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Banking Services: Q&A Responses

April 21, 2017

Investments

- 1. What is the average balance in your current Money Market Investment Sweep?**
\$330,000.
- 2. What is the investment utilized for the sweep?**
Money Market investment.
- 3. What is the rate currently paid on your Money Market Investment sweep?**
Our balances get somewhere between 0.25 and 0.35 percent, but we look for bank partners to educate us on maximizing this return.
- 4. What is a "Mellon" account? Can you define in more detail?**
A Mellon account is a particular type of account with our current bank.
- 5. If the proposer only proposes on investments, which sections of the RFP need to be addressed? Can the Treasury Management questions be deleted?**
As stated in the RFP, proposers can perform services a, b, or c. Please complete sections applicable to your level of performance.
- 6. Current Investment Portfolios, you list three (3) investment objectives for your Current Investment Portfolio. You state one objective as "maintaining a high degree of liquidity". What does "high degree" mean? Do you need daily liquidity? Weekly? Monthly? Quarterly? What are some additional details about your investment objectives?**
We seek the highest return allowed in compliance with CA Government Code Sections 53600 and 53635. This could involve a staggered or ladder strategy for investments.
- 7. Aside from the need to comply with CA Government Code Sections 53600 and 53635, do you have any additional internal investment guidelines that have been developed by the board? If so, please provide.**
There are no additional internal guidelines.

Treasury Management and Financial Statements

- 8. Please direct us to where we may find a copy of current A/R and A/P aging. Please tell us where we can find historical financial statements for the last three fiscal years.**
All of our financial statements (monthly, quarterly, and annual), back to 2002, are included here: <http://wps0.dmhc.ca.gov/fe/search/#top>.
- 9. What is your Monthly Average Collected Balance?**
\$90 million.

- 10. What is your Monthly Average Ledger Balance?**
\$600 million.
- 11. What is your annual AP Expense (excluding payroll)?**
\$43 million trade; \$720 million medical costs.
- 12. What is the peg balance you maintain in your banking account?**
We maintain a \$400,000 peg balance in our concentration account, and a \$5,000 peg balance in our payroll account.
- 13. Is “one login and one password only”, optional or required?**
As stated in the RFP, this is an optional, but desired service.
- 14. What is your ERP/accounting system of record?**
Microsoft Dynamics SL.
- 15. Do you have a database management system/accounting software that allows for the import and export of electronic account information (BAI2), Lockbox remitter detail and payment origination (wire/ACH) files?**
We use a standard release of Microsoft Dynamics SL. Please see the specifications and respond accordingly.
- 16. Does your accounting system have a full reconciliation?**
We do not understand this question.
- 17. Does Ceridian actually send the file through your bank – or do they just settle transactions to your bank account? Does Ceridian also issue checks and/or pay cards to employees not set up on Direct Deposit?**
Ceridian does issue employee payroll checks not set up on Direct Deposit. The file is automatically transmitted to bank.
- 18. What is your current expense reporting system/program?**
Microsoft Dynamics SL and HeathSuite.
- 19. What is a Paragon Special Report?**
A Paragon Special Report is our current bank's reporting system.
- 20. How many scanners does Alameda Alliance currently have for check locations and how many physical locations need a scanner for making check deposits?**
One.
- 21. What types of deposits are delivered to a local branch? Cash only? Do you accept credit cards for payment?**
No deposits are physically taken to the branch. We have a single source of funds and never transact with cash. We are not paid by the State in any format other than via check, thus we do not accept credit cards, and the only deposits made are via check in the scanner implementation described above.
- 22. What courier service to you use to take deposits to the branch?**
None.

23. How many locations or offices currently utilize Electronic Deposit?

One location uses electronic check deposit.

24. Stop Payments - Please provide additional information behind stop payment needs.

We must be able to place stop payments as needed.

25. NSF- what is the average monthly volume and dollar amount?

We do not have NSF checks since we do not receive payments other than State checks.

26. Positive Pay - Is Payee Positive Pay in use? If no, please describe reasoning. How are issue files submitted to the bank? Is the Positive Pay service for Ceridian through your bank or do they handle that internally?

Yes, files are uploaded to our bank daily. Our bank handles the Positive Pay service internally.

27. Account Recon - Is this service necessary?

No.

28. ZBA - How many concentration accounts? How many subsidiary accounts?

We require one concentration account.

29. What is a pre-funding surcharge?

This is our current bank's terminology associated with ACH.

30. What is the purpose of the remote disbursement account (controlled disbursement)? Is it only utilized for daily presentment totals for cash position? Or is it a requirement of your current provider?

Medical expense/Provider checks are issued from this account.

31. Along with EFT/ACH payment of claims, does Alameda Alliance for Health need to offer Remittance Advice to the providers with an 835 EDI file? If so, do you need the ability to generate an 835 from a proprietary file, or may we send a compliant 835 file in a standard layout to the providers?

CCD+ files are transmitted weekly, but they contain no Protected Health Information (PHI).

32. Will the bank be transmitting 835 or 837 files? This will help us recommend the best solutions depending on the type of exposure the bank will have to HIPAA-covered information.

No.

33. Are there any HIPAA-regulated transactions that flow through each of the accounts? If so, please explain.

No.

