provide medically necessary services to health center patients at the most reasonable cost consistent with quality and the funds available to County for the health center. Contractor or Contractor's designated staff, shall attend meetings with County to discuss the administration of health center and health center contract changes as requested by County. County will make a reasonable effort to notify Contractor within five (5) business days of a meeting.

Federally Qualified Health Center (FQHC) Look-Alike Standards - The standards and procedures for the clinical and administrative operations of the Contractor's health center program are set forth in section 330 (e) of the Public Health Service Act (42 U.S.C. 254b); Federal regulations 42 CFR Parts 51c and 56.201-56.604 and 45 CFR Part 74. Contractor shall conform to all applicable FQHC Look-Alike standards and requirements.

Contractor Permits and License - Contractor certifies that it possesses and shall continue to maintain, at no cost to the County, all approvals, permissions, permits, licenses, and other forms of documentation required for it and its employees to comply with all applicable statutes, ordinances, and regulations, or other laws, that may be required for the performance of services hereunder. The County reserves the right to reasonably request and review all such applications, permits, and licenses prior to the commencement of any services hereunder.

Standard of Performance - Contractor shall, in good and workmanlike manner and in accordance with the highest professional standards necessary or proper to perform and complete the work and provide the services required of Contractor by this Agreement.

Specification and Requirements - If any services performed by Contractor do not conform to the specifications and requirements of this Agreement, County may require Contractor to re-perform the services until they conform to said specifications and requirements, at no additional cost, and County may withhold payment for such services until Contractor correctly performs them. When the services to be performed are of such a nature that Contractor cannot correct its performance, the County shall have the right to (1) require the Contractor to immediately take all necessary steps to ensure future performance of services conforms to the requirements of this Agreement, and (2) reduce the Agreement price to reflect the reduced value of the services received by County. In the event Contractor fails to promptly re-perform the services or to take necessary steps to ensure that future performance of the service conforms to the specifications and requirements of this Agreement, the County shall have the right to either (1) without terminating this Agreement, have the services performed, by Agreement or otherwise, in conformance with the specifications of this Agreement, and charge Contractor, and/or withhold from payments due to Contractor, any costs incurred by County that are directly related to the performance of such services, or (2) terminate this Agreement for default.

Subject to Inspection - All performance (including services, materials, supplies and equipment furnished or utilized in the performance of this Agreement, and workmanship in the performance of services) shall be subject to inspection and test by the County at all times during the term of this Agreement. Contractor shall cooperate with any inspector assigned by the County to permit the inspector to determine whether Contractor's performance conforms to the requirements of this Agreement. County shall perform such inspection in a manner as not to unduly interfere with Contractor's performance.

Annual Assessment of Health Center Operations by County - County may conduct annual comprehensive assessment of Contractor health center operations to determine level of conformance with FQHC Look-Alike program requirements. Contractor shall cooperate with County staff, or other designated individuals in completing the annual assessments and will provide the access to all information, records and health center staff as requested by the County to complete the assessments.

Quality Assurance and Utilization Review - Contractor shall participate in and provide access to information for service utilization reviews of the health center program conducted by County. Such review may require provision of patient-specific medical records, utilization and financial data. All such patient identification shall be held confidential by County. County will provide reasonable (minimum of 72 hours) notice to Contractor regarding the type, quality and method of collection of information to be used for utilization reviews.

- a. Contractor shall maintain an internal Quality Assurance Program to assure appropriate and timely access to covered services and to address and resolve health center patient complaints and grievances.
- b. Contractor agrees County may conduct periodic quality assurance studies and medical records audits, utilizing staff with appropriate quality assurance/medical audit credentials to assure that health center patients are receiving adequate and appropriate care. All patient-specific information reviewed and/or obtained as part of these studies will be held confidential.

Evaluation Studies - Contractor shall participate as requested by the County in research and/or evaluative studies designed to show the effectiveness and/or efficiency of Contractor services or to provide information about Contractor's project.

Health Center Records - Contractor shall make available for examination by County or designee all clinical and billing records relative to health center patients covered under this Agreement. All medical records shall be maintained in accordance with the laws of the State of California, subject to ethical and legal confidentiality requirements, and shall be made available to the County upon request.

Custody of Records - County, at its option, may take custody of Contractor's client records upon termination or at such other time as County may deem necessary. County agrees that such custody will conform to applicable confidentiality provisions of State and Federal law. Said records shall be kept by County in an accessible location within

Tulare County and shall be available to Contractor for examination and inspection upon five (5) business days advanced written notice.

