

ADDENDUM H

ADMINISTRATIVE SERVICES AGREEMENT

by and between

PALOMAR POMERADO HEALTH (“Hospital”)

and

PAUL E. TORNAMBE, M.D. (“Practitioner”)

ADMINISTRATIVE SERVICES AGREEMENT

THIS ADMINISTRATIVE SERVICES AGREEMENT (this "**Agreement**") is entered into as of January __, 2006 (the "**Execution Date**"), by and between Palomar Pomerado Health, a local health care district organized under Division 23 of the California Health and Safety Code ("**Hospital**"), and Paul E. Tornambe, M.D., an individual ("**Practitioner**"). Hospital and Practitioner are sometimes referred to in this Agreement individually as a "**Party**" or, collectively, as the "**Parties**."

RECITALS

A. Hospital owns and operates Pomerado Hospital, an acute care hospital facility located in Poway, California.

B. Practitioner is licensed to practice medicine in the State of California, board certified for the practice of medicine in the specialty of Ophthalmology (the "**Specialty**") and a member in good standing of Hospital's medical staff (the "**Medical Staff**").

C. Hospital desires to engage Practitioner to serve as Chief of Staff at Pomerado Hospital, and believes that the following can be achieved if Practitioner assumes such responsibility as set forth in this Agreement: This will enhance the Hospital's organization, procedure standardization, economic efficiency, professional proficiency, and provide other benefits to enhance coordination and cooperation among Pomerado Hospital's providers and users.

D. As of January 1, 2005, pending the execution of this Agreement, Practitioner agreed to provide services as reflected hereunder, and Hospital agreed to compensate Practitioner in a manner consistent with fair market value. Accordingly, Practitioner has been providing services since January 1, 2005 and this Agreement is intended to encompass those services and continue forward until December 31, 2006.

E. Hospital has considered the following factors in determining the necessity and amount of compensation payable to Practitioner pursuant to this Agreement:

1. The nature of Practitioner's duties as contemplated by this Agreement.
2. Practitioner's qualifications.

AGREEMENT

THE PARTIES AGREE AS FOLLOWS:

ARTICLE I. PRACTITIONER'S OBLIGATIONS

1.1 Administrative Services. Practitioner shall provide to Hospital those administrative services set forth on Exhibit 1.1 ("**Administrative Services**"), upon the terms and subject to the conditions set forth in this Agreement.

1.2 Time Commitment. Practitioner shall devote whatever time is necessary to effectively provide the Administrative Services; provided, however, that Practitioner shall perform Administrative Services a maximum of twenty (20) hours per month. Practitioner shall allocate time to Administrative Services when and as needed and as reasonably requested by Hospital from time to time.

1.3 Availability. On or before the first (1st) day of each month, Practitioner shall inform Hospital of Practitioner's schedule and availability to perform Administrative Services during that month. Practitioner shall use his or her best efforts to adjust such schedule of availability if reasonably requested by Hospital in order to meet Hospital's needs for Administrative Services.

1.4 Personal Services; Absences. This Agreement is entered into by Hospital in reliance on the professional and administrative skills of Practitioner. Practitioner shall be solely responsible for performing Administrative Services and otherwise fulfilling the terms of this Agreement; provided, however, that if Practitioner is temporarily unable to provide Administrative Services due to illness, disability, continuing education responsibilities, or vacation, Practitioner shall designate a qualified replacement to provide Administrative Services pursuant to this Agreement. Such temporary replacement must be approved in writing by Hospital prior to the replacement providing Administrative Services. Practitioner shall ensure that any such designated replacement meets any and all qualifications, obligations and requirements of Practitioner under this Agreement. Practitioner shall be solely responsible for compensating and making any tax filings or withholdings with respect to any designated replacement providing Administrative Services on Practitioner's behalf. If the length of Practitioner's absence is anticipated by Hospital to be or actually is longer than sixty (60) calendar days, the person who provides Administrative Services in Practitioner's absence shall execute a written document agreeing to be bound by this Agreement. Except in the event of absence due to illness or disability, Hospital shall have the right to approve the length of Practitioner's absence, and any unapproved absence shall constitute a breach of this Agreement. Nothing in this Section shall be deemed to limit in any way Hospital's right to terminate this Agreement in accordance with Section 5.2.

1.5 Time Reports. Practitioner shall maintain monthly time reports that provide a true and accurate accounting of the time spent each day by Practitioner providing Administrative Services. Such reports shall be substantially in the form attached as Exhibit 1.5. Practitioner shall submit all time reports to Hospital no later than the tenth (10th) day of each month for Administrative Services provided by Practitioner during the immediately preceding month.

1.6 Medical Staff Membership. Practitioner shall, from and after the Effective Date (as defined in Section 5.1), be a member in good standing in the "active staff" category of the Medical Staff, and maintain all clinical privileges necessary to practice medicine in the Specialty at Hospital; provided, however, that if Practitioner, as of the Effective Date, is not a member in good standing in the "active staff" category of the Medical Staff, or has not obtained all clinical privileges necessary to practice medicine in the Specialty at Hospital, Practitioner shall have a reasonable amount of time to obtain such membership and/or clinical privileges; provided, however, that Practitioner diligently pursues such membership and/or clinical privileges in accordance with the normal procedures set forth in the bylaws, rules, regulations, protocols, guidelines and policies of Hospital and the Medical Staff (collectively, the "**Hospital Rules**"). Practitioner may also obtain and maintain medical staff membership and clinical privileges at any other hospital or health care facility.

1.7 Professional Qualifications. Practitioner shall be duly licensed and qualified to practice medicine in the State of California. Practitioner shall be board certified in the Specialty.

1.8 Continuing Medical Education. Practitioner shall participate in continuing medical education as necessary to maintain licensure, professional competence and skills commensurate with the standards of the medical community, as otherwise required by the medical profession and as required to effectively perform Practitioner's obligations under this Agreement.

1.9 Performance Standards. Practitioner shall comply with and perform the duties under this Agreement in accordance with the Hospital Rules applicable to the performance of Administrative Services.

1.10 Code of Conduct. Practitioner hereby acknowledges receipt of Hospital's Code of Conduct for Physician Agreements, attached to this Agreement as Exhibit 1.10 (the "**Code**"). With respect to Practitioner's business dealings with Hospital and Practitioner's performance of duties under this Agreement, Practitioner shall not act, or fail to act, in any manner which conflicts with or violates the Code, and shall not cause another person to act, or fail to act, in any manner which conflicts with or violates the Code. Practitioner shall comply with the Code as it relates to Practitioner's business relationship with Hospital or any Palomar Pomerado Health System affiliates, subsidiaries, employees, agents, servants, officers, directors, contractors and suppliers of every kind.

1.11 Use of Space. Practitioner shall not use any part of the space that Hospital designates for Practitioner's use as an office for the private practice of medicine, except in an emergency or with Hospital's prior written consent.

1.12 Notification of Certain Events. Practitioner shall notify Hospital in writing within twenty-four (24) hours after Practitioner becomes aware of the occurrence of any one or more of the following events:

(a) Practitioner becomes the subject of, or otherwise materially involved in, any government investigation of Practitioner's business practices or the provision of professional services, including being served with a search warrant in connection with such activities;

(b) Practitioner's medical staff membership or clinical privileges at any hospital are denied, suspended, restricted, revoked or voluntarily relinquished, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(c) Practitioner becomes the subject of any suit, action or other legal proceeding arising out of Practitioner's professional services;

(d) Practitioner is required to pay damages or any other amount in any malpractice action by way of judgment or settlement;

(e) Practitioner becomes the subject of any disciplinary proceeding or action before any state's medical board or similar agency responsible for professional standards or behavior;

(f) Practitioner becomes incapacitated or disabled from performing Administrative Services, or voluntarily or involuntarily retires from the practice of medicine;

(g) Practitioner's license to practice medicine in the State of California is restricted, suspended or terminated, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(h) Practitioner is charged with or convicted of a criminal offense;

(i) any act of nature or any other event occurs which has a material adverse effect on Practitioner's ability to provide Administrative Services;

(j) Practitioner is debarred, suspended, excluded or otherwise ineligible to participate in any federal health care programs, as defined at 42 U.S.C. Section 1320(a)-7b(f) ("**Federal Health Care Programs**"), which programs include, but are not limited to, Medicare and Medicaid;

(k) any termination, non-renewal, cancellation or reduction in coverage of any insurance policy required to be maintained by Practitioner under this Agreement; or

(l) Practitioner fails or is otherwise unable to comply with any term of this Agreement.

ARTICLE II. COMPENSATION

2.1 Compensation. In exchange for Practitioner's provision of Administrative Services, Hospital shall compensate Practitioner in accordance with the terms of Exhibit 2.1.

2.2 IRS Form W-9. Upon execution of this Agreement, Practitioner shall furnish a completed and executed copy of IRS Form W-9 which identifies Practitioner's taxpayer identification number.

ARTICLE III. INSURANCE AND INDEMNITY

3.1 Malpractice Liability Insurance. Practitioner shall obtain and continuously maintain professional malpractice liability insurance coverage, issued by an insurance company licensed or otherwise qualified to issue professional liability insurance policies or coverage in the State of California, and acceptable to Hospital, in the amount of at least One Million Dollars (\$1,000,000) per occurrence or claim and Three Million Dollars (\$3,000,000) in the annual aggregate for the acts and omissions of Practitioner. Such coverage shall provide for a date of placement preceding or coinciding with the Effective Date of this Agreement.

3.2 Certificate of Insurance. On or before the Effective Date, Practitioner shall provide Hospital with an original certificate evidencing professional malpractice liability insurance coverage, and shall provide Hospital with proof of continued professional malpractice liability insurance coverage on an annual basis (or as periodically requested by Hospital). Practitioner shall provide Hospital with no less than thirty (30) calendar days' prior written notice of cancellation or any material change in such professional malpractice liability insurance coverage.

3.3 Tail Coverage. If Practitioner's professional malpractice liability insurance is provided on a claims-made basis, upon the expiration or termination of this Agreement for any reason, Practitioner shall continuously maintain such insurance or purchase from an insurance company licensed or otherwise qualified to issue professional liability insurance policies or coverage in the State of California, and acceptable to Hospital, extended reporting period (*i.e.*, "tail") coverage for the longest extended reporting period then available to ensure that insurance coverage in the amount set forth in Section 3.1 of this Agreement is maintained for claims which arise from professional services provided by Practitioner during the term of this Agreement.

3.4 Indemnification.

(a) **Indemnification by Practitioner.** Practitioner shall indemnify, defend and hold harmless Hospital against: (i) any and all liability arising out of Practitioner's failure to comply with the terms of this Agreement, and any injury, loss, claims, or damages arising from the negligent operations, acts, or omissions of Practitioner or Practitioner's employees or agents relating to or arising out of Administrative Services or this Agreement; and (ii) any and all costs and expenses, including reasonable legal expenses, incurred by or on behalf of Hospital in connection with the defense of such claims.

(b) **Indemnification by Hospital.** Hospital shall indemnify, defend and hold harmless Practitioner against: (i) any and all liability arising out of Hospital's failure to comply with the terms of this Agreement, and any injury, loss, claims, or damages arising from the negligent operations, acts, or omissions of Hospital or its employees or agents relating to or arising out of this Agreement; and (ii) any and all costs and expenses, including reasonable legal expenses, incurred by or on behalf of Practitioner in connection with the defense of such claims.

3.5 Cooperation.

(a) The Parties recognize that, during the term of this Agreement and for an undetermined time period thereafter, certain risk management issues, legal issues, claims or actions may arise that involve or could potentially involve the Parties and their respective employees and agents. The Parties further recognize the importance of cooperating with each other in good faith when such issues, claims or actions arise, to the extent such cooperation does not violate any applicable laws, cause the breach of any duties created by any policies of insurance or programs of self-insurance, or otherwise compromise the confidentiality of communications or information regarding the issues, claims or actions. As such, the Parties hereby agree to cooperate in good faith, using their best efforts, to address such risk management and legal issues, claims, or actions.

(b) The Parties further agree that if a controversy, dispute, claim, action or lawsuit (each, an "Action") arises with a third party wherein both the Parties are included as defendants, each Party shall promptly disclose to the other Party in writing the existence and continuing status of the Action and any negotiations relating thereto. Each Party shall make every reasonable attempt to include the other Party in any settlement offer or negotiations. In the event the other Party is not included in the settlement, the settling Party shall immediately disclose to the other Party in writing the acceptance of any settlement and terms relating thereto, if and to the extent allowed by the terms of such settlement.

3.6 Survival of Obligations. The Parties' obligations under this Article III shall survive the expiration or termination of this Agreement for any reason.

ARTICLE IV. RELATIONSHIP BETWEEN THE PARTIES

4.1 Independent Contractor. Practitioner is and shall at all times be an independent contractor with respect to Hospital in meeting Practitioner's responsibilities under this Agreement. Nothing in this Agreement is intended nor shall be construed to create a partnership, employer-employee or joint venture relationship between Hospital and Practitioner.

4.2 Limitation on Control. Hospital shall neither have nor exercise any control or direction over Practitioner's professional medical judgment or the methods by which Practitioner performs professional medical services; provided, however, that Practitioner shall be subject to and shall at all times comply with the Hospital Rules.

4.3 Practice of Medicine. Practitioner and Hospital acknowledge that Hospital is neither authorized nor qualified to engage in any activity which may be construed or deemed to constitute the practice of medicine. To the extent that any act or service required of, or reserved

to, Hospital in this Agreement is construed or deemed to constitute the practice of medicine, the performance of such act or service by Hospital shall be deemed waived or unenforceable, unless this Agreement can be amended to comply with the law, in which case the Parties shall make such amendment.

4.4 No Benefit Contributions. Hospital shall have no obligation under this Agreement to compensate or pay applicable taxes for, or provide employee benefits of any kind (including contributions to government mandated, employment-related insurance and similar programs) to or on behalf of, Practitioner or any other person employed or retained by Practitioner. Notwithstanding the foregoing, if Hospital determines or is advised that it is required by law to compensate or pay applicable taxes for, or provide employee benefits of any kind (including contributions to government mandated, employment-related insurance and similar programs) to or on behalf of, Practitioner or any other person employed or retained by Practitioner, Practitioner shall reimburse Hospital for any such expenditure within thirty (30) calendar days after being notified of such expenditure.

4.5 Non-Solicitation. During the term of this Agreement and for a period of one (1) year thereafter, Practitioner shall not solicit for employment or actually employ any employee of Hospital, or interfere with any relationship, contractual or otherwise, between Hospital and any of its employees.

4.6 Referrals. Practitioner shall be entitled to refer patients to any hospital or other health care facility or provider deemed by Practitioner best qualified to deliver medical services to any particular patient; provided, however, that Practitioner shall not refer any Hospital patient to any provider of health care services which Practitioner knows or should have known is excluded or suspended from participation in, or sanctioned by, any Federal Health Care Program. No term of this Agreement shall be construed as requiring or inducing Practitioner to refer patients to Hospital. Practitioner's rights under this Agreement shall not be dependent in any way on the referral of patients or business to Hospital by Practitioner.

4.7 Physician Compensation Arrangements. Practitioner represents and warrants to Hospital that the compensation paid or to be paid by Practitioner to any physician who is employed or contracted with Practitioner is and will at all times be fair market value for services and items actually provided by such physician, not taking into account the value or volume of referrals or other business generated by such physician for Hospital or any Affiliate (as defined in Section 5.5). Practitioner further represents and warrants to Hospital that Practitioner has and will at all times maintain a written agreement with each physician receiving compensation from Practitioner.

ARTICLE V.

TERM AND TERMINATION

5.1 Term. This Agreement shall become effective on January 1, 2005 (the "**Effective Date**"), and shall continue until December 31, 2006 (the "**Expiration Date**"), subject to the termination provisions of this Agreement.