34. ACH - Do you have the ability to create an ACH file (outside of WebDirect) to upload online or submit via SFTP?

We seek to be able to transmit ACH transactions with CCD+ files.

35. ACH Positive Pay - How many accounts are setup for this service?

All checking accounts have ACH Positive Pay.

36. Are tax payments submitted through the bank (ACH credit origination) or are liability reported directly to the tax agency with a subsequent pull of funds (incoming ACH debit) from the Health Care Account?

Wires are used to pay the Board of Equalization.

37. Do you have special data/reporting/reconciliation needs? Please provide samples of your Special Reports.

We have no special data, reporting or reconciliation needs. We seek regular monthly reports and the ability to easily access and print transactional reports.

38. How are you weighing respondent's local branch presence in your RFP scoring?

As we are a local plan, working with representatives who are also in the community is desired, but not required.

39. Are you experiencing any particular pain points you would like to improve upon? If so, what might those be?

We have several system login requirements for different portals and would prefer to have one login portal for banking. We seek to have user friendly, easily downloadable transactional reports.

Credit Line

40. What is the current Earnings Credit Rate being offered for your bank balances?

Our balances get somewhere between 0.2 and 0.3 percent, but we look for bank partners to educate us on how to maximize this return.

41. Which type of credit line is referred to in this statement? For example, there are revolving credit lines for general corporate purposes, and there are ACH lines to allow, for example, release of outgoing ACH Credit transfers in advance of a sufficient collected balance in the account.

We are requesting a revolving credit line.

Commercial Credit Card

42. What is the annual spending on current Commercial Card program?

We spend an annual of \$110,000 on our commercial credit cards.

43. Corporate or Individual Billing?

We look for centralized corporate billing.

44. Are you currently utilizing a rewards program? If so, please describe.

This is not applicable.

45. Do you have a preference for rewards vs rebate?

Rebate.

46. What is the average monthly spending on your current card platform?

The average monthly spend is \$9,000.

Alliance Operating Questions

47. Please confirm that remote monitoring by the California Department of Managed Health Care (DMHC) ceased on October 31, 2016.

Confirmed. Conservatorship ended on October 29, 2015. Remote monitoring continued for a 12-month period following.

48. What were the factors that contributed to the Alliance's financial deterioration/failed conversion to a new claims system, which resulted in DMHC seizing control of the Alliance and appointing a conservator on July 23, 2014? (Note of correction: Actual date of appointment of conservator was May 5, 2014.)

The actual medical expenses were higher than anticipated, which was coupled with shortfalls in revenue received from the State. The claims system was inadequately tested prior to initial implementation.

49. What are your expectations for 2017 and 2018 in light of the uncertainty surrounding the ACA?

We expect no significant changes to the ACA in 2017/2018, but recognize the potential for change in 2019/2020. There remains a significant amount of uncertainty, and changes in 2019/2020 could negatively affect the Plan.

50. Does Alameda Alliance for Health plan to keep two banks or will you consider consolidating to one if a bank can meet all of your needs?

One is being considered if all banking needs are met.

51. Would Alameda Alliance please provide a copy of the CSA Vendor Agreement?

See Attached.

CONSULTANT SERVICES AGREEMENT

THIS CONSULTANT SERVICES AGREEMENT (“Agreement”) is made and entered into as of _____ (“Effective Date”) by and between Alameda Alliance for Health, a managed care health plan (“Company”), and _____ (“Consultant”) with reference to the following:

- A. Consultant shall furnish services to Company for the Project in accordance with the terms of this Agreement.
- B. This Agreement is intended to and shall govern all services and work furnished by Consultant for the Project.

1. BASIC AGREEMENTS.

1.1 Basic Services. In compliance with all of the terms and conditions of this Agreement, Consultant shall provide those services specified in the “Scope of Services” attached hereto as Exhibit A, which services are referred to herein as the “Basic Services”. Consultant shall meet with Company from time to time as requested by Company to discuss the progress of the Basic Services rendered to date and to ensure that Company is satisfied with the scope and quality of the Basic Services. Company may have a representative present at any meeting of Consultant concerning the Project.

1.2 Subconsultants. Consultant may retain subconsultants subject to the prior written approval of Company (“Subconsultants”). The retention of the Subconsultants shall not diminish or reduce the obligations and duties of Consultant hereunder. Company shall be listed as an intended third party beneficiary in each of Consultant’s agreements with the Subconsultants to the extent applicable to the Project (the “Subconsultant Agreements”), and the Subconsultant Agreements shall provide that such Subconsultants shall be bound to the same terms and conditions of Consultant under this Agreement to the extent applicable to the portion of the Basic Services being provided by such Subconsultants. In the event this Agreement is terminated by Company for cause, Company shall have the right, but not the responsibility, to assume the rights and responsibilities of Consultant under all or some of the Subconsultant Agreements that Company in its sole discretion chooses to assume. While this provision shall constitute a present assignment of Consultant’s rights with respect to any and all such Subconsultant Agreements that Company so chooses to assume, Consultant, upon request from Company, shall promptly execute and deliver to Company written assignments of such Subconsultant Agreements that Company in its sole discretion so chooses to take by assignment. All Subconsultant Agreements shall provide for this assignment. Unless Company specifically approves in writing, in each instance, that the payment to any Subconsultant is a reimbursable expense, Company shall not have any liability for the cost and expenses of any Subconsultant, and Consultant solely shall be liable for any payment due to such Subconsultants from the Fees (as defined below) paid by Company to Consultant. Consultant shall work with and coordinate its Basic Services with other consultants retained by Company in connection with the design of the Project as a Basic Service hereunder, but Consultant shall not be responsible for the content of their work or the errors or omissions of the Company’s other consultants.