Reports - Contractor shall submit all required reports as may be requested by the County and agreed to by the Contractor. Format for the content of such reports may be developed by County. The timely submission of these reports is a necessary and material term and condition of this Agreement, and Contractor agrees that failure to meet specified deadlines will be sufficient cause to withhold payment.

Health Center Staffing - Contractor shall maintain a core staff as necessary to carry out all required pediatric, primary, and preventive care services and administrative support services as appropriate and necessary, either directly or through established arrangements and referrals to perform and manage all contract required services. Such staff shall include, but is not limited to, maintaining an adequate number of professional and administrative staff sufficient to provide the level of care necessary to service County patients receiving treatment at the clinic location(s) listed above.

Job/Position Descriptions - Contractor shall develop and maintain written job descriptions for all personnel participating in the health center operations. Job descriptions must be consistent with the actual tasks and responsibilities performed by employees and must be signed by each employee. Job descriptions shall be updated to address changing job duties to meet the needs of the health center.

Cultural Competency - Contractor shall assure the cultural competency of health center staff, which may be accomplished through regular training activities made available to all personnel and/or through hiring bilingual/bicultural staff and medical interpreters.

Criminal Background Check Requirements - Contractor shall ensure that criminal background checks are required and completed prior to employment or placement of contractor staff and volunteers in compliance with any licensing, certification, or funding requirements, which may be higher than the minimum standard described herein. At a minimum, background checks shall be required for any contractor staff or volunteer assigned to sensitive positions funded by this contract. Sensitive positions are those that: (1) physically supervise minors or vulnerable adults; (2) have unsupervised physical contact with minors or vulnerable adults; and/or (3) have a fiduciary responsibility to any County client, or direct access to, or control over, bank accounts or accounts with financial institutions of any client.

Criminal Background Checks - Contractor shall have a documented process to review criminal history of candidates for employment or volunteers under this Agreement that will be in sensitive positions as defined in the above paragraph. At a minimum, Contractor shall check the California criminal history records, or state of residence for out-of-state candidates. Contractor shall review the information and determine if criminal history demonstrates behavior that could create an increased risk of harm to clients. Contractor shall document review of criminal background findings and consideration of criminal history in the selection of a candidate. (Example: Documented

consideration of factors such as: If there is a conviction in the criminal history, how long ago did it occur? What were the charges? What was the individual convicted of and what was the level of conviction? If selected, where would the individual work and is the conviction relevant to the position?).

Credentialing of Health Center Medical Practitioners - Contractor shall comply with state and federal credentialing requirements for physicians and non-physician medical practitioners participating in County contracted/funded health centers. Credentialing shall ensure that all physician and non-physician medical providers are licensed and certified in accordance with applicable state and federal Medi-Cal/Medicaid and FQHC Look-Alike regulations and policies.

- a. Contractor shall establish and maintain credentialing and recredentialing policies and procedures for physicians and non-physician medical practitioners for verification in accordance with State requirements for the provider category.
- b. All providers shall be verified and qualified in accordance with current applicable legal, professional, and technical standards and appropriately licensed, certified or registered.

Debarment and Suspension - As a sub-recipient of federal funds under this Agreement, Contractor certifies that it, its principals, its employees and its subcontractors:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal Department or agency.
- b. Have not within a 3-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- c. Are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in the paragraph above; and
- d. Have not within a 3-year period preceding this Agreement had one or more public transaction (Federal, State, or local) terminated for cause or default.

Hospital Admitting Privileges and Continuum of Care - Contractor shall ensure that health center physicians have admitting privileges at one or more referral hospitals, or other such arrangement to ensure continuity of care to patients. Providers shall be required to complete the hospital privileging process before starting to see patients at the health center. In cases where hospital arrangements (including admitting privileges and membership) are not possible, the health center must firmly establish arrangements for hospitalization, discharge planning, patient tracking, follow up care, and exchange of information. Admitting privileges or other established arrangements with hospitals must ensure for the continuity of care to health center patients. Contractor shall be responsible for the cost of maintaining hospital admitting privileges.

Patient Grievances - Contractor shall cooperate with County and/or designee in resolving all health center patients' grievances related to the provision of Contractor's services hereunder. In this regard, County and/or designee shall bring to the attention of appropriate Contractor officials all health center patient complaints involving Contractor. Contractor shall, within ten (10) days, in accordance with its usual procedure, investigate such complaints and use its best efforts to resolve them in a fair and equitable manner. Contractor shall notify County and/or designee within ten (10) calendar days of receipt of written grievance of any action taken or proposed with respect to the resolution of such complaints.