5.2 Termination by Hospital. Hospital shall have the right to terminate this Agreement immediately upon the occurrence of any one or more of the following events:

- (a) breach of this Agreement by Practitioner where the breach is not cured within thirty (30) calendar days after Hospital gives written notice of the breach to Practitioner;
- (b) death or permanent disability of Practitioner;
- (c) Practitioner's voluntary retirement from the practice of medicine;
- (d) neglect of professional duty by Practitioner in a manner that violates the Hospital Rules;
- (e) Practitioner's clinical privileges at any hospital are suspended, restricted, revoked or voluntarily relinquished, or Practitioner's medical staff membership at any hospital is suspended or terminated, for reasons relating to quality of care, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;
- (f) Practitioner's license to practice medicine in the State of California is restricted, suspended or terminated, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;
- (g) except as provided in Section 1.6, Practitioner at any time during the term of the Agreement for any reason is not a member in good standing in the "active staff" category of the Medical Staff or does not hold all clinical privileges at Hospital necessary for Practitioner's performance of Administrative Services;
- (h) Practitioner is charged with or convicted of a criminal offense;
- (i) Practitioner's performance of Administrative Services, in the sole determination of Hospital, jeopardizes the mental or physical health or well-being of patients of Hospital;
- (j) Practitioner is debarred, suspended, excluded or otherwise ineligible to participate in any Federal Health Care Program;
- (k) Practitioner acts, or causes another person to act, in a manner which conflicts with or violates the Code;
- (l) breach of any HIPAA Obligation (as defined in Exhibit 6.5); or
- (m) Practitioner is rendered unable to comply with the terms of this Agreement for any reason.

5.3 Termination without Cause. Either Party may terminate this Agreement without cause, expense or penalty, effective thirty (30) days after written notice of termination is given to the other Party. If this Agreement is terminated prior to the date that is twelve (12) months from the Effective Date (the "**One Year Anniversary**"), the Parties shall not, at any

time prior to the One Year Anniversary, enter into any other agreement or arrangement for the provision of Administrative Services that modifies, changes, or alters in any way the provisions of this Agreement.

5.4 Termination by Practitioner. Practitioner shall have the right to terminate this Agreement upon breach of this Agreement by Hospital where the breach is not cured within thirty (30) calendar days after Practitioner gives written notice of the breach to Hospital.

5.5 Termination or Modification in the Event of Government Action.

(a) In the event of any Government Action (as defined below), the Parties shall, within ten (10) days after one Party gives written notification of such Government Action to the other Party, meet and confer and negotiate in good faith to attempt to amend this Agreement in order to comply with the Government Action.

(b) If the Parties, after good faith negotiations that shall not exceed thirty (30) days, are unable to mutually agree upon the amendments necessary to comply with the Government Action, or, alternatively, if either Party determines in good faith that compliance with the Government Action is impossible or infeasible, either Party may terminate this Agreement effective ten (10) days after a written notice of termination is given to the other Party.

(c) For the purposes of this Section, “**Government Action**” shall mean any legislation, statute, law, regulation, rule or procedure passed, adopted or implemented by any federal, state or local government or legislative body or any private agency, or any decision, finding, interpretation or action by any governmental or private agency, court or other third party which, in the opinion of counsel to either Party, as a result or consequence, in whole or in part, of the arrangement between the Parties set forth in this Agreement, if or when implemented, could reasonably be expected to result in or present a material risk of any one or more of the following:

- (i) revocation or threat of revocation of the status of any license, certification or accreditation granted to Hospital or any Affiliate (as defined in Section 5.5(d));
- (ii) revocation or threat of revocation of the federal, state or local tax-exempt status of Hospital, or any Affiliate, or their respective tax-exempt financial obligations;
- (iii) prohibit or restrict the ability of Hospital or any Affiliate to issue tax-exempt bonds, certificates of participation or other tax-exempt financial obligations;
- (iv) prevent Practitioner from being able to access and use the facilities of Hospital or any Affiliate of Hospital;
- (v) violation of or threat of prosecution under 42 U.S.C. Section 1320a-7b(b) (commonly referred to as the “Anti-Kickback law”), 42 U.S.C. Section 1395nn (commonly referred to as the “Stark law”) or any comparable state law governing kickbacks, bribes,

rebates or patient referrals if Practitioner referred patients to Hospital or any Affiliate;

- (vi) violation by Hospital of, or threat of prosecution of Hospital under, any law, regulation, rule or procedure applicable to Hospital;
- (vii) prohibit Practitioner, Hospital or any Affiliate from submitting claims or materially reducing the reimbursement received by Hospital or any Affiliate for services provided to patients referred by Practitioner; or
- (viii) subject Hospital, Practitioner, any Affiliate, or any of their respective officers, directors, employees or agents, to civil action or criminal prosecution by any governmental authority or other person or entity or the imposition of any sanction (including any excise tax penalty under Internal Revenue Code Section 4958), on the basis of their approval of or participation in this Agreement or performing their respective obligations under this Agreement.

(d) For the purposes of this Agreement, “**Affiliate**” shall mean any entity which, directly or indirectly, controls, is controlled by, or is under common control with Hospital.

5.6 Effect of Termination or Expiration. Upon any termination or expiration of this Agreement:

(a) all rights and obligations of the Parties shall cease except (i) those rights and obligations that have accrued and remain unsatisfied prior to the termination or expiration of this Agreement, and (ii) those rights and obligations which expressly survive termination or expiration of this Agreement;

(b) upon Hospital’s request, Practitioner shall immediately vacate the premises, removing any and all of Practitioner’s personal property, and Hospital may remove and store, at Practitioner’s expense, any personal property that Practitioner has not so removed;

(c) Practitioner shall immediately return to Hospital all of Hospital’s property, including Hospital’s equipment, supplies, furniture, furnishings and patient records, in Practitioner’s possession or under Practitioner’s control;

(d) Practitioner shall not do anything or cause any other person to do anything that interferes with Hospital’s efforts to engage any other person or entity for the provision of Administrative Services, or interferes in any way with any relationship between Hospital and any other person or entity who may be engaged to provide Administrative Services to Hospital; and

(e) the expiration or termination of this Agreement shall not entitle Practitioner to the right to a “fair hearing” or any other similar rights or procedures more particularly set forth in the Medical Staff bylaws.

ARTICLE VI.

GENERAL PROVISIONS

6.1 Amendment. This Agreement may be modified or amended only by mutual written agreement of the Parties. Any such modification or amendment must be in writing, dated, signed by the Parties and explicitly indicate that such writing modifies or amends this Agreement.

6.2 Assignment. Practitioner may not assign any of Practitioner's rights, interests, duties, or obligations under this Agreement without Hospital's prior written consent, which consent may be given or withheld in Hospital's sole discretion. Any attempted or purported assignment by Practitioner in violation of this Section shall be void. Hospital may, in its sole discretion, assign any or all of its rights, interests, duties, or obligations hereunder to any person or entity without the prior written consent of Practitioner. Subject to the foregoing, this Agreement shall be binding on and shall inure to the benefit of the Parties and their respective heirs, successors, assigns and representatives.

6.3 Attorneys' Fees. If either Party brings an action or proceeding, arising out of or relating to this Agreement, the non-prevailing Party shall pay to the prevailing Party reasonable attorneys' fees and costs incurred in bringing such action, including, without limitation, fees incurred in post judgment motions, contempt proceedings, garnishment, levy, debtor and third party examinations, discovery, bankruptcy litigation, arbitration, trial, and any appeal or review, all of which shall be deemed to have accrued upon the commencement of such action and shall be paid whether or not such action is prosecuted to judgment. Any judgment or order entered shall contain a provision providing for the recovery of attorneys' fees and costs incurred in enforcing such judgment. The prevailing Party shall be the Party who is identified in any judgment or order entered as the Party entitled to recover its costs of suit, whether or not the action or proceeding proceeds to final judgment or award.

6.4 Choice of Law. This Agreement shall be construed in accordance with and governed by the laws of the State of California, without giving effect to any choice of law or conflict of law rules or provisions that would cause the application of the laws of any jurisdiction other than the State of California.

6.5 Compliance with HIPAA. Practitioner shall comply with the HIPAA Obligations as defined and set forth in Exhibit 6.5. The HIPAA Obligations shall survive the expiration or termination of this Agreement for any reason.

6.6 Compliance with Laws. Practitioner shall comply with all applicable laws, ordinances, codes and regulations of federal, state and local governments, including without limitation laws that require Practitioner to disclose any economic interest or relationship with Hospital, and the policies, standards, requirements, guidelines and recommendations of the Joint Commission on Accreditation of Healthcare Organizations ("**JCAHO**"), all as in effect and amended from time to time.

6.7 Compliance with Medicare Rules. To the extent required by law or regulation, Practitioner shall make available, upon written request from Hospital, the Secretary of Health

and Human Services, the Comptroller General of the United States, or any duly authorized agent or representative of the foregoing, a copy of this Agreement and Practitioner's books, documents and records to the extent necessary to certify the nature and extent of Hospital's costs for services provided by Practitioner. Practitioner shall preserve and make available such books, documents and records for a period which is the longer of ten (10) years after the end of the term of this Agreement, or the length of time required by state or federal law. If Practitioner is requested to disclose books, documents or records pursuant to this Section for any purpose, Practitioner shall notify Hospital of the nature and scope of such request, and Practitioner shall make available, upon written request of Hospital, all such books, documents or records. Practitioner shall indemnify and hold harmless Hospital if any amount of reimbursement is denied or disallowed because of Practitioner's failure to comply with the obligations set forth in this Section. Such indemnity shall include, but not be limited to, the amount of reimbursement denied, plus any interest, penalties and legal costs.

6.8 Confidentiality. Neither Party shall disclose any of the provisions of this Agreement to any person or entity, other than their respective attorneys or accountants, without the prior written consent of the other Party, unless and only to the extent such disclosure is required by law, subpoena or legal process; provided, however, that either Party may disclose the provisions of this Agreement to any person or entity without the prior written consent of the other Party to the extent such disclosure is (a) required by such Party's contracts existing as of the date of this Agreement; or (b) requested by fiscal intermediaries, public agencies or commissions with governmental powers and duties related to disclosure of information which have the right to compel disclosure of such information. Hospital may also disclose the provisions of this Agreement to any person or entity without the prior written consent of Practitioner to the extent such disclosure is requested or required by Hospital's representatives or others in connection with any tax-exempt bond or other financing transactions of Hospital or any Affiliates.

6.9 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

6.10 Dispute Resolution. In the event of any controversy or dispute related to or arising out of this Agreement, the Parties agree to meet and confer in good faith to attempt to resolve the controversy or dispute without an adversary proceeding. If the controversy or dispute is not resolved to the mutual satisfaction of the Parties within five (5) business days of notice of the controversy or dispute, the Parties agree to waive their rights, if any, to a jury trial and pre-trial discovery, and to submit the controversy or dispute to a retired judge or justice pursuant to Section 638 et seq. of the California Code of Civil Procedure, or any successor provision, for resolution in accordance with Chapter 6 (References and Trials by Referees), of Title 8 of Part 2 of the California Code of Civil Procedure, or any successor chapter. The Parties agree that the only proper venue for the submission of claims is the County of San Diego California, and that the hearing before the referee shall be concluded within nine (9) months of the filing and service of the complaint. The Parties reserve the right to contest the referee's decision and to appeal from any award or order of any court.

6.11 Entire Agreement. This Agreement is the entire understanding and agreement of the Parties regarding its subject matter, and supersedes any prior oral or written agreements, representations, understandings or discussions between the Parties with respect to such subject matter. No other understanding between the Parties shall be binding on them unless set forth in writing, signed and attached to this Agreement.

6.12 Exhibits and Attachments. The attached exhibits and attachments, together with all documents incorporated by reference in the exhibits and attachments, form an integral part of this Agreement and are incorporated by reference into this Agreement.

6.13 Force Majeure. Neither Party shall be liable for nonperformance or defective performance or late performance of any of its obligations under this Agreement to the extent and for such periods of time as such nonperformance, defective performance or late performance is due to reasons outside such Party's control, including acts of God, war (declared or undeclared), terrorism, action of any governmental authority, riots, revolutions, fire, floods, explosions, sabotage, nuclear incidents, lightning, weather, earthquakes, storms, sinkholes, epidemics, or strikes (or similar nonperformance or defective performance or late performance of employees, suppliers or subcontractors).

6.14 Headings. The headings in this Agreement are intended solely for convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.

6.15 Income Tax Ramifications. The Parties acknowledge that Practitioner may incur federal and state income tax liabilities from certain of the transactions contemplated by this Agreement, and that Hospital is or may be required to report items of income to Practitioner under relevant income tax laws and regulations. The Parties acknowledge and agree that Hospital has not made any representation to Practitioner with respect to the tax implications of the transactions contemplated by this Agreement, and that statements made by Hospital or its agents, employees, representatives or attorneys shall not be relied upon by Practitioner, and shall not be interpreted or construed as tax advice to Practitioner.

6.16 Litigation Consultation. Practitioner shall not accept consulting assignments or otherwise contract, agree, or enter into any arrangement to provide expert testimony or evaluation on behalf of a plaintiff in connection with any claim against Hospital or any Affiliate named, or expected to be named as a defendant. Practitioner shall not accept similar consulting assignments if (a) the defendants or anticipated defendants include a member of the medical staff of Hospital or any Affiliate, and (b) the matter relates to events that occurred at Hospital or any Affiliate; provided, however, the provisions of this Section shall not apply to situations in which Practitioner served as a treating physician.

6.17 Meaning of Certain Words. Wherever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine, or neuter forms, and the singular form of nouns shall include the plural and vice versa. Unless otherwise specified, "days" shall be considered "calendar days" and "months" shall be considered "calendar months" in this Agreement and its exhibits and attachments.

6.18 No Conflicting Obligations. Practitioner represents and warrants that the execution and delivery of this Agreement and the performance of his or her respective obligations hereunder do not and will not: (a) present a conflict of interest or materially interfere with the performance of his or her respective duties under any other agreement or arrangement; or (b) violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice and/or lapse of time, would constitute a default) under, terminate, accelerate the performance required by, or result in a right of termination or acceleration under any of the terms, conditions or provisions of any other agreement, indebtedness, note, bond, indenture, security or pledge agreement, license, franchise, permit, or other instrument or obligation. Practitioner shall immediately inform Hospital of any other agreements to which Practitioner is a party that may present a conflict of interest or materially interfere with performance of his or her duties under this Agreement.

6.19 Non-Discrimination. Practitioner shall not differentiate or discriminate in the provision of medical services on the basis of race, color, national origin, ancestry, religion, sex, marital status, sexual orientation, age, medical condition, medical history, genetics, evidence of insurability, or claims history, in violation of any applicable state, federal or local law or regulation, or Hospital Rules, including, without limitation, the Age Discrimination Act of 1975, the Americans with Disabilities Act and all regulations issued pursuant thereto and as may be amended from time to time. Practitioner and Hospital shall be in full compliance with Section 504 of the Rehabilitation Act of 1973, Titles VI and VII of the 1964 Civil Rights Act, and all regulations issued pursuant thereto and as may be amended from time to time.

6.20 No Third Party Beneficiary Rights. This Agreement shall not confer or be construed to confer any rights or benefits to any person or entity other than the Parties.

6.21 Notices. All notices or communications required or permitted under this Agreement shall be given in writing and shall be delivered to the Party to whom notice is to be given either: (a) by personal delivery (in which case such notice shall be deemed given on the date of delivery); (b) by next business day courier service (e.g., Federal Express, UPS or other similar service) (in which case such notice shall be deemed given on the business day following date of deposit with the courier service); or (c) by United States mail, first class, postage prepaid, registered or certified, return receipt requested (in which case such notice shall be deemed given on the third (3rd) day following the date of deposit with the United States Postal Service). In each case, notice shall be delivered or sent to the address indicated on the signature page, or such other address as provided by a Party, from time to time, pursuant to this Section.

6.22 Participation in Federal Health Care Programs. Practitioner hereby represents that Practitioner is not debarred, suspended, excluded or otherwise ineligible to participate in any Federal Health Care Program.

6.23 Representations. Each Party represents with respect to itself that: (a) no representation or promise not expressly contained in this Agreement has been made by any other Party or by any Parties' agents, employees, representatives or attorneys; (b) this Agreement is not being entered into on the basis of, or in reliance on, any promise or representation, expressed or implied, other than such as are set forth expressly in this Agreement; and (c) Party has been

represented by legal counsel of Party's own choice or has elected not to be represented by legal counsel in this matter.

6.24 Severability. Subject to Section 5.5, if any provision of this Agreement, in whole or in part, or the application of any provision, in whole or in part, is determined to be illegal, invalid or unenforceable by a court of competent jurisdiction and such provision can be severed without substantially changing the bargain reached by the Parties, such provision or part of such provision shall be severed from this Agreement, and such severance shall have no effect upon the enforceability, performance or obligations of the remainder of this Agreement, including the remainder of such provision not determined to be illegal, invalid or unenforceable. If Section 5.5 is applicable, this Section 6.24 shall not be enforced.