1.3 Standard of Performance. As a material inducement to Company to enter into this Agreement, Consultant hereby represents that Consultant has all applicable licenses to perform the Basic Services and is experienced in performing work or services similar to the Basic Services and, in light of such experience, Consultant hereby covenants that it shall exercise the same degree of care, skill, and diligence as is ordinarily possessed and exercised by reputable members of the same profession currently practicing under similar circumstances in the same geographic area in performing the Basic Services and all services required hereunder and using only qualified personnel. Consultant shall comply with all applicable federal, state and local laws, ordinances, regulations and orders in performing the Basic Services and all services hereunder, subject to the prevailing interpretations thereof.

1.4 Additional Services. Company shall have the right at any time during the performance of the Basic Services, without invalidating this Agreement, to order extra services beyond that specified in the Scope of Services or make changes by altering, adding to, or deducting from said services (“Additional Services”). No Additional Services may be undertaken unless authorized by Company in advance and in writing, including via email. Additional Services shall be paid for by Company as provided in Section 2.2. All services performed in connection with this Agreement may be referred to herein as the “Services.” All terms and conditions under this Agreement applicable to Basic Services shall be applicable to all Services except as otherwise agreed to in writing by Company and Consultant.

2. COMPENSATION. Company shall compensate Consultant for the Services to be performed in accordance with the terms and conditions of this Agreement as follows:

2.1 Basic Services. For Basic Services, as described in the Scope of Services, Company shall compensate Consultant for the Basic Services in the amount set forth in Exhibit A, not to exceed _____ (“Fee Schedule Sum”) without prior written authorization of Company. Said compensation shall be inclusive of all benefits, compensation costs, and expenses unless specifically set forth to the contrary in this Section 2.

2.2 Additional Services. For Additional Services, as described in Section 1.4 hereof, except as otherwise set forth in a separate written agreement between Company and Consultant, compensation shall be paid at the hourly rates set forth in Exhibit A attached hereto, plus the actual cost for those out-of-pocket expenses for long-distance calls, fax transmission (not to exceed the cost of the call), photocopies, and delivery charges incurred in connection with the work hereunder. All other costs, expenses, or charges, including, but not limited to, daily working and commuting travel expenses and all compensation and benefits paid to Consultant’s employees, incurred by Consultant in connection with the Additional Services, shall be paid by Consultant without reimbursement from Company. Notwithstanding anything in this Agreement to the contrary, Consultant shall not be entitled to reimbursement for such reimbursable expenses unless Company pre-approves such expenses in writing.

2.3 Payment. Payments for Basic Services shall be made monthly in proportion to services performed. Payments for Additional Services of Consultant, and for reimbursable expenses permitted hereunder, shall be made monthly upon presentation of Consultant’s statement of services rendered with sufficient supporting data acceptable to Company. Consultant shall submit one complete application for payment per month, rendered on or before

the fifth (5th) day of each month based on services completed to date. Each invoice from Consultant shall include an updated invoice tracking sheet describing the information required therein for all previous invoices related to the Basic Services and Additional Services, if any, and the information related to the most current invoice. Each invoice must include detail of daily hours by individual. Company shall pay Consultant thirty days (30) after receipt of invoice.

(a) Should a bona fide dispute arise with respect to a payment application submitted by Consultant, or to the extent reasonably necessary to protect Company from loss for which Consultant is responsible, Company shall pay the undisputed amount within the time period set forth herein, but shall withhold the disputed amount until the matter is resolved. Notwithstanding anything contained in this Agreement to the contrary, no compensation shall be paid to or claimed by Consultant for services required to correct deficiencies in any documents or materials prepared by or on behalf of Consultant, or attributable to defaults, failures, errors, or omissions of Consultant, any Subconsultant, or anyone for whom Consultant may be liable, or changes in the Project requested by Consultant, any Subconsultant, or anyone for whom Consultant may be liable, unless previously approved in writing by Company. Consultant shall pay its own income taxes, federal, state, or city, and self-employment taxes. Consultant shall have the sole obligation to pay for any fees, assessments, and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for Consultant's performance of the Services required by this Agreement. Consultant will continue to perform its obligations hereunder and pursue prosecution of the Services during any claim, dispute, or proceeding between the parties hereto as if such claim, dispute, or proceeding had not been instituted, provided that Company continues to make payments to Consultant as required under this Agreement for Services that are not the subject of any dispute.