Critical Incidents - Contractor shall have written plans or protocols and provide employee training for handling critical incidents involving instances of violence or threat of violence directed toward staff or clients, breach of confidentiality, fraud, unethical conduct, or instances of staff or client drug and/or alcohol use at the program. Contractor shall report all such incidents to the County within one (1) work day of their occurrence.

On-Site Emergency Services - Contractor shall establish and maintain policies and procedures to handle on-site emergency situations. Such procedures must include an on site crash cart (with content-compliance monitoring documented), written protocols for "in-house" emergency care (with standard emergency orders regularly reviewed), training and certification of staff in emergency procedures, and the orderly transfer of patient to a hospital via EMS.

Responsiveness to Community Concerns - Contractor shall notify County within 48 hours of receipt of any material complaints including but not limited to complaints referring to issues of abuse or quality of care, submitted to Contractor verbally or in writing, regarding the operation of Contractor's program or facility under this agreement. Contractor shall take appropriate steps to acknowledge receipt of said complaint(s) from individuals or organizations. Contractor shall take appropriate steps to utilize appropriate forums to address or resolve any such complaints received.

EXHIBIT B COMPENSATION

I. Compensation to Contractor:

Contractor will be compensated \$96.00 per patient visit for all visits provided. This amount includes the Contractor's professional services fee, and Contractor's personnel expenses.

County will review Contractor on a quarterly basis to ensure that Contractor is on target for expected patient visits during the applicable fiscal year listed below.

The reimbursement rate will be adjusted annually on July 1st, by the Consumer Price Index (CPI) for Tulare County. Contractor agrees to cooperate in a modification of the agreement if County Prospective Payment System (PPS) rate changes. Any increase or decrease will be reviewed for possible modification by the parties.

County will compensate Contractor within thirty (30) days of the close of each month.

II. EXPECTATIONS SURROUNDING COMPENSATION

1. CONTRACTOR shall continue to care for COUNTY patients upon termination of this Agreement until such time as care is completed or COUNTY can reasonably arrange and provide for medically appropriate care by another contracting health care provider unless otherwise provided by law; provided that such follow-up care shall be limited to thirty (30) days following the effective date of the termination; and providing further, that CONTRACTOR shall be compensated as provided above for all such follow-up care.

2. CONTRACTOR shall participate in the COUNTY'S Grievance Review System, COUNTY'S Quality of Care Review System, and COUNTY'S Quality Improvement Program.

3. CONTRACTOR shall accept the amounts payable by COUNTY pursuant to this Agreement as payment in full for medical services provided to COUNTY patients under this Agreement. CONTRACTOR agrees and acknowledges that CONTRACTOR shall not seek any surcharge (as defined in regulations promulgated pursuant to the Knox-Keene Health Care Service Plan Act of 1975) from a COUNTY patient for Covered Services under any circumstances, including but not limited to COUNTY's insolvency or nonpayment to CONTRACTOR. If COUNTY receives notice of any such surcharge or receipt of any other prohibited

payment by CONTRACTOR, COUNTY shall in its discretion take necessary action to assist the affected COUNTY patient(s) in obtaining refund of the prohibited charges and to prevent a recurrence.

Exhibit "C"

INSURANCE REQUIREMENTS

CONTRACTOR shall provide and maintain insurance for the duration of this Agreement against claims for injuries to persons and damage to property, which may arise from, or in connection with, performance under the Agreement by the CONTRACTOR, his agents, representatives, employees or subcontractors, if applicable.

A. Minimum Scope & Limits of Insurance

1. Coverage at least as broad as Commercial General Liability Insurance of \$1,000,000 combined single limit per occurrence. If the annual aggregate applies it must be no less than \$2,000,000.
2. Comprehensive Automobile Liability Insurance (if applicable) of \$1,000,000 per occurrence.
3. Workers' Compensation and Employer's Liability Insurance as required by law.
4. Professional Errors and Omissions Insurance of \$1,000,000.