6.25 Trade Secrets. During the term of this Agreement, Practitioner will have access to and become acquainted with confidential information and trade secrets of Hospital, including information and data relating to payor contracts and accounts, clients, patients, patient groups, patient lists, billing practices and procedures, business techniques and methods, strategic plans, operations and related data (collectively, "**Trade Secrets**"). All Trade Secrets are the property of Hospital and used in the course of Hospital's business, and shall be proprietary information protected under the Uniform Trade Secrets Act. Practitioner shall not disclose to any person or entity, directly or indirectly, either during the term of this Agreement or at any time thereafter, any Trade Secrets, or use any Trade Secrets other than in the course of providing Administrative Services under this Agreement. All documents that Practitioner prepares, or Trade Secrets that might be given to Practitioner in the course of providing Administrative Services under this Agreement, are the exclusive property of Hospital, and, without the prior written consent of Hospital, shall not be removed from Hospital's premises.

6.26 Waiver. No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a Party must be in writing to be effective, and shall apply solely to the specific instance expressly stated.

6.27 Waiver of Injunctive or Similar Relief. Upon any breach or termination of this Agreement by Hospital that is determined to be improper by a court or by an arbitrator, Practitioner shall accept monetary damages, if any, as full and complete relief, to the exclusion of any specific performance, or injunctive or similar equitable relief.

[signature page follows]

The Parties have executed this Agreement on the date first above written, and signify their agreement with duly authorized signatures.

HOSPITAL

Palomar Pomerado Health, a local health care district organized under Division 23 of the California Health and Safety Code

By: _____
Its: _____

Address of Hospital:

15255 Innovation Drive
San Diego, CA 92128-3410
Attn: James Neal

PRACTITIONER

Paul E. Tornambe, M.D., an individual

Practitioner's principal contact address:

12630 Monte Vista Road
Poway, CA 92064

Exhibit 1.1

ADMINISTRATIVE SERVICES

Practitioner, as Chief of Staff at Pomerado Hospital, shall provide the following services:

1. Enforce Medical Staff bylaws, rules and regulations, implementing sanctions where indicated, and promoting compliance with procedural safeguards where corrective action has been requested or initiate;
2. Call, preside at, and being responsible for the agenda of all meetings of the Medical Staff;
3. Serve as Chair of the Executive Committee;
4. Serve as a nonvoting member of all other committees of the Medical Staff unless his/her membership on a particular committee is required by the Medical Staff Bylaws;
5. Interact with the Vice president/administrator and the Board of Directors in all matters of mutual concern within the hospital;
6. Appoint members to all standing, special liaison, multidisciplinary, or Medical Staff committees, except otherwise provided by the bylaws and except where otherwise indicated, designating a chairperson of these committees;
7. Represent the views and policies of the Medical Staff to the Board of Directors and to the Vice President/Administrator;
8. Act as the spokesperson for the Medical Staff in external professional and public-relation;
9. Serve on liaison committees with the Board of Directors and administration as well as outside licensing and accreditation agencies civil:
10. Perform such other functions as may be assigned by the Medical Staff bylaws, the Medical Staff or by the Executive Committee.

Exhibit 1.5

MONTHLY TIME REPORT

See Attached.

PRACTITIONER Paul E. Tornambe, M.D.

MONTH/YEAR

[illegible]

PRACTITIONER CERTIFIES THAT THE ABOVE ACCURATELY REPRESENTS THE HOURS PRACTITIONER DEVOTED TO ADMINISTRATIVE SERVICES DURING THE PERIOD OF THIS REPORT.

Paul E. Tornambe, M.D.

Date _____

Exhibit 1.10

CODE

See Attached.

Exhibit 1.10

Code of Conduct for Physician Agreements

1. I will perform my duties faithfully and to the best of my ability, and in the interest of Hospital as it relates to services provided under this agreement.
2. I will not lie, cheat, steal, or violate any law in connection with my practice at any Hospital facility.
3. I will not pay or arrange for Hospital to pay any person or entity for the referral of patients to Hospital, nor will I accept any payment or arrange for Hospital to accept any payment for referrals from Hospital.
4. I will not participate in any false billing of patients, government entities or any other party, nor will I participate in the preparation of any false cost reports, or other type of report submitted to the government.
5. I will not engage in any conduct or practice that conflicts with interest of Hospital, as it relates to services provided under this agreement.
6. I will not improperly use Hospital's confidential or proprietary information gathered during my association with Hospital for my own personal benefit.
7. I will not obtain any improper personal benefits by virtue of my practice at Hospital facilities.
8. I will notify the compliance officer of Hospital immediately upon the receipt (at work or home) of an inquiry, subpoena (other than for routine licensing or tax matters) or other agency or government request for information regarding Hospital.
9. I will not destroy or alter information or documents in anticipation of or in response to, a request for documents by any applicable government agency or from a court of competent jurisdiction.
10. I will not engage in any business practice intended to unlawfully obtain favorable treatment or business from any government entity, physician, patient, vendor or any other party in a position to provide such treatment or business.
11. I will not accept any gift of more than nominal value, and hospitality or entertainment that because of its source or value might influence my independent judgment in transactions involving Hospital as it relates to services provided under this agreement.
12. I will not provide any gifts to any government or public agency representative as it relates to services provided under this agreement.

13. I will disclose any compensation arrangements or an ownership in a privately-owned entity (not big pharmaceutical or other major public companies and not ownership through mutual funds) that I or a member of my immediate family has.

14. I will not disclose confidential medical information pertaining to Hospital patients without the express written consent of the patient in accordance with HIP AA, other applicable law and Hospital applicable policies or procedures.

15. I will promptly report all violations or suspected violations of this code by myself to the compliance officer of Hospital.

16. I will not conspire with a competitor of Hospital to illegally fix prices, labor cost, allocate markets, or engage in group boycotts.

Exhibit 2.1

COMPENSATION

1. Compensation. Hospital shall pay to Practitioner the amount of [REDACTED] per hour up to a maximum of [REDACTED] per month for the provision of Administrative Services.

2. Timing. Hospital shall pay the compensation due for Administrative Services performed by Practitioner in the immediately preceding month within five (5) business days after Practitioner's submission of the monthly time report in accordance with this Agreement; provided, however, that if Practitioner does not submit a time sheet within sixty (60) days of the end of the month during which Administrative Services were performed, Hospital shall not be obligated to pay Practitioner for Administrative Services performed during that month.

Exhibit 6.5

OBLIGATIONS UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 ("HIPAA")

1. Definitions.

- a. **"Designated Record Set"** shall have the meaning given to such term under the Privacy Rule (as defined below).
- b. **"HIPAA Obligations"** means the obligations of Practitioner as set forth in this Exhibit.
- c. **"Privacy Rule"** means the HIPAA Regulation that is codified at Title 45 of the Code of Federal Regulations, Parts 160 and 164, or applicable successor provisions, as may be amended from time to time.
- d. **"Protected Health Information"** means any information, whether oral or recorded in any form or medium that: (i) relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual, and (ii) identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, or is defined as such under the Privacy Rule.
- e. **"Protected Information"** means Protected Health Information provided by Hospital to Practitioner or created or received by Practitioner on Hospital's behalf.
- f. **"Required by Law"** shall have the meaning given to such term under the Privacy Rule.

- 2. **Use of Protected Information.** Practitioner shall not use Protected Information except as permitted by and for the purpose of performing Practitioner's obligations under this Agreement. Practitioner shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule if so used by Hospital.
- 3. **Permitted Disclosures.** Practitioner shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule if disclosed by Hospital, except that Practitioner may disclose Protected Information in a manner permitted pursuant to this Agreement or as Required by Law.
- 4. **Appropriate Safeguards.** Practitioner shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information other than as permitted by this Agreement.

5. **Reporting of Improper Use or Disclosure.** Practitioner shall notify Hospital in writing of any use or disclosure of Protected Information other than as provided for by this Agreement and this Exhibit within two (2) days of becoming aware of such use or disclosure.
6. **Practitioner's Agents.** Practitioner shall ensure that any agents of Practitioner, including subcontractors, to whom Practitioner provides Protected Information, agree in writing to the same restrictions and conditions that apply to Practitioner with respect to such Protected Information.
7. **Access to Protected Information.** Practitioner shall make Protected Information maintained by Practitioner or Practitioner's agents or subcontractors in Designated Record Sets available to Hospital for inspection and copying within ten (10) days of a request by Hospital to enable Hospital to fulfill its obligations under the Privacy Rule.
8. **Amendment of Protected Health Information.** Within ten (10) days of receipt from Hospital for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, Practitioner or Practitioner's agents or subcontractors shall make such Protected Information available to Hospital for amendment and incorporate any such amendment to enable Hospital to fulfill its obligations under the Privacy Rule.
9. **Accounting Rights.** Within ten (10) days of notice by Hospital of a request for an accounting of disclosures of Protected Information, Practitioner and Practitioner's agents or subcontractors shall provide to Hospital an accounting of disclosures sufficient to enable Hospital to fulfill its obligations under the Privacy Rule. As set forth and as limited by the Privacy Rule, Practitioner shall not provide an accounting to Hospital of disclosures: (i) to carry out treatment, payment or health care operations; (ii) to individuals of Protected Information about them; (iii) to persons involved in the individual's care or other notification purposes; (iv) for national security or intelligence purposes; or (v) to correctional institutions or law enforcement officials. **[Practitioner agrees to implement a process that allows for an accounting to be collected and maintained by Practitioner and Practitioner's agents or subcontractors for at least six (6) years prior to the request, but not before the compliance date of the Privacy Rule.]** At a minimum, such information shall include: (A) the date of disclosure; (B) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (C) a brief description of Protected Information disclosed; and (D) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or copy of the individual's authorization, or a copy of the written request for disclosure.
10. **Governmental Access to Records.** Practitioner shall make his or her internal practices, books and records relating to the use and disclosure of Protected Information available to Hospital or, at the request of Hospital, to the Secretary of the U.S. Department of Health and Human Services, for purposes of determining Hospital's compliance with the Privacy Rule.

11. **Retention of Protected Information.** Except as provided in Sections 12 and 13 of this Exhibit, Practitioner and Practitioner's agents or subcontractors shall retain all Protected Information throughout the term of this Agreement and shall continue to maintain the information required hereunder for a period of six (6) years after expiration or termination of this Agreement.
12. **Term of Obligations.** Practitioner's HIPAA Obligations shall commence as of the compliance date of the Privacy Rule, and shall terminate when all of the Protected Information is destroyed or returned to Hospital, or, if it is infeasible to return or destroy Protected Information, protections are extended to such information, in accordance with Section 14 of this Exhibit.
13. **Effect of Termination.** Upon expiration or termination of this Agreement for any reason, Practitioner shall return or destroy all Protected Information that Practitioner or Practitioner's agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, Practitioner shall continue to extend the protections of this Exhibit to such information, and limit further use of such Protected Health Information to those purposes that make the return or destruction of such Protected Health Information infeasible.
14. **Amendment.** The Parties agree to take such action as is necessary to amend HIPAA Obligations from time to time in order for Hospital to comply with the requirements of the Privacy Rule, HIPAA and other applicable laws relating to the security or confidentiality of Protected Health Information.
15. **Interpretation of Obligations.** The HIPAA Obligations shall be interpreted as broadly as necessary to implement and comply with HIPAA and the Privacy Rule. The Parties acknowledge and agree that any ambiguity in the HIPAA Obligations shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the Privacy Rule.

ADMINISTRATIVE SERVICES AGREEMENT

by and between

PALOMAR POMERADO HEALTH (“Hospital”)

and

Benjamin Kanter, M.D. (“Practitioner”)

ADMINISTRATIVE SERVICES AGREEMENT

THIS ADMINISTRATIVE SERVICES AGREEMENT (this "**Agreement**") is entered into as of January __, 2006 (the "**Execution Date**"), by and between Palomar Pomerado Health, a local health care district organized under Division 23 of the California Health and Safety Code ("**Hospital**"), and Benjamin Kanter, M.D., an individual ("**Practitioner**"). Hospital and Practitioner are sometimes referred to in this Agreement individually as a "**Party**" or, collectively, as the "**Parties**."

RECITALS

A. Hospital owns and operates Pomerado Hospital, an acute care hospital facility located in Poway, California.

B. Practitioner is licensed to practice medicine in the State of California, board certified for the practice of medicine in the specialty of Internal Medicine (the "**Specialty**") and a member in good standing of Hospital's medical staff (the "**Medical Staff**").

C. Hospital desires to engage Practitioner as an independent contractor to serve as Chief of Staff-Elect at Pomerado Hospital, and believes that the following can be achieved if Practitioner assumes such responsibility as set forth in this Agreement: This will enhance the Hospital's organization, procedure standardization, economic efficiency, professional proficiency, and provide other benefits to enhance coordination and cooperation among the Pomerado Hospital's providers and users.

D. As of January 1, 2005, pending the execution of this Agreement, Practitioner agreed to provide services as reflected hereunder, and Hospital agreed to compensate Practitioner in a manner consistent with the terms of this Agreement. Accordingly, Practitioner has been providing services since January 1, 2005 and this Agreement is intended to encompass those services and continue forward until December 31, 2006.

E. Hospital has considered the following factors in determining the necessity and amount of compensation payable to Practitioner pursuant to this Agreement:

1. The nature of Practitioner's duties as contemplated by this Agreement.
2. Practitioner's qualifications.

AGREEMENT

THE PARTIES AGREE AS FOLLOWS:

ARTICLE I. **PRACTITIONER'S OBLIGATIONS**

1.1 Administrative Services. Practitioner shall provide to Hospital those administrative services set forth on Exhibit 1.1 ("**Administrative Services**"), upon the terms and subject to the conditions set forth in this Agreement.

1.2 Time Commitment. Practitioner shall devote whatever time is necessary to effectively provide the Administrative Services; provided, however, that Practitioner shall perform Administrative Services a maximum of ten (10) hours per month. Practitioner shall allocate time to Administrative Services when and as needed and as reasonably requested by Hospital from time to time.

1.3 Availability. On or before the first (1st) day of each month, Practitioner shall inform Hospital of Practitioner's schedule and availability to perform Administrative Services during that month. Practitioner shall use his or her best efforts to adjust such schedule of availability if reasonably requested by Hospital in order to meet Hospital's needs for Administrative Services.

1.4 Personal Services; Absences. This Agreement is entered into by Hospital in reliance on the professional and administrative skills of Practitioner. Practitioner shall be solely responsible for performing Administrative Services and otherwise fulfilling the terms of this Agreement; provided, however, that if Practitioner is temporarily unable to provide Administrative Services due to illness, disability, continuing education responsibilities, or vacation, Practitioner shall designate a qualified replacement to provide Administrative Services pursuant to this Agreement. Such temporary replacement must be approved in writing by Hospital prior to the replacement providing Administrative Services. Practitioner shall ensure that any such designated replacement meets any and all qualifications, obligations and requirements of Practitioner under this Agreement. Practitioner shall be solely responsible for compensating and making any tax filings or withholdings with respect to any designated replacement providing Administrative Services on Practitioner's behalf. If the length of Practitioner's absence is anticipated by Hospital to be or actually is longer than sixty (60) calendar days, the person who provides Administrative Services in Practitioner's absence shall execute a written document agreeing to be bound by this Agreement. Except in the event of absence due to illness or disability, Hospital shall have the right to approve the length of Practitioner's absence, and any unapproved absence shall constitute a breach of this Agreement. Nothing in this Section shall be deemed to limit in any way Hospital's right to terminate this Agreement in accordance with Section 5.2.

1.5 Time Reports. Practitioner shall maintain monthly time reports that provide a true and accurate accounting of the time spent each day by Practitioner providing Administrative Services. Such reports shall be substantially in the form attached as Exhibit 1.5. Practitioner shall submit all time reports to Hospital no later than the tenth (10th) day of each month for Administrative Services provided by Practitioner during the immediately preceding month.

1.6 Medical Staff Membership. Practitioner shall, from and after the Effective Date (as defined in Section 5.1), be a member in good standing in the "active staff" category of the Medical Staff, and maintain all clinical privileges necessary to practice medicine in the Specialty at Hospital; provided, however, that if Practitioner, as of the Effective Date, is not a member in good standing in the "active staff" category of the Medical Staff, or has not obtained all clinical privileges necessary to practice medicine in the Specialty at Hospital, Practitioner shall have a reasonable amount of time to obtain such membership and/or clinical privileges; provided, however, that Practitioner diligently pursues such membership and/or clinical privileges in accordance with the normal procedures set forth in the bylaws, rules, regulations, protocols, guidelines and policies of Hospital and the Medical Staff (collectively, the "**Hospital Rules**"). Practitioner may also obtain and maintain medical staff membership and clinical privileges at any other hospital or health care facility.