3. PROJECT SCHEDULE.

Consultant shall commence its Services hereunder within five (5) days of the receipt of an authorization to proceed from Company; provided, however, that no such Services shall be commenced until Company has approved the insurance required to be obtained by Consultant pursuant to Section 4.1. Attached hereto and incorporated herein as Exhibit B is a schedule ("Schedule") for the performance of the Basic Services, which may be adjusted as the Project proceeds. This Schedule may include allowances for periods of time required for Company's review and for approval of submissions by authorities having jurisdiction over the Project. Time limits established by this Schedule shall not, except for reasonable cause, be exceeded by Consultant or Company. Consultant understands and agrees that time is of the essence with respect to Consultant's obligation to provide its Services under this Agreement in a timely manner; it being understood that delays by Consultant in the performance of its duties hereunder may cause substantial damages to Company.

4. INSURANCE AND INDEMNIFICATION.

4.1 Insurance. Prior to commencing the Services, Consultant shall, at its sole cost and expense, fully comply with the terms and requirements of this Section. Consultant shall maintain in full force and effect during the entire term of this Agreement the following policies of

insurance written by insurance companies satisfactory to Company. Consultant shall require each of its Subconsultants to purchase and maintain in full force and effect during the entire term of this Agreement all insurance coverages as provided in this Section 4.1, with the same waivers with respect to Company and the Company Parties (as defined in subsection (e) below):

(a) Professional Liability Insurance. Professional liability insurance covering Consultant's professional liability for the Services, including prior acts coverage sufficient to cover any and all claims arising out of the Services, with limits not less than One Million Dollars (\$1,000,000) per claim and Three Million Dollars (\$3,000,000) annual aggregate, or limits carried, whichever are higher, with a deductible or self-insured retention amount not greater than Fifty Thousand Dollars (\$50,000) per claim. To the maximum extent commercially reasonably available, the professional liability insurance policy shall provide, without limitation, contractual liability coverage for the indemnification provided by Consultant hereunder. The professional liability insurance shall be maintained continuously during the term of this Agreement and, so long as the insurance is commercially reasonably available, for a period of ten (10) years after completion of the Services or completion of the Project, whichever is later. For purposes of this paragraph, it shall be agreed that the required insurance is commercially reasonably available if: (a) any insurer is willing to issue the coverage to Consultant; and (b) the required insurance or substantially similar insurance is available to a reasonable number of professionals in the same discipline in the geographic area of the Project during the same period. Consultant shall be responsible for proving to the reasonable satisfaction of Company if at any time Consultant contends that such insurance is not commercially reasonably available.

If Company so elects, in its sole discretion, and Company agrees to pay the cost of such additional insurance, with such coverage available to Consultant, then Consultant shall procure and maintain in effect an additional professional liability insurance policy covering this Project, and this Project only, of the same kind and for the same duration set forth above, and the additional cost of such insurance policy shall be paid by Company.

(b) Workers' Compensation and Employers' Insurance. To the extent Consultant has employees, workers' compensation insurance in an amount required by the laws of the state in which the Project is located and employer's liability insurance with limits of liability of not less than One Million Dollars (\$1,000,000) bodily injury by accident (each accident), One Million Dollars (\$1,000,000) bodily injury by disease (policy limit), and One Million Dollars (\$1,000,000) bodily injury by disease (each employee), or limits carried, whichever are higher, with a waiver of subrogation endorsement by the insurance carrier(s) with respect to the Company Parties.

(c) Other Insurance. Such other policies and amounts of insurance, including, but not limited to, casualty insurance, umbrella insurance, business interruption insurance, and fidelity insurance, as may be reasonably required by Company ("Additional Insurance"). Consultant's cost of such Additional Insurance shall be a reimbursable expense.

(d) Evidence of Insurance. Upon execution of this Agreement, or prior to commencing the Services, whichever is earlier, Consultant shall provide Company with certificates of insurance and endorsements reasonably acceptable to Company, evidencing the insurance coverages required herein. Consultant shall perform no Services, pursuant to this Agreement or otherwise, prior to providing Company with acceptable proof of the insurance coverages required above. Upon Company's request, Consultant shall promptly provide Company with a certified copy of any of the insurance policies described above. Each insurance policy shall provide or be endorsed to provide that such policy shall not be canceled or non-renewed without giving at least thirty (30) days' notice in writing to be delivered by registered mail to Company. Consultant shall immediately provide Company with a copy of any notice of cancellation, non-renewal or rescission received from any insurer providing coverage required herein.

(e) Waiver. To the fullest extent permitted by law and without voiding or impairing the coverage afforded by the insurance required hereunder, Consultant, on its own behalf and on behalf of its Subconsultants, hereby waives against Company and the Company Parties, as well as any and all other professionals, consultants, subcontractors, sub-subcontractors, suppliers, and other individuals and entities performing work or rendering services in connection with the Project, all rights of recovery, whether under subrogation or otherwise, for loss, damage and/or liability to the extent covered by the insurance policies required to be maintained by Consultant hereunder. Consultant shall require that all such insurance policies shall contain an express written waiver of all rights of recovery, whether under subrogation or otherwise, against Company and the Company Parties, and shall require similar express written waivers and insurance clauses from each of its Subconsultants. A waiver of subrogation shall be effective as to any individual or entity even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

(f) Subconsultants. Consultant shall not allow any Subconsultant to perform any portion of the Services until Consultant obtains from such Subconsultant, and provides to Company, proof of insurance in form and substance identical to that required to be carried by the Consultant pursuant to this Section 4.1, and reasonably acceptable to Company. Consultant shall in writing bind each such Subconsultant to all of the insurance requirements of this Section 4.1. Consultant shall also obtain from all Subconsultants an indemnification in form and substance identical to the indemnity set forth in Section 4.2, below, with the modification that such indemnity from such Subconsultant shall also be for the benefit of the Indemnitee, as defined in Section 4.2, below.