B. Specific Provisions of the Certificate

1. The Certificate of Insurance for General Liability, Comprehensive Automobile Liability Insurance and Professional Errors and Omissions Insurance have to meet the following requirements:
 - a. *Name the COUNTY, its officers, agents, employees and volunteers, individually and collectively, as additional insured by endorsement to the policy.*
 - b. *State that such Insurance for additional insureds shall apply as primary insurance and any other insurance maintained by COUNTY shall be excess.*
 - c. *Provide that coverage shall not be suspended, voided, canceled, reduced in coverage, or otherwise materially changed except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the County.*
2. The Certificate of Insurance for Workers Compensation, should include the following:
 - a. *Waiver of Subrogation. Contractor waives all rights against the County and its agents, officers, and employees for recovery of damages to the extent these damages are covered by the workers compensation and employers liability by endorsement to the policy.*

C. Deductibles and Self-Insured Retentions

The COUNTY Risk Manager must approve any deductible or self-insured retention that exceeds \$100,000.

D. Acceptability of Insurance

Insurance must be placed with insurers with a current rating given by A.M. Best and Company of no less than A (-) from a company admitted to do business in California, any waiver of these standards are subject to approval by the County Risk Manager or County Risk Manager's designee.

E. Verification of Coverage

Prior to approval of this Agreement by the COUNTY, the CONTRACTOR shall file with the submitting department, certificates of insurance with original endorsements effecting coverage in a form acceptable to the COUNTY. The COUNTY reserves the right to require certified copies of all required insurance policies at any time.

EXHIBIT D

HIPAA BUSINESS ASSOCIATE AGREEMENT

This Exhibit shall constitute the Business Associate Agreement (the “Agreement”) between TULARE CHILDREN’S MEDICAL CLINIC PC, (the “Business Associate”) and the County of Tulare (the “Covered Entity”), and applies to the functions Business Associate will perform on behalf of Covered Entity (collectively, “Services”), that are identified in the Master Agreement (as defined below).

1. **Purpose.** This Agreement is intended to ensure that the Business Associate will establish and implement appropriate privacy and security safeguards with respect to “Protected Health Information” (as defined below) that the Business Associate may create, receive, use, or disclose in connection with the Services to be provided by the Business Associate to the Covered Entity, and that such safeguards will be consistent with the standards set forth in regulations promulgated under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”) as amended by the Health Information Technology for Economic and Clinical Health Act as set forth in Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (“HITECH Act”).

2. **Regulatory References.** All references to regulatory Sections, Parts and Subparts in this Agreement are to Title 45 of the Code of Federal Regulations as in effect or as amended, and for which compliance is required, unless otherwise specified.

3. **Definitions.** Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms are defined in Sections 160.103, 164.304 and 164.501.

(a) Business Associate. “Business Associate” shall mean the party identified above as the “Business Associate”.

(b) Breach. “Breach” shall have the same meaning as the term “breach” in Section 164.402.

(c) Covered Entity. “Covered Entity” shall mean the County of Tulare, a hybrid entity, and its designated covered components, which are subject to the Standards for Privacy and Security of Individually Identifiable Health Information set forth in Parts 160 and 164.

(d) Designated Record Set. “Designated Record Set” shall have the same meaning as the term “designated record set” in Section 164.501.

(e) Electronic Protected Health Information. “Electronic Protected Health Information” (“EPHI”) is a subset of Protected Health Information and means individually identifiable health information that is transmitted or maintained in electronic media, limited to the information created, received, maintained or transmitted by Business Associate from or on behalf of Covered Entity.

(f) Individual. “Individual” shall have the same meaning as the term “Individual” in Section 164.501 and shall include a person who qualifies as a personal representative in accordance with Section 164.502(g).

(g) Master Agreement. “Master Agreement” shall mean the contract or other agreement to which this Exhibit is attached and made a part of.

(h) Minimum Necessary. “Minimum Necessary” shall mean the minimum amount of

Protected Health Information necessary for the intended purpose, as set forth at Section 164.514(d): *Standard: Minimum Necessary*.

(i) Privacy Rule. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at Part 160 and Part 164, Subparts A and E.

(j) Protected Health Information. "Protected Health Information" shall have the same meaning as the term "protected health information" in Section 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

(k) Required By Law. "Required by law" shall have the same meaning as the term "required by law" in Section 164.103.

(l) Secretary. "Secretary" shall mean the Secretary of the United States Department of Health and Human Services ("DHHS") or his/her designee.

(m) Security Incident. "Security Incident" shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system, but does not include minor incidents that occur on a daily basis, such as scans, "pings", or unsuccessful random attempts to penetrate computer networks or servers maintained by Business Associate.