1.7 Professional Qualifications. Practitioner shall be duly licensed and qualified to practice medicine in the State of California. Practitioner shall be board certified in the Specialty.

1.8 Continuing Medical Education. Practitioner shall participate in continuing medical education as necessary to maintain licensure, professional competence and skills commensurate with the standards of the medical community, as otherwise required by the medical profession and as required to effectively perform Practitioner's obligations under this Agreement.

1.9 Performance Standards. Practitioner shall comply with and perform the duties under this Agreement in accordance with the Hospital Rules applicable to the performance of Administrative Services.

1.10 Code of Conduct. Practitioner hereby acknowledges receipt of Hospital's Code of Conduct for Physician Agreements, attached to this Agreement as Exhibit 1.10 (the "**Code**"). With respect to Practitioner's business dealings with Hospital and Practitioner's performance of duties under this Agreement, Practitioner shall not act, or fail to act, in any manner which conflicts with or violates the Code, and shall not cause another person to act, or fail to act, in any manner which conflicts with or violates the Code. Practitioner shall comply with the Code as it relates to Practitioner's business relationship with Hospital or any Palomar Pomerado Health System affiliates, subsidiaries, employees, agents, servants, officers, directors, contractors and suppliers of every kind.

1.11 Use of Space. Practitioner shall not use any part of the space that Hospital designates for Practitioner's use as an office for the private practice of medicine, except in an emergency or with Hospital's prior written consent.

1.12 Notification of Certain Events. Practitioner shall notify Hospital in writing within twenty-four (24) hours after Practitioner becomes aware of the occurrence of any one or more of the following events:

(a) Practitioner becomes the subject of, or otherwise materially involved in, any government investigation of Practitioner's business practices or the provision of professional services, including being served with a search warrant in connection with such activities;

(b) Practitioner's medical staff membership or clinical privileges at any hospital are denied, suspended, restricted, revoked or voluntarily relinquished, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(c) Practitioner becomes the subject of any suit, action or other legal proceeding arising out of Practitioner's professional services;

(d) Practitioner is required to pay damages or any other amount in any malpractice action by way of judgment or settlement;

(e) Practitioner becomes the subject of any disciplinary proceeding or action before any state's medical board or similar agency responsible for professional standards or behavior;

(f) Practitioner becomes incapacitated or disabled from performing Administrative Services, or voluntarily or involuntarily retires from the practice of medicine;

(g) Practitioner's license to practice medicine in the State of California is restricted, suspended or terminated, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(h) Practitioner is charged with or convicted of a criminal offense;

(i) any act of nature or any other event occurs which has a material adverse effect on Practitioner's ability to provide Administrative Services;

(j) Practitioner is debarred, suspended, excluded or otherwise ineligible to participate in any federal health care programs, as defined at 42 U.S.C. Section 1320(a)-7b(f) ("**Federal Health Care Programs**"), which programs include, but are not limited to, Medicare and Medicaid;

(k) any termination, non-renewal, cancellation or reduction in coverage of any insurance policy required to be maintained by Practitioner under this Agreement; or

(l) Practitioner fails or is otherwise unable to comply with any term of this Agreement.

ARTICLE II. COMPENSATION

2.1 Compensation. In exchange for Practitioner's provision of Administrative Services, Hospital shall compensate Practitioner in accordance with the terms of Exhibit 2.1.

2.2 IRS Form W-9. Upon execution of this Agreement, Practitioner shall furnish a completed and executed copy of IRS Form W-9 which identifies Practitioner's taxpayer identification number.

ARTICLE III. INSURANCE AND INDEMNITY

3.1 Malpractice Liability Insurance. Practitioner shall obtain and continuously maintain professional malpractice liability insurance coverage, issued by an insurance company licensed or otherwise qualified to issue professional liability insurance policies or coverage in the State of California, and acceptable to Hospital, in the amount of at least One Million Dollars (\$1,000,000) per occurrence or claim and Three Million Dollars (\$3,000,000) in the annual aggregate for the acts and omissions of Practitioner. Such coverage shall provide for a date of placement preceding or coinciding with the Effective Date of this Agreement.

3.2 Certificate of Insurance. On or before the Effective Date, Practitioner shall provide Hospital with an original certificate evidencing professional malpractice liability insurance coverage, and shall provide Hospital with proof of continued professional malpractice liability insurance coverage on an annual basis (or as periodically requested by Hospital). Practitioner shall provide Hospital with no less than thirty (30) calendar days' prior written notice of cancellation or any material change in such professional malpractice liability insurance coverage.

3.3 Tail Coverage. If Practitioner's professional malpractice liability insurance is provided on a claims-made basis, upon the expiration or termination of this Agreement for any reason, Practitioner shall continuously maintain such insurance or purchase from an insurance company licensed or otherwise qualified to issue professional liability insurance policies or coverage in the State of California, and acceptable to Hospital, extended reporting period (*i.e.*, "tail") coverage for the longest extended reporting period then available to ensure that insurance coverage in the amount set forth in Section 3.1 of this Agreement is maintained for claims which arise from professional services provided by Practitioner during the term of this Agreement.

3.4 Indemnification.

(a) **Indemnification by Practitioner.** Practitioner shall indemnify, defend and hold harmless Hospital against: (i) any and all liability arising out of Practitioner's failure to comply with the terms of this Agreement, and any injury, loss, claims, or damages arising from the negligent operations, acts, or omissions of Practitioner or Practitioner's employees or agents relating to or arising out of Administrative Services or this Agreement; and (ii) any and all costs and expenses, including reasonable legal expenses, incurred by or on behalf of Hospital in connection with the defense of such claims.

(b) **Indemnification by Hospital.** Hospital shall indemnify, defend and hold harmless Practitioner against: (i) any and all liability arising out of Hospital's failure to comply with the terms of this Agreement, and any injury, loss, claims, or damages arising from the negligent operations, acts, or omissions of Hospital or its employees or agents relating to or arising out of this Agreement; and (ii) any and all costs and expenses, including reasonable legal expenses, incurred by or on behalf of Practitioner in connection with the defense of such claims.

3.5 Cooperation.

(a) The Parties recognize that, during the term of this Agreement and for an undetermined time period thereafter, certain risk management issues, legal issues, claims or actions may arise that involve or could potentially involve the Parties and their respective employees and agents. The Parties further recognize the importance of cooperating with each other in good faith when such issues, claims or actions arise, to the extent such cooperation does not violate any applicable laws, cause the breach of any duties created by any policies of insurance or programs of self-insurance, or otherwise compromise the confidentiality of communications or information regarding the issues, claims or actions. As such, the Parties hereby agree to cooperate in good faith, using their best efforts, to address such risk management and legal issues, claims, or actions.

(b) The Parties further agree that if a controversy, dispute, claim, action or lawsuit (each, an "Action") arises with a third party wherein both the Parties are included as defendants, each Party shall promptly disclose to the other Party in writing the existence and continuing status of the Action and any negotiations relating thereto. Each Party shall make every reasonable attempt to include the other Party in any settlement offer or negotiations. In the event the other Party is not included in the settlement, the settling Party shall immediately disclose to the other Party in writing the acceptance of any settlement and terms relating thereto, if and to the extent allowed by the terms of such settlement.

3.6 Survival of Obligations. The Parties' obligations under this Article III shall survive the expiration or termination of this Agreement for any reason.

ARTICLE IV. RELATIONSHIP BETWEEN THE PARTIES

4.1 Independent Contractor. Practitioner is and shall at all times be an independent contractor with respect to Hospital in meeting Practitioner's responsibilities under this Agreement. Nothing in this Agreement is intended nor shall be construed to create a partnership, employer-employee or joint venture relationship between Hospital and Practitioner.

4.2 Limitation on Control. Hospital shall neither have nor exercise any control or direction over Practitioner's professional medical judgment or the methods by which Practitioner performs professional medical services; provided, however, that Practitioner shall be subject to and shall at all times comply with the Hospital Rules.

4.3 Practice of Medicine. Practitioner and Hospital acknowledge that Hospital is neither authorized nor qualified to engage in any activity which may be construed or deemed to constitute the practice of medicine. To the extent that any act or service required of, or reserved

to, Hospital in this Agreement is construed or deemed to constitute the practice of medicine, the performance of such act or service by Hospital shall be deemed waived or unenforceable, unless this Agreement can be amended to comply with the law, in which case the Parties shall make such amendment.

4.4 No Benefit Contributions. Hospital shall have no obligation under this Agreement to compensate or pay applicable taxes for, or provide employee benefits of any kind (including contributions to government mandated, employment-related insurance and similar programs) to or on behalf of, Practitioner or any other person employed or retained by Practitioner. Notwithstanding the foregoing, if Hospital determines or is advised that it is required by law to compensate or pay applicable taxes for, or provide employee benefits of any kind (including contributions to government mandated, employment-related insurance and similar programs) to or on behalf of, Practitioner or any other person employed or retained by Practitioner, Practitioner shall reimburse Hospital for any such expenditure within thirty (30) calendar days after being notified of such expenditure.

4.5 Non-Solicitation. During the term of this Agreement and for a period of one (1) year thereafter, Practitioner shall not solicit for employment or actually employ any employee of Hospital, or interfere with any relationship, contractual or otherwise, between Hospital and any of its employees.

4.6 Referrals. Practitioner shall be entitled to refer patients to any hospital or other health care facility or provider deemed by Practitioner best qualified to deliver medical services to any particular patient; provided, however, that Practitioner shall not refer any Hospital patient to any provider of health care services which Practitioner knows or should have known is excluded or suspended from participation in, or sanctioned by, any Federal Health Care Program. No term of this Agreement shall be construed as requiring or inducing Practitioner to refer patients to Hospital. Practitioner's rights under this Agreement shall not be dependent in any way on the referral of patients or business to Hospital by Practitioner.

4.7 Physician Compensation Arrangements. Practitioner represents and warrants to Hospital that the compensation paid or to be paid by Practitioner to any physician who is employed or contracted with Practitioner is and will at all times be fair market value for services and items actually provided by such physician, not taking into account the value or volume of referrals or other business generated by such physician for Hospital or any Affiliate (as defined in Section 5.5). Practitioner further represents and warrants to Hospital that Practitioner has and will at all times maintain a written agreement with each physician receiving compensation from Practitioner.

ARTICLE V. TERM AND TERMINATION

5.1 Term. This Agreement shall become effective on January 1, 2005 (the "**Effective Date**"), and shall continue until December 31, 2006 (the "**Expiration Date**"), subject to the termination provisions of this Agreement.

5.2 Termination by Hospital. Hospital shall have the right to terminate this Agreement immediately upon the occurrence of any one or more of the following events:

- (a) breach of this Agreement by Practitioner where the breach is not cured within thirty (30) calendar days after Hospital gives written notice of the breach to Practitioner;
- (b) death or permanent disability of Practitioner;
- (c) Practitioner's voluntary retirement from the practice of medicine;
- (d) neglect of professional duty by Practitioner in a manner that violates the Hospital Rules;
- (e) Practitioner's clinical privileges at any hospital are suspended, restricted, revoked or voluntarily relinquished, or Practitioner's medical staff membership at any hospital is suspended or terminated, for reasons relating to quality of care, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;
- (f) Practitioner's license to practice medicine in the State of California is restricted, suspended or terminated, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;
- (g) except as provided in Section 1.6, Practitioner at any time during the term of the Agreement for any reason is not a member in good standing in the "active staff" category of the Medical Staff or does not hold all clinical privileges at Hospital necessary for Practitioner's performance of Administrative Services;
- (h) Practitioner is charged with or convicted of a criminal offense;
- (i) Practitioner's performance of Administrative Services, in the sole determination of Hospital, jeopardizes the mental or physical health or well-being of patients of Hospital;
- (j) Practitioner is debarred, suspended, excluded or otherwise ineligible to participate in any Federal Health Care Program;
- (k) Practitioner acts, or causes another person to act, in a manner which conflicts with or violates the Code;
- (l) breach of any HIPAA Obligation (as defined in Exhibit 6.5); or
- (m) Practitioner is rendered unable to comply with the terms of this Agreement for any reason.

5.3 Termination without Cause. Either Party may terminate this Agreement without cause, expense or penalty, effective thirty (30) days after written notice of termination is given to the other Party. If this Agreement is terminated prior to the date that is twelve (12) months from the Effective Date (the "**One Year Anniversary**"), the Parties shall not, at any

time prior to the One Year Anniversary, enter into any other agreement or arrangement for the provision of Administrative Services that modifies, changes, or alters in any way the provisions of this Agreement.

5.4 Termination by Practitioner. Practitioner shall have the right to terminate this Agreement upon breach of this Agreement by Hospital where the breach is not cured within thirty (30) calendar days after Practitioner gives written notice of the breach to Hospital.

5.5 Termination or Modification in the Event of Government Action.

(a) In the event of any Government Action (as defined below), the Parties shall, within ten (10) days after one Party gives written notification of such Government Action to the other Party, meet and confer and negotiate in good faith to attempt to amend this Agreement in order to comply with the Government Action.

(b) If the Parties, after good faith negotiations that shall not exceed thirty (30) days, are unable to mutually agree upon the amendments necessary to comply with the Government Action, or, alternatively, if either Party determines in good faith that compliance with the Government Action is impossible or infeasible, either Party may terminate this Agreement effective ten (10) days after a written notice of termination is given to the other Party.

(c) For the purposes of this Section, “**Government Action**” shall mean any legislation, statute, law, regulation, rule or procedure passed, adopted or implemented by any federal, state or local government or legislative body or any private agency, or any decision, finding, interpretation or action by any governmental or private agency, court or other third party which, in the opinion of counsel to either Party, as a result or consequence, in whole or in part, of the arrangement between the Parties set forth in this Agreement, if or when implemented, could reasonably be expected to result in or present a material risk of any one or more of the following:

- (i) revocation or threat of revocation of the status of any license, certification or accreditation granted to Hospital or any Affiliate (as defined in Section 5.5(d));
- (ii) revocation or threat of revocation of the federal, state or local tax-exempt status of Hospital, or any Affiliate, or their respective tax-exempt financial obligations;
- (iii) prohibit or restrict the ability of Hospital or any Affiliate to issue tax-exempt bonds, certificates of participation or other tax-exempt financial obligations;
- (iv) prevent Practitioner from being able to access and use the facilities of Hospital or any Affiliate of Hospital;
- (v) violation of or threat of prosecution under 42 U.S.C. Section 1320a-7b(b) (commonly referred to as the “Anti-Kickback law”), 42 U.S.C. Section 1395nn (commonly referred to as the “Stark law”) or any comparable state law governing kickbacks, bribes,

rebates or patient referrals if Practitioner referred patients to Hospital or any Affiliate;

- (vi) violation by Hospital of, or threat of prosecution of Hospital under, any law, regulation, rule or procedure applicable to Hospital;
- (vii) prohibit Practitioner, Hospital or any Affiliate from submitting claims or materially reducing the reimbursement received by Hospital or any Affiliate for services provided to patients referred by Practitioner; or
- (viii) subject Hospital, Practitioner, any Affiliate, or any of their respective officers, directors, employees or agents, to civil action or criminal prosecution by any governmental authority or other person or entity or the imposition of any sanction (including any excise tax penalty under Internal Revenue Code Section 4958), on the basis of their approval of or participation in this Agreement or performing their respective obligations under this Agreement.

(d) For the purposes of this Agreement, “**Affiliate**” shall mean any entity which, directly or indirectly, controls, is controlled by, or is under common control with Hospital.

5.6 Effect of Termination or Expiration. Upon any termination or expiration of this Agreement:

- (a) all rights and obligations of the Parties shall cease except (i) those rights and obligations that have accrued and remain unsatisfied prior to the termination or expiration of this Agreement, and (ii) those rights and obligations which expressly survive termination or expiration of this Agreement;
- (b) upon Hospital’s request, Practitioner shall immediately vacate the premises, removing any and all of Practitioner’s personal property, and Hospital may remove and store, at Practitioner’s expense, any personal property that Practitioner has not so removed;
- (c) Practitioner shall immediately return to Hospital all of Hospital’s property, including Hospital’s equipment, supplies, furniture, furnishings and patient records, in Practitioner’s possession or under Practitioner’s control;
- (d) Practitioner shall not do anything or cause any other person to do anything that interferes with Hospital’s efforts to engage any other person or entity for the provision of Administrative Services, or interferes in any way with any relationship between Hospital and any other person or entity who may be engaged to provide Administrative Services to Hospital; and
- (e) the expiration or termination of this Agreement shall not entitle Practitioner to the right to a “fair hearing” or any other similar rights or procedures more particularly set forth in the Medical Staff bylaws.