Neither receipt nor acceptance of policies, endorsements, or certificates, whether indicating reduced or different coverages than required herein, nor any other forbearance or omission by Company with regard to these insurance requirements, shall be deemed a waiver of, or estoppel to assert, any right on the part of Company regarding these insurance requirements. The insurance requirements set forth herein are independent of Consultant's indemnification obligations and other obligations hereunder. Nothing

herein shall be construed to limit or alter any of other obligations of Consultant, under this Agreement or otherwise, including, without limitation, Consultant's indemnification obligations pursuant to Section 4.2, below.

4.2 Indemnification. To the fullest extent permitted by law, Consultant shall indemnify, defend (with counsel reasonable acceptable to Company), and hold harmless Company and its parent, affiliated, and subsidiary entities and their respective principals, agents, employees, partners, directors, officers, and anyone else acting at the discretion of any of them (collectively, the "Indemnitee") from and against any and all claims, demands, actions, liabilities, damages, losses, and costs (including, but not limited to, attorneys' fees, expert fees, and costs) (each, a "Claim" and collectively, "Claims"), directly or indirectly arising out of or connected with: (i) the acts, errors; or omissions of Consultant or any of its officers, employees, Subconsultants, invitees, licensees, independent contractors, agents, anyone employed directly or indirectly by any of them, or for whose acts they may be liable or any or all of them (collectively, the "Indemnitor"); (ii) the willful misconduct of an Indemnitor or negligent performance of any Services; (iii) the breach of any provision of this Agreement by Consultant; or (iv) the failure of any Indemnitor to comply with the laws, statutes, ordinances; or regulations of any governmental or quasi-governmental authority in effect at the time any Services are rendered. Consultant shall not be obligated hereunder to indemnify the Indemnitee for any Claim arising from the sole negligence or willful misconduct of any Indemnitee or any Indemnitee's agents, servants, or independent contractors (excluding Consultant and its Subconsultants) who are directly responsible to such Indemnitee, or for any defects in design furnished by the party to be indemnified or any of such party's agents, servants, or independent contractors who are directly responsible to such party. In addition, Consultant shall not be obligated to indemnify the Company to the extent liability is caused by the active negligence of the Company, including that of Company's employees. Consultant's obligation to defend a Claim brought or threatened against Indemnitee is immediate following written notice of such Claim which states that the Claim arises out of or is related to the work of Consultant, but is not contingent on an actual finding of fault on the part of Consultant. Notwithstanding the foregoing, for Claims covered by Consultant's professional errors and omissions policy referenced in Section 4.1(a): (A) Consultant's obligations pursuant to this Section 4.2 shall only apply to the extent the applicable Claim is "caused by" any of the events set forth in subsections (i) through (iv) of this Section 4.2 set forth above; and (B) Indemnitee shall reimburse Consultant the proportionate share of defense costs determined by settlement or judgment (arbitration or court) to have been caused by or attributable to Indemnitee's negligence or fault related to such Claims.

Indemnitee's rights of indemnification under this Section 4.2 shall not in any way be limited by, reduced, altered, or diminished as a result of Consultant's obligations to procure and maintain insurance as set forth in Section 4.1, or as the result of the existence or non-existence of any type of insurance coverage benefiting Consultant, or any of Indemnitee. The provisions of this Section 4.2 shall survive termination or expiration of this Agreement.

5. RIGHTS AND REMEDIES.

5.1 Default by Consultant. In the event (i) Consultant fails to expeditiously perform the Services in a skilled and expeditious manner; or (ii) Consultant, or any employee,

Subconsultant, or agent of Consultant, shall wrongfully file or record a lien against any property of Company or any agent or employee of Company; or (iii) any representation or certification made by Consultant to Company shall prove to be false or misleading on the date said representation or certification is made; or (iv) material breach of this Agreement shall be made in the observance or performance of any covenant, agreement, or condition contained in this Agreement required to be kept, performed or observed by Consultant; or (v) Consultant violates any laws, ordinances, rules, regulations, or orders of any governmental agencies or courts in the performance of its duties hereunder; or (vi) Consultant suffers bankruptcy; then, provided the event as described above is not cured within thirty (30) days after written notice from Company to Consultant, Company may declare Consultant to be in default hereunder. If Consultant commits any acts of default specified in this Section, Company may, by giving notice in writing to Consultant, without prejudice to any other rights or remedies given Company by law or by this Agreement, (i) terminate the services of Consultant under this Agreement; (ii) take possession of all materials and (iii) complete the Basis Services (and Additional Services, if any) by whatever method Company may deem expedient. "Bankruptcy" shall be deemed to occur when Consultant makes an assignment for the benefit of creditor, files a petition in bankruptcy court, voluntarily takes advantage of any bankruptcy or insolvency laws, or is adjudicated bankrupt or judicially insolvent, or if a petition or an answer is filed proposing the adjudication of such Consultant as bankrupt.