(n) Security Rule. "Security Rule" shall mean the Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 160 and Part 164, Subparts A and C.

(o) Unsecured Protected Health Information. "Unsecured Protected Health Information" shall have the same meaning as the term "unsecured protected health information" in Section 164.402, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

4. Compliance with the HIPAA Privacy and Security Rules.

(a) Business Associate acknowledges that it is required by Sections 13401 and 13404 of the HITECH Act to comply with the HIPAA Security Rule, Sections 164.308 through 164.316, and the use and disclosure provisions of the HIPAA Privacy Rule, Sections 164.502 and 164.504.

(b) Business Associate agrees not to use or further disclose Protected Health Information other than as permitted or required by this Agreement, or as required by law.

5. Permitted Uses and Disclosures.

(a) Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity for the purposes specified in Attachment 1 to this Exhibit, which if completed and attached hereto is incorporated by reference, or as otherwise specified in the Master Agreement, subject to limiting use and disclosure to applicable minimum necessary rules, regulations and statutes and provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.

(b) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

(c) Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are Required by Law, or Business Associate obtains the appropriate medical release from the person whose Protected Health Information is being

disclosed and the person to whom the Protected Health Information is disclosed provides reasonable assurances that the Protected Health Information will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(d) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by Section 164.504(e)(2)(i)(B).

(e) Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities consistent with Section 164.502(j).

6. Appropriate Safeguards.

(a) Business Associate agrees to use appropriate safeguards to prevent the use or disclosure of Protected Health Information other than as provided for by this Agreement. Appropriate safeguards shall include implementing administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Protected Health Information that is created, received, maintained or transmitted on behalf of the Covered Entity and limiting use and disclosure to applicable minimum necessary rules, regulations and statutes.

(b) To the extent practicable, Business Associate will secure all Protected Health Information by technological means that render such information unusable, unreadable, or indecipherable to unauthorized individuals and in accordance with any applicable standards or guidance issued by the Department of Health and Human Services under Section 13402 of the HITECH Act.

7. Reporting Unauthorized Uses and Disclosures.

(a) Business Associate agrees to notify Covered Entity of any breach, or security incident involving Unsecured Protected Health Information of which it becomes aware, including any access to, or use or disclosure of Protected Health Information not permitted by this Agreement. Such notification will be made within five (5) business days after discovery and will include, to the extent possible, the identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, used or disclosed, a description of the Protected Health Information involved, the nature of the unauthorized access, use or disclosure, the date of occurrence, and a description of any remedial action taken or proposed to be taken by Business Associate. Business Associate will also provide to Covered Entity any other available information that the Covered Entity is required to include in its notification to the Individual under Section 164.404(c) at the time of the initial report or promptly thereafter as the information becomes available.

(b) In the event of a request by law enforcement under Section 164.412, Business Associate may delay notifying Covered Entity for the applicable timeframe.

(c) A breach or unauthorized access, use, or disclosure shall be treated as discovered by the Business Associate on the first day on which such unauthorized access, use, or disclosure is known, or should reasonably have been known, to the Business Associate or to any person, other than the individual committing the unauthorized disclosure, that is an employee, officer, subcontractor, agent or other representative of the Business Associate.

(d) In meeting its obligations under this section, it is understood that Business Associate

is not acting as the Covered Entity's agent. In performance of the work, duties, and obligations and in the exercise of the rights granted under this Agreement, it is understood and agreed that Business Associate is at all times acting as an independent contractor in providing services pursuant to this Agreement and the Master Agreement.

8. Mitigating the Effect of a Breach, Security Incident, or Unauthorized Access, Use or Disclosure of Unsecured Protected Health Information.

(a) Business Associate agrees to mitigate, to the greatest extent possible, any harm that results from the breach, security incident, or unauthorized access, use or disclosure of Unsecured Protected Health Information by Business Associate or its employees, officers, subcontractors, agents, or other representatives.

(b) Following a breach, security incident, or any unauthorized access, use or disclosure of Unsecured Protected Health Information, Business Associate agrees to take any and all corrective action necessary to prevent recurrence, to document any such action, and to make said documentation available to Covered Entity.

(c) Except as required by law, Business Associate agrees that it will not inform any third party of a breach or unauthorized access, use or disclosure of Unsecured Protected Health Information without obtaining the Covered Entity's prior written consent. Covered Entity hereby reserves the sole right to determine whether and how such notice is to be provided to any Individuals, regulatory agencies, or others as may be required by law, regulation or contract terms, as well as the contents of such notice.