ARTICLE VI.

GENERAL PROVISIONS

6.1 Amendment. This Agreement may be modified or amended only by mutual written agreement of the Parties. Any such modification or amendment must be in writing, dated, signed by the Parties and explicitly indicate that such writing modifies or amends this Agreement.

6.2 Assignment. Practitioner may not assign any of Practitioner's rights, interests, duties, or obligations under this Agreement without Hospital's prior written consent, which consent may be given or withheld in Hospital's sole discretion. Any attempted or purported assignment by Practitioner in violation of this Section shall be void. Hospital may, in its sole discretion, assign any or all of its rights, interests, duties, or obligations hereunder to any person or entity without the prior written consent of Practitioner. Subject to the foregoing, this Agreement shall be binding on and shall inure to the benefit of the Parties and their respective heirs, successors, assigns and representatives.

6.3 Attorneys' Fees. If either Party brings an action or proceeding, arising out of or relating to this Agreement, the non-prevailing Party shall pay to the prevailing Party reasonable attorneys' fees and costs incurred in bringing such action, including, without limitation, fees incurred in post judgment motions, contempt proceedings, garnishment, levy, debtor and third party examinations, discovery, bankruptcy litigation, arbitration, trial, and any appeal or review, all of which shall be deemed to have accrued upon the commencement of such action and shall be paid whether or not such action is prosecuted to judgment. Any judgment or order entered shall contain a provision providing for the recovery of attorneys' fees and costs incurred in enforcing such judgment. The prevailing Party shall be the Party who is identified in any judgment or order entered as the Party entitled to recover its costs of suit, whether or not the action or proceeding proceeds to final judgment or award.

6.4 Choice of Law. This Agreement shall be construed in accordance with and governed by the laws of the State of California, without giving effect to any choice of law or conflict of law rules or provisions that would cause the application of the laws of any jurisdiction other than the State of California.

6.5 Compliance with HIPAA. Practitioner shall comply with the HIPAA Obligations as defined and set forth in Exhibit 6.5. The HIPAA Obligations shall survive the expiration or termination of this Agreement for any reason.

6.6 Compliance with Laws. Practitioner shall comply with all applicable laws, ordinances, codes and regulations of federal, state and local governments, including without limitation laws that require Practitioner to disclose any economic interest or relationship with Hospital, and the policies, standards, requirements, guidelines and recommendations of the Joint Commission on Accreditation of Healthcare Organizations ("**JCAHO**"), all as in effect and amended from time to time.

6.7 Compliance with Medicare Rules. To the extent required by law or regulation, Practitioner shall make available, upon written request from Hospital, the Secretary of Health

and Human Services, the Comptroller General of the United States, or any duly authorized agent or representative of the foregoing, a copy of this Agreement and Practitioner's books, documents and records to the extent necessary to certify the nature and extent of Hospital's costs for services provided by Practitioner. Practitioner shall preserve and make available such books, documents and records for a period which is the longer of ten (10) years after the end of the term of this Agreement, or the length of time required by state or federal law. If Practitioner is requested to disclose books, documents or records pursuant to this Section for any purpose, Practitioner shall notify Hospital of the nature and scope of such request, and Practitioner shall make available, upon written request of Hospital, all such books, documents or records. Practitioner shall indemnify and hold harmless Hospital if any amount of reimbursement is denied or disallowed because of Practitioner's failure to comply with the obligations set forth in this Section. Such indemnity shall include, but not be limited to, the amount of reimbursement denied, plus any interest, penalties and legal costs.

6.8 Confidentiality. Neither Party shall disclose any of the provisions of this Agreement to any person or entity, other than their respective attorneys or accountants, without the prior written consent of the other Party, unless and only to the extent such disclosure is required by law, subpoena or legal process; provided, however, that either Party may disclose the provisions of this Agreement to any person or entity without the prior written consent of the other Party to the extent such disclosure is (a) required by such Party's contracts existing as of the date of this Agreement; or (b) requested by fiscal intermediaries, public agencies or commissions with governmental powers and duties related to disclosure of information which have the right to compel disclosure of such information. Hospital may also disclose the provisions of this Agreement to any person or entity without the prior written consent of Practitioner to the extent such disclosure is requested or required by Hospital's representatives or others in connection with any tax-exempt bond or other financing transactions of Hospital or any Affiliates.

6.9 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

6.10 Dispute Resolution. In the event of any controversy or dispute related to or arising out of this Agreement, the Parties agree to meet and confer in good faith to attempt to resolve the controversy or dispute without an adversary proceeding. If the controversy or dispute is not resolved to the mutual satisfaction of the Parties within five (5) business days of notice of the controversy or dispute, the Parties agree to waive their rights, if any, to a jury trial and pre-trial discovery, and to submit the controversy or dispute to a retired judge or justice pursuant to Section 638 et seq. of the California Code of Civil Procedure, or any successor provision, for resolution in accordance with Chapter 6 (References and Trials by Referees), of Title 8 of Part 2 of the California Code of Civil Procedure, or any successor chapter. The Parties agree that the only proper venue for the submission of claims is the County of San Diego California, and that the hearing before the referee shall be concluded within nine (9) months of the filing and service of the complaint. The Parties reserve the right to contest the referee's decision and to appeal from any award or order of any court.

6.11 Entire Agreement. This Agreement is the entire understanding and agreement of the Parties regarding its subject matter, and supersedes any prior oral or written agreements, representations, understandings or discussions between the Parties with respect to such subject matter. No other understanding between the Parties shall be binding on them unless set forth in writing, signed and attached to this Agreement.

6.12 Exhibits and Attachments. The attached exhibits and attachments, together with all documents incorporated by reference in the exhibits and attachments, form an integral part of this Agreement and are incorporated by reference into this Agreement.

6.13 Force Majeure. Neither Party shall be liable for nonperformance or defective performance or late performance of any of its obligations under this Agreement to the extent and for such periods of time as such nonperformance, defective performance or late performance is due to reasons outside such Party's control, including acts of God, war (declared or undeclared), terrorism, action of any governmental authority, riots, revolutions, fire, floods, explosions, sabotage, nuclear incidents, lightning, weather, earthquakes, storms, sinkholes, epidemics, or strikes (or similar nonperformance or defective performance or late performance of employees, suppliers or subcontractors).

6.14 Headings. The headings in this Agreement are intended solely for convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.

6.15 Income Tax Ramifications. The Parties acknowledge that Practitioner may incur federal and state income tax liabilities from certain of the transactions contemplated by this Agreement, and that Hospital is or may be required to report items of income to Practitioner under relevant income tax laws and regulations. The Parties acknowledge and agree that Hospital has not made any representation to Practitioner with respect to the tax implications of the transactions contemplated by this Agreement, and that statements made by Hospital or its agents, employees, representatives or attorneys shall not be relied upon by Practitioner, and shall not be interpreted or construed as tax advice to Practitioner.

6.16 Litigation Consultation. Practitioner shall not accept consulting assignments or otherwise contract, agree, or enter into any arrangement to provide expert testimony or evaluation on behalf of a plaintiff in connection with any claim against Hospital or any Affiliate named, or expected to be named as a defendant. Practitioner shall not accept similar consulting assignments if (a) the defendants or anticipated defendants include a member of the medical staff of Hospital or any Affiliate, and (b) the matter relates to events that occurred at Hospital or any Affiliate; provided, however, the provisions of this Section shall not apply to situations in which Practitioner served as a treating physician.

6.17 Meaning of Certain Words. Wherever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine, or neuter forms, and the singular form of nouns shall include the plural and vice versa. Unless otherwise specified, "days" shall be considered "calendar days" and "months" shall be considered "calendar months" in this Agreement and its exhibits and attachments.

6.18 No Conflicting Obligations. Practitioner represents and warrants that the execution and delivery of this Agreement and the performance of his or her respective obligations hereunder do not and will not: (a) present a conflict of interest or materially interfere with the performance of his or her respective duties under any other agreement or arrangement; or (b) violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice and/or lapse of time, would constitute a default) under, terminate, accelerate the performance required by, or result in a right of termination or acceleration under any of the terms, conditions or provisions of any other agreement, indebtedness, note, bond, indenture, security or pledge agreement, license, franchise, permit, or other instrument or obligation. Practitioner shall immediately inform Hospital of any other agreements to which Practitioner is a party that may present a conflict of interest or materially interfere with performance of his or her duties under this Agreement.

6.19 Non-Discrimination. Practitioner shall not differentiate or discriminate in the provision of medical services on the basis of race, color, national origin, ancestry, religion, sex, marital status, sexual orientation, age, medical condition, medical history, genetics, evidence of insurability, or claims history, in violation of any applicable state, federal or local law or regulation, or Hospital Rules, including, without limitation, the Age Discrimination Act of 1975, the Americans with Disabilities Act and all regulations issued pursuant thereto and as may be amended from time to time. Practitioner and Hospital shall be in full compliance with Section 504 of the Rehabilitation Act of 1973, Titles VI and VII of the 1964 Civil Rights Act, and all regulations issued pursuant thereto and as may be amended from time to time.

6.20 No Third Party Beneficiary Rights. This Agreement shall not confer or be construed to confer any rights or benefits to any person or entity other than the Parties.

6.21 Notices. All notices or communications required or permitted under this Agreement shall be given in writing and shall be delivered to the Party to whom notice is to be given either: (a) by personal delivery (in which case such notice shall be deemed given on the date of delivery); (b) by next business day courier service (e.g., Federal Express, UPS or other similar service) (in which case such notice shall be deemed given on the business day following date of deposit with the courier service); or (c) by United States mail, first class, postage prepaid, registered or certified, return receipt requested (in which case such notice shall be deemed given on the third (3rd) day following the date of deposit with the United States Postal Service). In each case, notice shall be delivered or sent to the address indicated on the signature page, or such other address as provided by a Party, from time to time, pursuant to this Section.

6.22 Participation in Federal Health Care Programs. Practitioner hereby represents that Practitioner is not debarred, suspended, excluded or otherwise ineligible to participate in any Federal Health Care Program.

6.23 Representations. Each Party represents with respect to itself that: (a) no representation or promise not expressly contained in this Agreement has been made by any other Party or by any Parties' agents, employees, representatives or attorneys; (b) this Agreement is not being entered into on the basis of, or in reliance on, any promise or representation, expressed or implied, other than such as are set forth expressly in this Agreement; and (c) Party has been

represented by legal counsel of Party's own choice or has elected not to be represented by legal counsel in this matter.

6.24 Severability. Subject to Section 5.5, if any provision of this Agreement, in whole or in part, or the application of any provision, in whole or in part, is determined to be illegal, invalid or unenforceable by a court of competent jurisdiction and such provision can be severed without substantially changing the bargain reached by the Parties, such provision or part of such provision shall be severed from this Agreement, and such severance shall have no effect upon the enforceability, performance or obligations of the remainder of this Agreement, including the remainder of such provision not determined to be illegal, invalid or unenforceable. If Section 5.5 is applicable, this Section 6.24 shall not be enforced.

6.25 Trade Secrets. During the term of this Agreement, Practitioner will have access to and become acquainted with confidential information and trade secrets of Hospital, including information and data relating to payor contracts and accounts, clients, patients, patient groups, patient lists, billing practices and procedures, business techniques and methods, strategic plans, operations and related data (collectively, "**Trade Secrets**"). All Trade Secrets are the property of Hospital and used in the course of Hospital's business, and shall be proprietary information protected under the Uniform Trade Secrets Act. Practitioner shall not disclose to any person or entity, directly or indirectly, either during the term of this Agreement or at any time thereafter, any Trade Secrets, or use any Trade Secrets other than in the course of providing Administrative Services under this Agreement. All documents that Practitioner prepares, or Trade Secrets that might be given to Practitioner in the course of providing Administrative Services under this Agreement, are the exclusive property of Hospital, and, without the prior written consent of Hospital, shall not be removed from Hospital's premises.

6.26 Waiver. No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a Party must be in writing to be effective, and shall apply solely to the specific instance expressly stated.

6.27 Waiver of Injunctive or Similar Relief. Upon any breach or termination of this Agreement by Hospital that is determined to be improper by a court or by an arbitrator, Practitioner shall accept monetary damages, if any, as full and complete relief, to the exclusion of any specific performance, or injunctive or similar equitable relief.

[signature page follows]

The Parties have executed this Agreement on the date first above written, and signify their agreement with duly authorized signatures.

HOSPITAL

Palomar Pomerado Health, a local health care district organized under Division 23 of the California Health and Safety Code

By: _____

Its: _____

Address of Hospital:

15255 Innovation Drive

San Diego, CA 92128-3410

Attn: James Neal

PRACTITIONER

Benjamin Kanter, M.D., an individual

Practitioner's principal contact address:

488 East Valley Parkway

Escondido, CA 92025

Exhibit 1.1

ADMINISTRATIVE SERVICES

Practitioner as Chief of Staff-Elect at Pomerado Hospital shall provide the following services:

1. Assume the duties and the authority of the Chief of Staff in the absence of the Chief of Staff;
2. Shall be a member of the Medical Staff Executive Committee;
3. Be the chairperson of the Bylaws Committee which is a subcommittee of the Executive Committee;
4. Serve as the Vice Chair of the Quality Management Committee; and
5. Perform other such duties as the Chief of Staff may assign or as delegated by the Executive Committee.

Exhibit 1.5

MONTHLY TIME REPORT

See Attached.

PRACTITIONER Benjamin Kanter, M.D.

MONTH/YEAR

[illegible]

PRACTITIONER CERTIFIES THAT THE ABOVE ACCURATELY REPRESENTS THE HOURS PRACTITIONER DEVOTED TO ADMINISTRATIVE SERVICES DURING THE PERIOD OF THIS REPORT.

Benjamin Kanter, M.D.

Date

Exhibit 1.10

CODE

See Attached.

Exhibit 1.10

Code of Conduct for Physician Agreements

1. I will perform my duties faithfully and to the best of my ability, and in the interest of Hospital as it relates to services provided under this agreement.
2. I will not lie, cheat, steal, or violate any law in connection with my practice at any Hospital facility.
3. I will not pay or arrange for Hospital to pay any person or entity for the referral of patients to Hospital, nor will I accept any payment or arrange for Hospital to accept any payment for referrals from Hospital.
4. I will not participate in any false billing of patients, government entities or any other party, nor will I participate in the preparation of any false cost reports, or other type of report submitted to the government.
5. I will not engage in any conduct or practice that conflicts with interest of Hospital, as it relates to services provided under this agreement.
6. I will not improperly use Hospital's confidential or proprietary information gathered during my association with Hospital for my own personal benefit.
7. I will not obtain any improper personal benefits by virtue of my practice at Hospital facilities.
8. I will notify the compliance officer of Hospital immediately upon the receipt (at work or home) of an inquiry, subpoena (other than for routine licensing or tax matters) or other agency or government request for information regarding Hospital.
9. I will not destroy or alter information or documents in anticipation of or in response to, a request for documents by any applicable government agency or from a court of competent jurisdiction.
10. I will not engage in any business practice intended to unlawfully obtain favorable treatment or business from any government entity, physician, patient, vendor or any other party in a position to provide such treatment or business.
11. I will not accept any gift of more than nominal value, and hospitality or entertainment that because of its source or value might influence my independent judgment in transactions involving Hospital as it relates to services provided under this agreement.
12. I will not provide any gifts to any government or public agency representative as it relates to services provided under this agreement.

13. I will disclose any compensation arrangements or an ownership in a privately-owned entity (not big pharmaceutical or other major public companies and not ownership through mutual funds) that I or a member of my immediate family has.
14. I will not disclose confidential medical information pertaining to Hospital patients without the express written consent of the patient in accordance with HIP AA, other applicable law and Hospital applicable policies or procedures.
15. I will promptly report all violations or suspected violations of this code by myself to the compliance officer of Hospital.
16. I will not conspire with a competitor of Hospital to illegally fix prices, labor cost, allocate markets, or engage in group boycotts.