5.2 Default by Company. In the event Company shall fail to perform its obligations pursuant to this Agreement after thirty (30) days' written notice from Consultant to Company, Consultant may declare Company to be in default hereunder and exercise any remedies available to it. Should Company default in its obligations hereunder, Consultant may terminate this Agreement. Upon such a termination, Consultant may recover from Company full payment for all Services performed to the date of such termination and for all reimbursable amounts. Notwithstanding the foregoing, Company shall not be responsible for delays or damages or declared to be in default by reason of delays in performance or by reason of strikes, lockouts, accidents, acts of God, and other delays unavoidable or beyond Company's reasonable control, delays in approval by governmental agencies, or delays in work of other consultants performing services on behalf of Company.

5.3 Termination by Company Without Fault of Consultant. Company shall have the right to cancel and terminate this Agreement upon providing thirty (30) days' written notice whether or not a default exists hereunder, and Company shall incur no liability to Consultant or any other person by reason of such cancellation. If the cancellation is for no fault of Consultant hereunder, Company shall pay to Consultant all amounts due under this Agreement for Services rendered by Consultant as of the date of termination, plus approved reimbursable expenses consistent with this Agreement.

5.4 Transfers on Termination. In the event of termination of this Agreement, Consultant and Company shall forthwith return to the other all papers, materials, and other properties of the other held by each for purposes of execution of this Agreement. In addition, each party will assist the other party in orderly termination of this Agreement and the transfer of all aspects hereof, tangible and intangible, as may be necessary for the orderly, non-disrupted business continuation of each party.

6. DISPUTE RESOLUTION.

6.1 Mediation. At Company's sole election, any action, dispute, claim, or controversy between the parties, whether sounding in contract, tort, or otherwise, including all disputes arising out of or in connection with this Agreement and any related agreements or instruments and any transaction contemplated hereby ("Dispute" or "Disputes") shall be attempted to be settled in good faith by nonbinding mediation as a condition precedent to arbitration by either party. The parties shall endeavor to resolve the Dispute by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Rules of the Judicial Arbitration and Mediation Service ("JAMS") currently in effect. In the event of any inconsistency between such rules and these mediation provisions, these provisions shall supersede such rules. All statutes of limitation that would otherwise be applicable shall apply to any mediation proceeding under this Section. Request for mediation shall be filed in writing with the other party to the Agreement and with JAMS. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of 30 (thirty) days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. Any mediator selected under this Section shall be knowledgeable in the subject matter of the Dispute. Qualified retired judges with at least five (5) years mediation experience shall be selected through panels maintained by JAMS or any private organization providing such services. The mediation shall be held within thirty (30) days of the date the demand for mediation is served on a party, unless the parties agree otherwise. The parties understand and agree that a representative from each side with full settlement authority will be present at the mediation conference. The mediation process is to be considered settlement negotiations for the purpose of all state and federal rules protecting disclosures made during such conferences from later discovery or use in evidence. All conduct, statements, promises, offers, views, and opinions, oral or written, made during the mediation by any party or a party's agent, employee, or attorney shall not be subject to discovery or admissible for any purpose, including impeachment, in any litigation, arbitration, or other proceeding involving the parties. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the County of Alameda, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. Where applicable to a mediation, the provisions of Section 6.2 below shall also apply to the mediation.

6.2 Arbitration. If the Dispute is not resolved by agreement or mediation pursuant to Section 6.1 above, the Dispute shall be resolved by arbitration as set forth in this Section. Such disputes shall be resolved by binding arbitration in accordance with Title 9 of the California Code of Civil Procedure, Section 1280 *et seq.* In the event of any inconsistency between such rules and these arbitration provisions, these provisions shall supersede such rules. All statutes of limitation that would otherwise be applicable shall apply to any arbitration proceeding under this Section. In any arbitration proceeding subject to these provisions, the arbitrator is specifically empowered to decide (by documents only, or with a hearing, at the arbitrator's sole discretion) pre-hearing motions that are substantially similar to pre-hearing motions to dismiss and motions for summary adjudication. Judgment upon the award rendered may be entered in any court having jurisdiction. Qualified retired judges with at least five (5) years arbitration experience shall be selected through panels maintained by the JAMS or any private organization providing

such services. If the parties are unable to mutually agree upon a retired judge to hear their arbitration, the arbitration service shall provide a list of three (3) available judges and each party may strike one (1). The remaining judge will serve as the arbitrator. Notices of demand for arbitration shall be served in writing by registered or certified mail to all parties to this Agreement. Demand will be made within a reasonable time after the dispute or other matter in question has arisen. In no event shall a demand for arbitration be made after the date when the institution of legal proceedings based on such dispute or other matter in question would be barred by the applicable statute of limitations. The applicable statute of limitation shall be tolled during the period such arbitration proceedings are pending. Except as otherwise provided herein, the California Code of Civil Procedure and California Evidence Code shall apply to and govern the conduct of discovery. The arbitrator shall issue a statement of decision not later than twenty (20) days after the testimony is closed. Judgment may be entered into in accordance with a statement of decision as provided in the California Code of Civil Procedure. Any memorandum of costs shall be submitted to the arbitrator and the arbitrator shall determine the amount of the costs to be awarded to any prevailing party. Any motion for attorneys' fees as an element of costs under California Civil Code section 1717 shall be served and filed with the arbitrator before or at the time the memorandum of costs is served and filed. Except as otherwise provided in Section 7.19 below, the arbitrator's fees and charges shall be born equally by the parties to the dispute. Notwithstanding anything contained herein to the contrary, if a third person or entity not a party to this Agreement brings an action in which Consultant and Company become a party, by cross-claim or otherwise, and said party or entity is not bound by the provisions of this Section regarding arbitration, the provisions of this Section shall not be applicable to such dispute.