9. Indemnification.

(a) Business Associate agrees to hold harmless, defend at its own expense, and indemnify Covered Entity for the costs of any mitigation undertaken by Business Associate pursuant to Section 8, above.

(b) Business Associate agrees to assume responsibility for any and all costs associated with the Covered Entity's notification of Individuals affected by a breach or unauthorized access, use or disclosure by Business Associate or its employees, officers, subcontractors, agents or other representatives when such notification is required by any state or federal law or regulation, or under any applicable contract to which Covered Entity is a party.

(c) Business Associate agrees to hold harmless, defend at its own expense and indemnify Covered Entity and its respective employees, directors, officers, subcontractors, agents or other members of its workforce (each of the foregoing hereinafter referred to as "Indemnified Party") against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with any breach of this Agreement or from any acts or omissions related to this Agreement by Business Associate or its employees, directors, officers, subcontractors, agents or other members of its workforce. Accordingly, on demand, Business Associate shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, lost profits, fines, penalties, costs or expenses (including reasonable attorneys' fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results from the Business Associate's acts or omissions hereunder. Business Associate's obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement.

10. Individuals' Rights.

(a) Business Associate agrees to provide access, at the request of Covered Entity, and in the time and manner designated by the Covered Entity, to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under Section 164.524.

(b) Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to make pursuant to Section 164.526, at the request of Covered Entity or an Individual, and in the time and manner designated by the Covered Entity.

(c) Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.

(d) Business Associate agrees to provide to Covered Entity or an Individual, in the time and manner designated by Covered Entity, information collected in accordance with Section 10(c) of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.

(e) Business Associate agrees to comply with any restriction to the use or disclosure of Protected Health Information that Covered Entity agrees to in accordance with Section 164.522.

11. Obligations of Covered Entity.

(a) Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with Section 164.520, as well as any changes to such notice.

(b) Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses and disclosures.

(c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with Section 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

12. Agents and Subcontractors of Business Associate.

(a) Business Associate agrees to ensure that any agent, subcontractor, or other representative to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, agrees in writing to the same restrictions, conditions and requirements that apply through this Agreement to Business Associate with respect to such information, including the requirement to promptly notify the Business Associate of any instances of unauthorized access to or use or disclosure of Protected Health Information of which it becomes aware. Upon request, Business Associate shall provide copies of such agreements to Covered Entity.

(b) Business Associate shall implement and maintain sanctions against any agent, subcontractor or other representative that violates such restrictions, conditions or requirements and shall mitigate the effects of any such violation.

13. Audit, Inspection, and Enforcement.

(a) Business Associate agrees to make internal practices, books, and records relating to

the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity, available to any state or federal agency, including the Secretary, for the purposes of determining compliance with HIPAA and any related regulations or official guidance.

(b) With reasonable notice, Covered Entity and its authorized agents or contractors may audit and/or examine Business Associate's facilities, systems, policies, procedures, and documentation relating to the security and privacy of Protected Health Information to determine compliance with the terms of this Agreement. Business Associate shall promptly correct any violation of this Agreement found by Covered Entity and shall certify in writing that the correction has been made. Covered Entity's failure to detect any unsatisfactory practice does not constitute acceptance of the practice or a waiver of Covered Entity's enforcement rights under this Agreement.

14. **Permissible Requests by Covered Entity.** Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

15. **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity and Business Associate to comply with the requirements of the HIPAA Privacy and Security Rules and the HITECH Act.

16. **Entire Agreement.** This Exhibit constitutes the entire HIPAA Business Associate Agreement between the parties, and supersedes any and all prior HIPAA Business Associate Agreements between them.

17. **Lost Revenues; Penalties/Fines.**

(a) **Lost Revenues.** Business Associate shall make Covered Entity whole for any revenues lost arising from an act or omission in billing practices by Business Associate.

(b) **Penalties/Fines for Failure to Comply with HIPAA.** Business Associate shall pay any penalty or fine assessed against Covered Entity arising from Business Associate's failure to comply with the obligations imposed by HIPAA.

(c) **Penalties/Fines (other).** Business Associate shall pay any penalty or fine assessed against Covered Entity arising from Business Associate's failure to comply with all applicable Federal or State Health Care Program Requirements, including, but not limited to any penalties or fines which may be assessed under a Federal or State False Claims Act provision.