Exhibit 2.1

COMPENSATION

1. Compensation. Hospital shall pay to Practitioner the amount of [REDACTED] per hour up to a maximum of [REDACTED] per month for the provision of Administrative Services.

2. Timing. Hospital shall pay the compensation due for Administrative Services performed by Practitioner in the immediately preceding month within five (5) business days after Practitioner's submission of the monthly time report in accordance with this Agreement; provided, however, that if Practitioner does not submit a time sheet within sixty (60) days of the end of the month during which Administrative Services were performed, Hospital shall not be obligated to pay Practitioner for Administrative Services performed during that month.

Exhibit 6.5

OBLIGATIONS UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 ("HIPAA")

1. Definitions.

- a. **"Designated Record Set"** shall have the meaning given to such term under the Privacy Rule (as defined below).
- b. **"HIPAA Obligations"** means the obligations of Practitioner as set forth in this Exhibit.
- c. **"Privacy Rule"** means the HIPAA Regulation that is codified at Title 45 of the Code of Federal Regulations, Parts 160 and 164, or applicable successor provisions, as may be amended from time to time.
- d. **"Protected Health Information"** means any information, whether oral or recorded in any form or medium that: (i) relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual, and (ii) identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, or is defined as such under the Privacy Rule.
- e. **"Protected Information"** means Protected Health Information provided by Hospital to Practitioner or created or received by Practitioner on Hospital's behalf.
- f. **"Required by Law"** shall have the meaning given to such term under the Privacy Rule.

- 2. **Use of Protected Information.** Practitioner shall not use Protected Information except as permitted by and for the purpose of performing Practitioner's obligations under this Agreement. Practitioner shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule if so used by Hospital.
- 3. **Permitted Disclosures.** Practitioner shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule if disclosed by Hospital, except that Practitioner may disclose Protected Information in a manner permitted pursuant to this Agreement or as Required by Law.
- 4. **Appropriate Safeguards.** Practitioner shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information other than as permitted by this Agreement.

5. **Reporting of Improper Use or Disclosure.** Practitioner shall notify Hospital in writing of any use or disclosure of Protected Information other than as provided for by this Agreement and this Exhibit within two (2) days of becoming aware of such use or disclosure.
6. **Practitioner's Agents.** Practitioner shall ensure that any agents of Practitioner, including subcontractors, to whom Practitioner provides Protected Information, agree in writing to the same restrictions and conditions that apply to Practitioner with respect to such Protected Information.
7. **Access to Protected Information.** Practitioner shall make Protected Information maintained by Practitioner or Practitioner's agents or subcontractors in Designated Record Sets available to Hospital for inspection and copying within ten (10) days of a request by Hospital to enable Hospital to fulfill its obligations under the Privacy Rule.
8. **Amendment of Protected Health Information.** Within ten (10) days of receipt from Hospital for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, Practitioner or Practitioner's agents or subcontractors shall make such Protected Information available to Hospital for amendment and incorporate any such amendment to enable Hospital to fulfill its obligations under the Privacy Rule.
9. **Accounting Rights.** Within ten (10) days of notice by Hospital of a request for an accounting of disclosures of Protected Information, Practitioner and Practitioner's agents or subcontractors shall provide to Hospital an accounting of disclosures sufficient to enable Hospital to fulfill its obligations under the Privacy Rule. As set forth and as limited by the Privacy Rule, Practitioner shall not provide an accounting to Hospital of disclosures: (i) to carry out treatment, payment or health care operations; (ii) to individuals of Protected Information about them; (iii) to persons involved in the individual's care or other notification purposes; (iv) for national security or intelligence purposes; or (v) to correctional institutions or law enforcement officials. **[Practitioner agrees to implement a process that allows for an accounting to be collected and maintained by Practitioner and Practitioner's agents or subcontractors for at least six (6) years prior to the request, but not before the compliance date of the Privacy Rule.]** At a minimum, such information shall include: (A) the date of disclosure; (B) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (C) a brief description of Protected Information disclosed; and (D) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or copy of the individual's authorization, or a copy of the written request for disclosure.
10. **Governmental Access to Records.** Practitioner shall make his or her internal practices, books and records relating to the use and disclosure of Protected Information available to Hospital or, at the request of Hospital, to the Secretary of the U.S. Department of Health and Human Services, for purposes of determining Hospital's compliance with the Privacy Rule.

11. **Retention of Protected Information.** Except as provided in Sections 12 and 13 of this Exhibit, Practitioner and Practitioner's agents or subcontractors shall retain all Protected Information throughout the term of this Agreement and shall continue to maintain the information required hereunder for a period of six (6) years after expiration or termination of this Agreement.
12. **Term of Obligations.** Practitioner's HIPAA Obligations shall commence as of the compliance date of the Privacy Rule, and shall terminate when all of the Protected Information is destroyed or returned to Hospital, or, if it is infeasible to return or destroy Protected Information, protections are extended to such information, in accordance with Section 14 of this Exhibit.
13. **Effect of Termination.** Upon expiration or termination of this Agreement for any reason, Practitioner shall return or destroy all Protected Information that Practitioner or Practitioner's agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, Practitioner shall continue to extend the protections of this Exhibit to such information, and limit further use of such Protected Health Information to those purposes that make the return or destruction of such Protected Health Information infeasible.
14. **Amendment.** The Parties agree to take such action as is necessary to amend HIPAA Obligations from time to time in order for Hospital to comply with the requirements of the Privacy Rule, HIPAA and other applicable laws relating to the security or confidentiality of Protected Health Information.
15. **Interpretation of Obligations.** The HIPAA Obligations shall be interpreted as broadly as necessary to implement and comply with HIPAA and the Privacy Rule. The Parties acknowledge and agree that any ambiguity in the HIPAA Obligations shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the Privacy Rule.

ADMINISTRATIVE SERVICES AGREEMENT

by and between

PALOMAR POMERADO HEALTH (“Hospital”)

and

ROGER J. ACHEATEL, M.D. (“Practitioner”)

ADMINISTRATIVE SERVICES AGREEMENT

THIS ADMINISTRATIVE SERVICES AGREEMENT (this "**Agreement**") is entered into as of January 1, 2006 (the "**Execution Date**"), by and between Palomar Pomerado Health, a local health care district organized under Division 23 of the California Health and Safety Code ("**Hospital**"), and Roger J. Acheatel, M.D., an individual ("**Practitioner**"). Hospital and Practitioner are sometimes referred to in this Agreement individually as a "**Party**" or, collectively, as the "**Parties**."

RECITALS

A. Hospital owns and operates Pomerado Hospital, an acute care hospital facility located in Poway, California.

B. Practitioner is licensed to practice medicine in the State of California, board certified for the practice of medicine in the specialty of Cardiology (the "**Specialty**") and a member in good standing of Hospital's medical staff (the "**Medical Staff**").

C. Hospital desires to engage Practitioner as an independent contractor to serve as Chairman of the Quality Management Committee at Pomerado Hospital, and believes that the following can be achieved if Practitioner assumes such responsibility as set forth in this Agreement: This will enhance the Hospital's organization, procedure standardization, economic efficiency, professional proficiency, and provide other benefits to enhance coordination and cooperation at Pomerado Hospital.

D. Hospital has considered the following factors in determining the necessity and amount of compensation payable to Practitioner pursuant to this Agreement:

1. The nature of Practitioner's duties as contemplated by this Agreement.
2. Practitioner's qualifications.

AGREEMENT

THE PARTIES AGREE AS FOLLOWS:

ARTICLE I. PRACTITIONER'S OBLIGATIONS

1.1 Administrative Services. Practitioner shall provide to Hospital those administrative services set forth on Exhibit 1.1 ("**Administrative Services**"), upon the terms and subject to the conditions set forth in this Agreement.

1.2 Time Commitment. Practitioner shall devote whatever time is necessary to effectively provide the Administrative Services; provided, however, that Practitioner shall perform Administrative Services a maximum of fifteen (15) hours per month. Practitioner shall allocate time to Administrative Services when and as needed and as reasonably requested by Hospital from time to time.

1.3 Availability. On or before the first (1st) day of each month, Practitioner shall inform Hospital of Practitioner's schedule and availability to perform Administrative Services during that month. Practitioner shall use his or her best efforts to adjust such schedule of availability if reasonably requested by Hospital in order to meet Hospital's needs for Administrative Services.

1.4 Personal Services; Absences. This Agreement is entered into by Hospital in reliance on the professional and administrative skills of Practitioner. Practitioner shall be solely responsible for performing Administrative Services and otherwise fulfilling the terms of this Agreement; provided, however, that if Practitioner is temporarily unable to provide Administrative Services due to illness, disability, continuing education responsibilities, or vacation, Practitioner shall designate a qualified replacement to provide Administrative Services pursuant to this Agreement. Such temporary replacement must be approved in writing by Hospital prior to the replacement providing Administrative Services. Practitioner shall ensure that any such designated replacement meets any and all qualifications, obligations and requirements of Practitioner under this Agreement. Practitioner shall be solely responsible for compensating and making any tax filings or withholdings with respect to any designated replacement providing Administrative Services on Practitioner's behalf. If the length of Practitioner's absence is anticipated by Hospital to be or actually is longer than sixty (60) calendar days, the person who provides Administrative Services in Practitioner's absence shall execute a written document agreeing to be bound by this Agreement. Except in the event of absence due to illness or disability, Hospital shall have the right to approve the length of Practitioner's absence, and any unapproved absence shall constitute a breach of this Agreement. Nothing in this Section shall be deemed to limit in any way Hospital's right to terminate this Agreement in accordance with Section 5.2.

1.5 Time Reports. Practitioner shall maintain monthly time reports that provide a true and accurate accounting of the time spent each day by Practitioner providing Administrative Services. Such reports shall be substantially in the form attached as Exhibit 1.5. Practitioner shall submit all time reports to Hospital no later than the tenth (10th) day of each month for Administrative Services provided by Practitioner during the immediately preceding month.

1.6 Medical Staff Membership. Practitioner shall, from and after the Effective Date (as defined in Section 5.1), be a member in good standing in the "active staff" category of the Medical Staff, and maintain all clinical privileges necessary to practice medicine in the Specialty at Hospital; provided, however, that if Practitioner, as of the Effective Date, is not a member in good standing in the "active staff" category of the Medical Staff, or has not obtained all clinical privileges necessary to practice medicine in the Specialty at Hospital, Practitioner shall have a reasonable amount of time to obtain such membership and/or clinical privileges; provided, however, that Practitioner diligently pursues such membership and/or clinical privileges in accordance with the normal procedures set forth in the bylaws, rules, regulations, protocols, guidelines and policies of Hospital and the Medical Staff (collectively, the "**Hospital Rules**"). Practitioner may also obtain and maintain medical staff membership and clinical privileges at any other hospital or health care facility.

1.7 Professional Qualifications. Practitioner shall be duly licensed and qualified to practice medicine in the State of California. Practitioner shall be board certified in the Specialty.

1.8 Continuing Medical Education. Practitioner shall participate in continuing medical education as necessary to maintain licensure, professional competence and skills commensurate with the standards of the medical community, as otherwise required by the medical profession and as required to effectively perform Practitioner's obligations under this Agreement.

1.9 Performance Standards. Practitioner shall comply with and perform the duties under this Agreement in accordance with the Hospital Rules applicable to the performance of Administrative Services.

1.10 Code of Conduct. Practitioner hereby acknowledges receipt of Hospital's Code of Conduct for Physician Agreements, attached to this Agreement as Exhibit 1.10 (the "**Code**"). With respect to Practitioner's business dealings with Hospital and Practitioner's performance of duties under this Agreement, Practitioner shall not act, or fail to act, in any manner which conflicts with or violates the Code, and shall not cause another person to act, or fail to act, in any manner which conflicts with or violates the Code. Practitioner shall comply with the Code as it relates to Practitioner's business relationship with Hospital or any Palomar Pomerado Health System affiliates, subsidiaries, employees, agents, servants, officers, directors, contractors and suppliers of every kind.

1.11 Use of Space. Practitioner shall not use any part of the space that Hospital designates for Practitioner's use as an office for the private practice of medicine, except in an emergency or with Hospital's prior written consent.

1.12 Notification of Certain Events. Practitioner shall notify Hospital in writing within twenty-four (24) hours after Practitioner becomes aware of the occurrence of any one or more of the following events:

(a) Practitioner becomes the subject of, or otherwise materially involved in, any government investigation of Practitioner's business practices or the provision of professional services, including being served with a search warrant in connection with such activities;

(b) Practitioner's medical staff membership or clinical privileges at any hospital are denied, suspended, restricted, revoked or voluntarily relinquished, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(c) Practitioner becomes the subject of any suit, action or other legal proceeding arising out of Practitioner's professional services;

(d) Practitioner is required to pay damages or any other amount in any malpractice action by way of judgment or settlement;

(e) Practitioner becomes the subject of any disciplinary proceeding or action before any state's medical board or similar agency responsible for professional standards or behavior;

(f) Practitioner becomes incapacitated or disabled from performing Administrative Services, or voluntarily or involuntarily retires from the practice of medicine;

(g) Practitioner's license to practice medicine in the State of California is restricted, suspended or terminated, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(h) Practitioner is charged with or convicted of a criminal offense;

(i) any act of nature or any other event occurs which has a material adverse effect on Practitioner's ability to provide Administrative Services;

(j) Practitioner is debarred, suspended, excluded or otherwise ineligible to participate in any federal health care programs, as defined at 42 U.S.C. Section 1320(a)-7b(f) ("**Federal Health Care Programs**"), which programs include, but are not limited to, Medicare and Medicaid;

(k) any termination, non-renewal, cancellation or reduction in coverage of any insurance policy required to be maintained by Practitioner under this Agreement; or

(l) Practitioner fails or is otherwise unable to comply with any term of this Agreement.

ARTICLE II. COMPENSATION

2.1 Compensation. In exchange for Practitioner's provision of Administrative Services, Hospital shall compensate Practitioner in accordance with the terms of Exhibit 2.1.

2.2 IRS Form W-9. Upon execution of this Agreement, Practitioner shall furnish a completed and executed copy of IRS Form W-9 which identifies Practitioner's taxpayer identification number.

ARTICLE III. INSURANCE AND INDEMNITY

3.1 Malpractice Liability Insurance. Practitioner shall obtain and continuously maintain professional malpractice liability insurance coverage, issued by an insurance company licensed or otherwise qualified to issue professional liability insurance policies or coverage in the State of California, and acceptable to Hospital, in the amount of at least One Million Dollars (\$1,000,000) per occurrence or claim and Three Million Dollars (\$3,000,000) in the annual aggregate for the acts and omissions of Practitioner. Such coverage shall provide for a date of placement preceding or coinciding with the Effective Date of this Agreement.

3.2 Certificate of Insurance. On or before the Effective Date, Practitioner shall provide Hospital with an original certificate evidencing professional malpractice liability insurance coverage, and shall provide Hospital with proof of continued professional malpractice liability insurance coverage on an annual basis (or as periodically requested by Hospital). Practitioner shall provide Hospital with no less than thirty (30) calendar days' prior written notice of cancellation or any material change in such professional malpractice liability insurance coverage.

3.3 Tail Coverage. If Practitioner's professional malpractice liability insurance is provided on a claims-made basis, upon the expiration or termination of this Agreement for any reason, Practitioner shall continuously maintain such insurance or purchase from an insurance company licensed or otherwise qualified to issue professional liability insurance policies or coverage in the State of California, and acceptable to Hospital, extended reporting period (*i.e.*, "tail") coverage for the longest extended reporting period then available to ensure that insurance coverage in the amount set forth in Section 3.1 of this Agreement is maintained for claims which arise from professional services provided by Practitioner during the term of this Agreement.

3.4 Indemnification.

(a) **Indemnification by Practitioner.** Practitioner shall indemnify, defend and hold harmless Hospital against: (i) any and all liability arising out of Practitioner's failure to comply with the terms of this Agreement, and any injury, loss, claims, or damages arising from the negligent operations, acts, or omissions of Practitioner or Practitioner's employees or agents relating to or arising out of Administrative Services or this Agreement; and (ii) any and all costs and expenses, including reasonable legal expenses, incurred by or on behalf of Hospital in connection with the defense of such claims.