6.3 Survival; Applicability. The provisions of this Article shall survive any termination, amendment, or expiration of this Agreement in which this Section is contained, unless the parties otherwise expressly agree in writing. Should an action, dispute, claim, or controversy be brought against Company and/or Consultant by a third party who is not bound by a mediation or binding arbitration provision similar to the mediation and arbitration provisions contained herein, the terms of this Article shall not apply to such action, dispute, claim, or controversy.

7. MISCELLANEOUS.

7.1 Certifications. Consultant shall, from time to time, make such certifications and statements to Company and to others as Company shall reasonably request provided that Consultant determines that such certifications are true and correct based upon the Services performed by Consultant hereunder.

7.2 Liens. Provided Company has paid Consultant the amounts owing hereunder when such sums are owed to Consultant, should Consultant or any Subconsultant, employee, supplier, or vendor of Consultant make, record or file, or maintain any action on or respecting a claim of mechanic's or materialmen's lien, stop-notice, equitable lien, payment or performance bond, or *lis pendens*, Consultant shall immediately and at its own expense procure, furnish, and record appropriate statutory release bonds of bonding companies acceptable to Company which will extinguish or expunge said claim, stop-notice, or *lis pendens*. If Consultant fails to do so, Company will have the right to cause such lien to be removed and Consultant shall indemnify,

defend, and hold harmless Company against all liability, cost, and expense incurred by Company in causing such lien to be removed. Company may retain out of any payment due Consultant amounts sufficient to reimburse Company for any such liability, cost, and expense.

7.3 Independent Contractor. Neither Company nor any of its employees shall have any control over the manner, mode, or means by which Consultant or its agents or employees, perform the services required herein, except as otherwise set forth herein. Consultant shall perform all services required herein as an independent contractor of Company and shall remain at all times as to Company a wholly independent contractor with only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of Company. Company shall not in any way or for any purpose become or be deemed to be a partner of Consultant in its business or otherwise or a joint venture or a member of any joint enterprise with Consultant. Consultant is free to pursue and accept other business opportunities so long as Consultant's business ventures do not conflict with the provisions of this Agreement.

7.4 Assignment. The experience, knowledge, capability, and reputation of Consultant, its principals and employees were a substantial inducement for Company to enter into this Agreement. Therefore, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated, or encumbered, voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of Company. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, this Agreement shall be void. No approved transfer shall release Consultant of any liability hereunder without the express consent of Company. Company, in its sole and absolute discretion, may assign this Agreement to any of its Affiliates. "Affiliates" means (a) Company's partners, co-members, or joint venturers, (b) any corporation or other entity that is a parent or subsidiary of Company, or (c) any corporation or other entity that is controlled by or under common control of any of the parties listed in (a) or (b). Upon any such assignment by Company, Company shall be released from all obligations and liability under this Agreement that accrue after the effective date of such assignment.

7.5 Information. Company shall provide information regarding its requirements for the Services to be provided by Consultant. Consultant shall notify Company immediately in writing if Consultant is aware or becomes aware of any omissions or deficiencies in the data or information supplied to Consultant in its performance of its Services pursuant to this Agreement.

7.6 Company's Approval. Whenever provision is made herein for the approval or consent of Company, or that any matter be to Company's satisfaction, unless specifically stated to the contrary, such approval or consent shall be made by Company in its sole discretion and determination.

7.7 Notices. Any notice which either party may desire to give to the other party must be in writing and shall be effective (i) when personally delivered by the other party or messenger or courier thereof; (ii) three (3) business days after deposit in the United States mail, registered or certified; (iii) twenty-four (24) hours after deposit before the daily deadline time with a

reputable overnight courier or service; or (iv) upon receipt of a telecopy or fax transmission, provided a hard copy of such transmission shall be thereafter delivered in one of the methods described in the foregoing (i) through (iii); in each case, postage fully prepaid and addressed to the respective parties as set forth on the first page of this Agreement or to such other address and to such other persons as the parties may hereafter designate by written notice to the other parties hereto.

If notice to Company:

If notice to Consultant:

Alameda Alliance for Health
Attn: Chief Executive Officer
1240 South Loop Rd.
Alameda, CA 94502

Copy to:

Alameda Alliance for Health
Attn: General Counsel
1240 South Loop Rd.
Alameda, CA 94502

Via Email: Legal@alamedaalliance.org

7.8 Books and Records. Consultant shall keep complete and detailed books and records relating to reimbursable expenses, and Services performed on the basis of a fixed rate on the basis of generally recognized accounting principles, consistently applied. These books and records shall be retained by Consultant at its head office for a period of at least ten (10) years after the date of completion of the performance of this Agreement. Company shall have the right at all reasonable times to audit the books and records. If such audit discloses that Consultant has charged and received more than it was entitled hereunder, Consultant shall immediately reimburse to Company the excess amount received together with interest thereon at ten percent (10%) per annum from the date such excess amount was received until repayment thereof.

7.9 Confidentiality. Consultant, for itself and its employees and personnel, acknowledges, confirms, and agrees that all information learned in the course of the performance of Service under this Agreement and all data furnished by Company, all plans, drawings, computer programs, specifications, and other documents relating to the Project, Company's business, and the terms of this Agreement are and shall remain of a confidential nature. Any publicity or press releases with respect to the Project or the services hereunder shall be under the sole discretion and control of Company. Consultant shall not divulge to any unauthorized person any confidential information concerning observations, conversations, discussions, correspondence, personnel records, business records, or proprietary records. All matters concerning Company and its business operations, including, but not limited to, the identity of persons with whom it conducts business such as customers, vendors, manufacturers and suppliers, its research and development, its projects and contemplated projects, its financial affairs, its pricing structure and strategies and its procedures and practices shall be considered

confidential. Such information remains the property of Company. Moreover, Consultant shall not employ confidential business information in performing Services for Company that it has obtained by virtue of its relationship with any other company or entity.

7.10 Conflict of Interest. Consultant shall not have any business or financial interest outside Company which in any way conflicts with the interests of Company or places Consultant in a position where it can use the association with Company for direct or indirect gain to the possible detriment or embarrassment of Company. A conflict of interest may arise in a wide variety of circumstances and may be direct or indirect. A conflict of interest arises whenever Consultant's outside interests might affect or might reasonably be thought by others to affect Consultant's judgment or conduct in matters which involve Company. Consultant agrees not to engage in such activity. Consultant assumes any and all liability should any allegation of conflict of interest arise from the conduct of Consultant and Consultant agrees to indemnify Company for any allegation of conflict of interest arising from the conduct of Consultant.

7.11 Waiver. No waiver of any default hereunder shall be construed as a waiver of any subsequent breach.

7.12 Successors and Assigns. Company and Consultant each binds itself, its partners, successors, permitted assigns, and legal representatives to the other party to this Agreement and to the partners, successors, assigns, and legal representatives of such other party with respect to all covenants of this Agreement.

7.13 Governing Law. This Agreement shall be construed in accordance with the laws of California.

7.14 Full Agreement. Each party acknowledges its full understanding of this Agreement and that there are no verbal promises, undertakings or agreements in connection herewith and that this Agreement may be modified only by a written agreement signed by all parties hereto. All previous negotiations and agreements between the parties hereto, with respect to the transaction set forth herein, are merged in this instrument which fully and completely express the parties' rights and obligations, and the covenants herein shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, and assigns.

7.15 Partial Invalidity; Counterparts. If any term or provision of this Agreement shall be found to be illegal, unenforceable or in violation of the laws, statutes, ordinances, or regulations of any governmental agency having jurisdiction thereof by a court of competent jurisdiction, then, notwithstanding such term or provision, this Agreement shall be and remain in full force and effect and such term shall be deemed stricken; provided, however, this Agreement shall be interpreted, when possible, so as to reflect the intentions of the parties as indicated by any such stricken term or provision. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument. In order to facilitate the transaction contemplated herein, electronically mailed or facsimile signatures may be used in place of original signatures on this Agreement. Each party intends to be bound by the signatures on the electronically mailed or facsimiled document, are

aware that the other party will rely on such signatures, and hereby waive any defenses to the enforcement of the terms of this Agreement based on the form of signature.

7.16 Survival. The terms, provisions, representations, and certification contained in this Agreement, or inferable therefrom, shall survive the termination of this Agreement and the payment of the remuneration hereinabove provided.

7.17 Attorneys' Fees and Expenses. In any action between the parties hereto seeking enforcement of any of the terms and provisions of this Agreement or in connection with the performance of the Services hereunder, the prevailing party in such action shall be entitled to have and to recover from the other party its reasonable attorneys' fees, expert witness fees, arbitrator's fees, statutory costs, court costs, and other expenses (including cost of collection) in connection with such action or proceeding.

7.18 Authority. Each individual executing this Agreement represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of the party to this Agreement.

7.19 Exhibits. Exhibit A and Exhibit B attached hereto, are incorporated herein by this reference for the sole purposes of setting forth the scope of the Basic Services, the terms of payment for Basic Services and Additional Services and any schedule of performance of the Services. All other terms and conditions set forth in Exhibit A and Exhibit B shall not be incorporated into this Agreement. In the event of any conflict or inconsistency between the terms and conditions of the body of this Agreement and the Exhibits attached hereto, the terms and conditions contained in the body of this Agreement shall prevail.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

ALAMEDA ALLIANCE FOR HEALTH

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A
SCOPE OF SERVICES

[attached hereto]

EXHIBIT B

SCHEDULE

Consultant's Services will be performed in a timely manner consistent with good professional practice and the desire that the Project proceed as expeditiously as practical. Any mutually approved performance schedule may be attached hereto.