(b) **Indemnification by Hospital.** Hospital shall indemnify, defend and hold harmless Practitioner against: (i) any and all liability arising out of Hospital's failure to comply with the terms of this Agreement, and any injury, loss, claims, or damages arising from the negligent operations, acts, or omissions of Hospital or its employees or agents relating to or arising out of this Agreement; and (ii) any and all costs and expenses, including reasonable legal expenses, incurred by or on behalf of Practitioner in connection with the defense of such claims.

3.5 Cooperation.

(a) The Parties recognize that, during the term of this Agreement and for an undetermined time period thereafter, certain risk management issues, legal issues, claims or actions may arise that involve or could potentially involve the Parties and their respective employees and agents. The Parties further recognize the importance of cooperating with each other in good faith when such issues, claims or actions arise, to the extent such cooperation does not violate any applicable laws, cause the breach of any duties created by any policies of insurance or programs of self-insurance, or otherwise compromise the confidentiality of communications or information regarding the issues, claims or actions. As such, the Parties hereby agree to cooperate in good faith, using their best efforts, to address such risk management and legal issues, claims, or actions.

(b) The Parties further agree that if a controversy, dispute, claim, action or lawsuit (each, an "**Action**") arises with a third party wherein both the Parties are included as defendants, each Party shall promptly disclose to the other Party in writing the existence and continuing status of the Action and any negotiations relating thereto. Each Party shall make every reasonable attempt to include the other Party in any settlement offer or negotiations. In the event the other Party is not included in the settlement, the settling Party shall immediately disclose to the other Party in writing the acceptance of any settlement and terms relating thereto, if and to the extent allowed by the terms of such settlement.

3.6 Survival of Obligations. The Parties' obligations under this Article III shall survive the expiration or termination of this Agreement for any reason.

ARTICLE IV. RELATIONSHIP BETWEEN THE PARTIES

4.1 Independent Contractor. Practitioner is and shall at all times be an independent contractor with respect to Hospital in meeting Practitioner's responsibilities under this Agreement. Nothing in this Agreement is intended nor shall be construed to create a partnership, employer-employee or joint venture relationship between Hospital and Practitioner.

4.2 Limitation on Control. Hospital shall neither have nor exercise any control or direction over Practitioner's professional medical judgment or the methods by which Practitioner performs professional medical services; provided, however, that Practitioner shall be subject to and shall at all times comply with the Hospital Rules.

4.3 Practice of Medicine. Practitioner and Hospital acknowledge that Hospital is neither authorized nor qualified to engage in any activity which may be construed or deemed to constitute the practice of medicine. To the extent that any act or service required of, or reserved

to, Hospital in this Agreement is construed or deemed to constitute the practice of medicine, the performance of such act or service by Hospital shall be deemed waived or unenforceable, unless this Agreement can be amended to comply with the law, in which case the Parties shall make such amendment.

4.4 No Benefit Contributions. Hospital shall have no obligation under this Agreement to compensate or pay applicable taxes for, or provide employee benefits of any kind (including contributions to government mandated, employment-related insurance and similar programs) to or on behalf of, Practitioner or any other person employed or retained by Practitioner. Notwithstanding the foregoing, if Hospital determines or is advised that it is required by law to compensate or pay applicable taxes for, or provide employee benefits of any kind (including contributions to government mandated, employment-related insurance and similar programs) to or on behalf of, Practitioner or any other person employed or retained by Practitioner, Practitioner shall reimburse Hospital for any such expenditure within thirty (30) calendar days after being notified of such expenditure.

4.5 Non-Solicitation. During the term of this Agreement and for a period of one (1) year thereafter, Practitioner shall not solicit for employment or actually employ any employee of Hospital, or interfere with any relationship, contractual or otherwise, between Hospital and any of its employees.

4.6 Referrals. Practitioner shall be entitled to refer patients to any hospital or other health care facility or provider deemed by Practitioner best qualified to deliver medical services to any particular patient; provided, however, that Practitioner shall not refer any Hospital patient to any provider of health care services which Practitioner knows or should have known is excluded or suspended from participation in, or sanctioned by, any Federal Health Care Program. No term of this Agreement shall be construed as requiring or inducing Practitioner to refer patients to Hospital. Practitioner's rights under this Agreement shall not be dependent in any way on the referral of patients or business to Hospital by Practitioner.

4.7 Physician Compensation Arrangements. Practitioner represents and warrants to Hospital that the compensation paid or to be paid by Practitioner to any physician who is employed or contracted with Practitioner is and will at all times be fair market value for services and items actually provided by such physician, not taking into account the value or volume of referrals or other business generated by such physician for Hospital or any Affiliate (as defined in Section 5.5). Practitioner further represents and warrants to Hospital that Practitioner has and will at all times maintain a written agreement with each physician receiving compensation from Practitioner.

ARTICLE V. TERM AND TERMINATION

5.1 Term. This Agreement shall become effective on January 1, 2006 (the "Effective Date"), and shall continue until December 31, 2006 (the "Expiration Date"), subject to the termination provisions of this Agreement.

5.2 Termination by Hospital. Hospital shall have the right to terminate this Agreement immediately upon the occurrence of any one or more of the following events:

- (a) breach of this Agreement by Practitioner where the breach is not cured within thirty (30) calendar days after Hospital gives written notice of the breach to Practitioner;
- (b) death or permanent disability of Practitioner;
- (c) Practitioner's voluntary retirement from the practice of medicine;
- (d) neglect of professional duty by Practitioner in a manner that violates the Hospital Rules;
- (e) Practitioner's clinical privileges at any hospital are suspended, restricted, revoked or voluntarily relinquished, or Practitioner's medical staff membership at any hospital is suspended or terminated, for reasons relating to quality of care, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;
- (f) Practitioner's license to practice medicine in the State of California is restricted, suspended or terminated, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;
- (g) except as provided in Section 1.6, Practitioner at any time during the term of the Agreement for any reason is not a member in good standing in the "active staff" category of the Medical Staff or does not hold all clinical privileges at Hospital necessary for Practitioner's performance of Administrative Services;
- (h) Practitioner is charged with or convicted of a criminal offense;
- (i) Practitioner's performance of Administrative Services, in the sole determination of Hospital, jeopardizes the mental or physical health or well-being of patients of Hospital;
- (j) Practitioner is debarred, suspended, excluded or otherwise ineligible to participate in any Federal Health Care Program;
- (k) Practitioner acts, or causes another person to act, in a manner which conflicts with or violates the Code;
- (l) breach of any HIPAA Obligation (as defined in Exhibit 6.5); or
- (m) Practitioner is rendered unable to comply with the terms of this Agreement for any reason.

5.3 Termination without Cause. Either Party may terminate this Agreement without cause, expense or penalty, effective thirty (30) days after written notice of termination is given to the other Party. If this Agreement is terminated prior to the date that is twelve (12) months from the Effective Date (the "**One Year Anniversary**"), the Parties shall not, at any

time prior to the One Year Anniversary, enter into any other agreement or arrangement for the provision of Administrative Services that modifies, changes, or alters in any way the provisions of this Agreement.

5.4 Termination by Practitioner. Practitioner shall have the right to terminate this Agreement upon breach of this Agreement by Hospital where the breach is not cured within thirty (30) calendar days after Practitioner gives written notice of the breach to Hospital.

5.5 Termination or Modification in the Event of Government Action.

(a) In the event of any Government Action (as defined below), the Parties shall, within ten (10) days after one Party gives written notification of such Government Action to the other Party, meet and confer and negotiate in good faith to attempt to amend this Agreement in order to comply with the Government Action.

(b) If the Parties, after good faith negotiations that shall not exceed thirty (30) days, are unable to mutually agree upon the amendments necessary to comply with the Government Action, or, alternatively, if either Party determines in good faith that compliance with the Government Action is impossible or infeasible, either Party may terminate this Agreement effective ten (10) days after a written notice of termination is given to the other Party.

(c) For the purposes of this Section, "**Government Action**" shall mean any legislation, statute, law, regulation, rule or procedure passed, adopted or implemented by any federal, state or local government or legislative body or any private agency, or any decision, finding, interpretation or action by any governmental or private agency, court or other third party which, in the opinion of counsel to either Party, as a result or consequence, in whole or in part, of the arrangement between the Parties set forth in this Agreement, if or when implemented, could reasonably be expected to result in or present a material risk of any one or more of the following:

- (i) revocation or threat of revocation of the status of any license, certification or accreditation granted to Hospital or any Affiliate (as defined in Section 5.5(d));
- (ii) revocation or threat of revocation of the federal, state or local tax-exempt status of Hospital, or any Affiliate, or their respective tax-exempt financial obligations;
- (iii) prohibit or restrict the ability of Hospital or any Affiliate to issue tax-exempt bonds, certificates of participation or other tax-exempt financial obligations;
- (iv) prevent Practitioner from being able to access and use the facilities of Hospital or any Affiliate of Hospital;
- (v) violation of or threat of prosecution under 42 U.S.C. Section 1320a-7b(b) (commonly referred to as the "Anti-Kickback law"), 42 U.S.C. Section 1395nn (commonly referred to as the "Stark law") or any comparable state law governing kickbacks, bribes,

rebates or patient referrals if Practitioner referred patients to Hospital or any Affiliate;

- (vi) violation by Hospital of, or threat of prosecution of Hospital under, any law, regulation, rule or procedure applicable to Hospital;
- (vii) prohibit Practitioner, Hospital or any Affiliate from submitting claims or materially reducing the reimbursement received by Hospital or any Affiliate for services provided to patients referred by Practitioner; or
- (viii) subject Hospital, Practitioner, any Affiliate, or any of their respective officers, directors, employees or agents, to civil action or criminal prosecution by any governmental authority or other person or entity or the imposition of any sanction (including any excise tax penalty under Internal Revenue Code Section 4958), on the basis of their approval of or participation in this Agreement or performing their respective obligations under this Agreement.

(d) For the purposes of this Agreement, “**Affiliate**” shall mean any entity which, directly or indirectly, controls, is controlled by, or is under common control with Hospital.

5.6 Effect of Termination or Expiration. Upon any termination or expiration of this Agreement:

(a) all rights and obligations of the Parties shall cease except (i) those rights and obligations that have accrued and remain unsatisfied prior to the termination or expiration of this Agreement, and (ii) those rights and obligations which expressly survive termination or expiration of this Agreement;

(b) upon Hospital’s request, Practitioner shall immediately vacate the premises, removing any and all of Practitioner’s personal property, and Hospital may remove and store, at Practitioner’s expense, any personal property that Practitioner has not so removed;

(c) Practitioner shall immediately return to Hospital all of Hospital’s property, including Hospital’s equipment, supplies, furniture, furnishings and patient records, in Practitioner’s possession or under Practitioner’s control;

(d) Practitioner shall not do anything or cause any other person to do anything that interferes with Hospital’s efforts to engage any other person or entity for the provision of Administrative Services, or interferes in any way with any relationship between Hospital and any other person or entity who may be engaged to provide Administrative Services to Hospital; and

(e) the expiration or termination of this Agreement shall not entitle Practitioner to the right to a “fair hearing” or any other similar rights or procedures more particularly set forth in the Medical Staff bylaws.

ARTICLE VI.

GENERAL PROVISIONS

6.1 Amendment. This Agreement may be modified or amended only by mutual written agreement of the Parties. Any such modification or amendment must be in writing, dated, signed by the Parties and explicitly indicate that such writing modifies or amends this Agreement.

6.2 Assignment. Practitioner may not assign any of Practitioner's rights, interests, duties, or obligations under this Agreement without Hospital's prior written consent, which consent may be given or withheld in Hospital's sole discretion. Any attempted or purported assignment by Practitioner in violation of this Section shall be void. Hospital may, in its sole discretion, assign any or all of its rights, interests, duties, or obligations hereunder to any person or entity without the prior written consent of Practitioner. Subject to the foregoing, this Agreement shall be binding on and shall inure to the benefit of the Parties and their respective heirs, successors, assigns and representatives.

6.3 Attorneys' Fees. If either Party brings an action or proceeding, arising out of or relating to this Agreement, the non-prevailing Party shall pay to the prevailing Party reasonable attorneys' fees and costs incurred in bringing such action, including, without limitation, fees incurred in post judgment motions, contempt proceedings, garnishment, levy, debtor and third party examinations, discovery, bankruptcy litigation, arbitration, trial, and any appeal or review, all of which shall be deemed to have accrued upon the commencement of such action and shall be paid whether or not such action is prosecuted to judgment. Any judgment or order entered shall contain a provision providing for the recovery of attorneys' fees and costs incurred in enforcing such judgment. The prevailing Party shall be the Party who is identified in any judgment or order entered as the Party entitled to recover its costs of suit, whether or not the action or proceeding proceeds to final judgment or award.

6.4 Choice of Law. This Agreement shall be construed in accordance with and governed by the laws of the State of California, without giving effect to any choice of law or conflict of law rules or provisions that would cause the application of the laws of any jurisdiction other than the State of California.

6.5 Compliance with HIPAA. Practitioner shall comply with the HIPAA Obligations as defined and set forth in Exhibit 6.5. The HIPAA Obligations shall survive the expiration or termination of this Agreement for any reason.

6.6 Compliance with Laws. Practitioner shall comply with all applicable laws, ordinances, codes and regulations of federal, state and local governments, including without limitation laws that require Practitioner to disclose any economic interest or relationship with Hospital, and the policies, standards, requirements, guidelines and recommendations of the Joint Commission on Accreditation of Healthcare Organizations ("JCAHO"), all as in effect and amended from time to time.

6.7 Compliance with Medicare Rules. To the extent required by law or regulation, Practitioner shall make available, upon written request from Hospital, the Secretary of Health

and Human Services, the Comptroller General of the United States, or any duly authorized agent or representative of the foregoing, a copy of this Agreement and Practitioner's books, documents and records to the extent necessary to certify the nature and extent of Hospital's costs for services provided by Practitioner. Practitioner shall preserve and make available such books, documents and records for a period which is the longer of ten (10) years after the end of the term of this Agreement, or the length of time required by state or federal law. If Practitioner is requested to disclose books, documents or records pursuant to this Section for any purpose, Practitioner shall notify Hospital of the nature and scope of such request, and Practitioner shall make available, upon written request of Hospital, all such books, documents or records. Practitioner shall indemnify and hold harmless Hospital if any amount of reimbursement is denied or disallowed because of Practitioner's failure to comply with the obligations set forth in this Section. Such indemnity shall include, but not be limited to, the amount of reimbursement denied, plus any interest, penalties and legal costs.

6.8 Confidentiality. Neither Party shall disclose any of the provisions of this Agreement to any person or entity, other than their respective attorneys or accountants, without the prior written consent of the other Party, unless and only to the extent such disclosure is required by law, subpoena or legal process; provided, however, that either Party may disclose the provisions of this Agreement to any person or entity without the prior written consent of the other Party to the extent such disclosure is (a) required by such Party's contracts existing as of the date of this Agreement; or (b) requested by fiscal intermediaries, public agencies or commissions with governmental powers and duties related to disclosure of information which have the right to compel disclosure of such information. Hospital may also disclose the provisions of this Agreement to any person or entity without the prior written consent of Practitioner to the extent such disclosure is requested or required by Hospital's representatives or others in connection with any tax-exempt bond or other financing transactions of Hospital or any Affiliates.

6.9 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

6.10 Dispute Resolution. In the event of any controversy or dispute related to or arising out of this Agreement, the Parties agree to meet and confer in good faith to attempt to resolve the controversy or dispute without an adversary proceeding. If the controversy or dispute is not resolved to the mutual satisfaction of the Parties within five (5) business days of notice of the controversy or dispute, the Parties agree to waive their rights, if any, to a jury trial and pre-trial discovery, and to submit the controversy or dispute to a retired judge or justice pursuant to Section 638 et seq. of the California Code of Civil Procedure, or any successor provision, for resolution in accordance with Chapter 6 (References and Trials by Referees), of Title 8 of Part 2 of the California Code of Civil Procedure, or any successor chapter. The Parties agree that the only proper venue for the submission of claims is the County of San Diego California, and that the hearing before the referee shall be concluded within nine (9) months of the filing and service of the complaint. The Parties reserve the right to contest the referee's decision and to appeal from any award or order of any court.

6.11 Entire Agreement. This Agreement is the entire understanding and agreement of the Parties regarding its subject matter, and supersedes any prior oral or written agreements, representations, understandings or discussions between the Parties with respect to such subject matter. No other understanding between the Parties shall be binding on them unless set forth in writing, signed and attached to this Agreement.

6.12 Exhibits and Attachments. The attached exhibits and attachments, together with all documents incorporated by reference in the exhibits and attachments, form an integral part of this Agreement and are incorporated by reference into this Agreement.

6.13 Force Majeure. Neither Party shall be liable for nonperformance or defective performance or late performance of any of its obligations under this Agreement to the extent and for such periods of time as such nonperformance, defective performance or late performance is due to reasons outside such Party's control, including acts of God, war (declared or undeclared), terrorism, action of any governmental authority, riots, revolutions, fire, floods, explosions, sabotage, nuclear incidents, lightning, weather, earthquakes, storms, sinkholes, epidemics, or strikes (or similar nonperformance or defective performance or late performance of employees, suppliers or subcontractors).

6.14 Headings. The headings in this Agreement are intended solely for convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.

6.15 Income Tax Ramifications. The Parties acknowledge that Practitioner may incur federal and state income tax liabilities from certain of the transactions contemplated by this Agreement, and that Hospital is or may be required to report items of income to Practitioner under relevant income tax laws and regulations. The Parties acknowledge and agree that Hospital has not made any representation to Practitioner with respect to the tax implications of the transactions contemplated by this Agreement, and that statements made by Hospital or its agents, employees, representatives or attorneys shall not be relied upon by Practitioner, and shall not be interpreted or construed as tax advice to Practitioner.

6.16 Litigation Consultation. Practitioner shall not accept consulting assignments or otherwise contract, agree, or enter into any arrangement to provide expert testimony or evaluation on behalf of a plaintiff in connection with any claim against Hospital or any Affiliate named, or expected to be named as a defendant. Practitioner shall not accept similar consulting assignments if (a) the defendants or anticipated defendants include a member of the medical staff of Hospital or any Affiliate, and (b) the matter relates to events that occurred at Hospital or any Affiliate; provided, however, the provisions of this Section shall not apply to situations in which Practitioner served as a treating physician.

6.17 Meaning of Certain Words. Wherever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine, or neuter forms, and the singular form of nouns shall include the plural and vice versa. Unless otherwise specified, "days" shall be considered "calendar days" and "months" shall be considered "calendar months" in this Agreement and its exhibits and attachments.

6.18 No Conflicting Obligations. Practitioner represents and warrants that the execution and delivery of this Agreement and the performance of his or her respective obligations hereunder do not and will not: (a) present a conflict of interest or materially interfere with the performance of his or her respective duties under any other agreement or arrangement; or (b) violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice and/or lapse of time, would constitute a default) under, terminate, accelerate the performance required by, or result in a right of termination or acceleration under any of the terms, conditions or provisions of any other agreement, indebtedness, note, bond, indenture, security or pledge agreement, license, franchise, permit, or other instrument or obligation. Practitioner shall immediately inform Hospital of any other agreements to which Practitioner is a party that may present a conflict of interest or materially interfere with performance of his or her duties under this Agreement.

6.19 Non-Discrimination. Practitioner shall not differentiate or discriminate in the provision of medical services on the basis of race, color, national origin, ancestry, religion, sex, marital status, sexual orientation, age, medical condition, medical history, genetics, evidence of insurability, or claims history, in violation of any applicable state, federal or local law or regulation, or Hospital Rules, including, without limitation, the Age Discrimination Act of 1975, the Americans with Disabilities Act and all regulations issued pursuant thereto and as may be amended from time to time. Practitioner and Hospital shall be in full compliance with Section 504 of the Rehabilitation Act of 1973, Titles VI and VII of the 1964 Civil Rights Act, and all regulations issued pursuant thereto and as may be amended from time to time.

6.20 No Third Party Beneficiary Rights. This Agreement shall not confer or be construed to confer any rights or benefits to any person or entity other than the Parties.

6.21 Notices. All notices or communications required or permitted under this Agreement shall be given in writing and shall be delivered to the Party to whom notice is to be given either: (a) by personal delivery (in which case such notice shall be deemed given on the date of delivery); (b) by next business day courier service (e.g., Federal Express, UPS or other similar service) (in which case such notice shall be deemed given on the business day following date of deposit with the courier service); or (c) by United States mail, first class, postage prepaid, registered or certified, return receipt requested (in which case such notice shall be deemed given on the third (3rd) day following the date of deposit with the United States Postal Service). In each case, notice shall be delivered or sent to the address indicated on the signature page, or such other address as provided by a Party, from time to time, pursuant to this Section.

6.22 Participation in Federal Health Care Programs. Practitioner hereby represents that Practitioner is not debarred, suspended, excluded or otherwise ineligible to participate in any Federal Health Care Program.

6.23 Representations. Each Party represents with respect to itself that: (a) no representation or promise not expressly contained in this Agreement has been made by any other Party or by any Parties' agents, employees, representatives or attorneys; (b) this Agreement is not being entered into on the basis of, or in reliance on, any promise or representation, expressed or implied, other than such as are set forth expressly in this Agreement; and (c) Party has been

represented by legal counsel of Party's own choice or has elected not to be represented by legal counsel in this matter.

6.24 Severability. Subject to Section 5.5, if any provision of this Agreement, in whole or in part, or the application of any provision, in whole or in part, is determined to be illegal, invalid or unenforceable by a court of competent jurisdiction and such provision can be severed without substantially changing the bargain reached by the Parties, such provision or part of such provision shall be severed from this Agreement, and such severance shall have no effect upon the enforceability, performance or obligations of the remainder of this Agreement, including the remainder of such provision not determined to be illegal, invalid or unenforceable. If Section 5.5 is applicable, this Section 6.24 shall not be enforced.

6.25 Trade Secrets. During the term of this Agreement, Practitioner will have access to and become acquainted with confidential information and trade secrets of Hospital, including information and data relating to payor contracts and accounts, clients, patients, patient groups, patient lists, billing practices and procedures, business techniques and methods, strategic plans, operations and related data (collectively, "**Trade Secrets**"). All Trade Secrets are the property of Hospital and used in the course of Hospital's business, and shall be proprietary information protected under the Uniform Trade Secrets Act. Practitioner shall not disclose to any person or entity, directly or indirectly, either during the term of this Agreement or at any time thereafter, any Trade Secrets, or use any Trade Secrets other than in the course of providing Administrative Services under this Agreement. All documents that Practitioner prepares, or Trade Secrets that might be given to Practitioner in the course of providing Administrative Services under this Agreement, are the exclusive property of Hospital, and, without the prior written consent of Hospital, shall not be removed from Hospital's premises.

6.26 Waiver. No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a Party must be in writing to be effective, and shall apply solely to the specific instance expressly stated.

6.27 Waiver of Injunctive or Similar Relief. Upon any breach or termination of this Agreement by Hospital that is determined to be improper by a court or by an arbitrator, Practitioner shall accept monetary damages, if any, as full and complete relief, to the exclusion of any specific performance, or injunctive or similar equitable relief.

[signature page follows]

The Parties have executed this Agreement on the date first above written, and signify their agreement with duly authorized signatures.

HOSPITAL

Palomar Pomerado Health, a local health care district organized under Division 23 of the California Health and Safety Code

By: _____
Its: _____

Address of Hospital:

15255 Innovation Drive
San Diego, CA 92128-3410
Attn: James Neal

PRACTITIONER

Roger J. Acheatel, M.D., an individual

Practitioner's principal contact address:

488 East Valley Parkway
Escondido, CA 92025

Exhibit 1.1

ADMINISTRATIVE SERVICES

Practitioner, as Chairman of the Quality Management Committee at Pomerado Hospital shall provide the following services:

1. Establish systems to identify opportunities to improve performance;
2. Review summary reports and recommendations from each department to determine if appropriate action has been taken to correct significant variances and deficiencies;
3. Coordinate performance improvement functions and reporting from each department;
4. Oversee resolution of interdepartmental conflicts regarding specific quality issues or trends;
5. Support the medical staff and hospital departments in fulfilling required functions;
6. Review summary reports and recommendations to determine if appropriate action has been taken to correct identified problems and improve performance;
7. Communicate appropriate information across departments and services when multidisciplinary opportunities for improvement are identified;
8. Routinely major and assess results of actions taken to improve performance; and
9. Submit a regular confidential reports and recommendations to the executive committees and board quality review committee.

Exhibit 1.5

MONTHLY TIME REPORT

See Attached.

PRACTITIONER Roger J. Acheatel, M.D.

[illegible]

PRACTITIONER CERTIFIES THAT THE ABOVE ACCURATELY REPRESENTS THE HOURS PRACTITIONER DEVOTED TO ADMINISTRATIVE SERVICES DURING THE PERIOD OF THIS REPORT.

Roger J. Acheatel, M.D.

Date

Exhibit 1.10

CODE

See Attached.

Exhibit 1.10

Code of Conduct for Physician Agreements

1. I will perform my duties faithfully and to the best of my ability, and in the interest of Hospital as it relates to services provided under this agreement.
2. I will not lie, cheat, steal, or violate any law in connection with my practice at any Hospital facility.
3. I will not pay or arrange for Hospital to pay any person or entity for the referral of patients to Hospital, nor will I accept any payment or arrange for Hospital to accept any payment for referrals from Hospital.
4. I will not participate in any false billing of patients, government entities or any other party, nor will I participate in the preparation of any false cost reports, or other type of report submitted to the government.
5. I will not engage in any conduct or practice that conflicts with interest of Hospital, as it relates to services provided under this agreement.
6. I will not improperly use Hospital's confidential or proprietary information gathered during my association with Hospital for my own personal benefit.
7. I will not obtain any improper personal benefits by virtue of my practice at Hospital facilities.
8. I will notify the compliance officer of Hospital immediately upon the receipt (at work or home) of an inquiry, subpoena (other than for routine licensing or tax matters) or other agency or government request for information regarding Hospital.
9. I will not destroy or alter information or documents in anticipation of or in response to, a request for documents by any applicable government agency or from a court of competent jurisdiction.
10. I will not engage in any business practice intended to unlawfully obtain favorable treatment or business from any government entity, physician, patient, vendor or any other party in a position to provide such treatment or business.
11. I will not accept any gift of more than nominal value, and hospitality or entertainment that because of its source or value might influence my independent judgment in transactions involving Hospital as it relates to services provided under this agreement.
12. I will not provide any gifts to any government or public agency representative as it relates to services provided under this agreement.

13. I will disclose any compensation arrangements or an ownership in a privately-owned entity (not big pharmaceutical or other major public companies and not ownership through mutual funds) that I or a member of my immediate family has.

14. I will not disclose confidential medical information pertaining to Hospital patients without the express written consent of the patient in accordance with HIP AA, other applicable law and Hospital applicable policies or procedures.

15. I will promptly report all violations or suspected violations of this code by myself to the compliance officer of Hospital.

16. I will not conspire with a competitor of Hospital to illegally fix prices, labor cost, allocate markets, or engage in group boycotts.

Exhibit 2.1

COMPENSATION

1. **Compensation.** Hospital shall pay to Practitioner the amount of [REDACTED] per hour up to a maximum of [REDACTED] per month for the provision of Administrative Services.
2. **Timing.** Hospital shall pay the compensation due for Administrative Services performed by Practitioner in the immediately preceding month within five (5) business days after Practitioner's submission of the monthly time report in accordance with this Agreement; provided, however, that if Practitioner does not submit a time sheet within sixty (60) days of the end of the month during which Administrative Services were performed, Hospital shall not be obligated to pay Practitioner for Administrative Services performed during that month.

Exhibit 6.5

OBLIGATIONS UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 ("HIPAA")

1. Definitions.

- a. **"Designated Record Set"** shall have the meaning given to such term under the Privacy Rule (as defined below).
 - b. **"HIPAA Obligations"** means the obligations of Practitioner as set forth in this Exhibit.
 - c. **"Privacy Rule"** means the HIPAA Regulation that is codified at Title 45 of the Code of Federal Regulations, Parts 160 and 164, or applicable successor provisions, as may be amended from time to time.
 - d. **"Protected Health Information"** means any information, whether oral or recorded in any form or medium that: (i) relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual, and (ii) identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, or is defined as such under the Privacy Rule.
 - e. **"Protected Information"** means Protected Health Information provided by Hospital to Practitioner or created or received by Practitioner on Hospital's behalf.
 - f. **"Required by Law"** shall have the meaning given to such term under the Privacy Rule.
2. **Use of Protected Information.** Practitioner shall not use Protected Information except as permitted by and for the purpose of performing Practitioner's obligations under this Agreement. Practitioner shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule if so used by Hospital.
3. **Permitted Disclosures.** Practitioner shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule if disclosed by Hospital, except that Practitioner may disclose Protected Information in a manner permitted pursuant to this Agreement or as Required by Law.
4. **Appropriate Safeguards.** Practitioner shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information other than as permitted by this Agreement.

5. **Reporting of Improper Use or Disclosure.** Practitioner shall notify Hospital in writing of any use or disclosure of Protected Information other than as provided for by this Agreement and this Exhibit within two (2) days of becoming aware of such use or disclosure.
6. **Practitioner's Agents.** Practitioner shall ensure that any agents of Practitioner, including subcontractors, to whom Practitioner provides Protected Information, agree in writing to the same restrictions and conditions that apply to Practitioner with respect to such Protected Information.
7. **Access to Protected Information.** Practitioner shall make Protected Information maintained by Practitioner or Practitioner's agents or subcontractors in Designated Record Sets available to Hospital for inspection and copying within ten (10) days of a request by Hospital to enable Hospital to fulfill its obligations under the Privacy Rule.
8. **Amendment of Protected Health Information.** Within ten (10) days of receipt from Hospital for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, Practitioner or Practitioner's agents or subcontractors shall make such Protected Information available to Hospital for amendment and incorporate any such amendment to enable Hospital to fulfill its obligations under the Privacy Rule.
9. **Accounting Rights.** Within ten (10) days of notice by Hospital of a request for an accounting of disclosures of Protected Information, Practitioner and Practitioner's agents or subcontractors shall provide to Hospital an accounting of disclosures sufficient to enable Hospital to fulfill its obligations under the Privacy Rule. As set forth and as limited by the Privacy Rule, Practitioner shall not provide an accounting to Hospital of disclosures: (i) to carry out treatment, payment or health care operations; (ii) to individuals of Protected Information about them; (iii) to persons involved in the individual's care or other notification purposes; (iv) for national security or intelligence purposes; or (v) to correctional institutions or law enforcement officials. **[Practitioner agrees to implement a process that allows for an accounting to be collected and maintained by Practitioner and Practitioner's agents or subcontractors for at least six (6) years prior to the request, but not before the compliance date of the Privacy Rule.]** At a minimum, such information shall include: (A) the date of disclosure; (B) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (C) a brief description of Protected Information disclosed; and (D) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or copy of the individual's authorization, or a copy of the written request for disclosure.
10. **Governmental Access to Records.** Practitioner shall make his or her internal practices, books and records relating to the use and disclosure of Protected Information available to Hospital or, at the request of Hospital, to the Secretary of the U.S. Department of Health and Human Services, for purposes of determining Hospital's compliance with the Privacy Rule.

11. **Retention of Protected Information.** Except as provided in Sections 12 and 13 of this Exhibit, Practitioner and Practitioner's agents or subcontractors shall retain all Protected Information throughout the term of this Agreement and shall continue to maintain the information required hereunder for a period of six (6) years after expiration or termination of this Agreement.
12. **Term of Obligations.** Practitioner's HIPAA Obligations shall commence as of the compliance date of the Privacy Rule, and shall terminate when all of the Protected Information is destroyed or returned to Hospital, or, if it is infeasible to return or destroy Protected Information, protections are extended to such information, in accordance with Section 14 of this Exhibit.
13. **Effect of Termination.** Upon expiration or termination of this Agreement for any reason, Practitioner shall return or destroy all Protected Information that Practitioner or Practitioner's agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, Practitioner shall continue to extend the protections of this Exhibit to such information, and limit further use of such Protected Health Information to those purposes that make the return or destruction of such Protected Health Information infeasible.
14. **Amendment.** The Parties agree to take such action as is necessary to amend HIPAA Obligations from time to time in order for Hospital to comply with the requirements of the Privacy Rule, HIPAA and other applicable laws relating to the security or confidentiality of Protected Health Information.
15. **Interpretation of Obligations.** The HIPAA Obligations shall be interpreted as broadly as necessary to implement and comply with HIPAA and the Privacy Rule. The Parties acknowledge and agree that any ambiguity in the HIPAA Obligations shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the Privacy Rule.

