

**AMENDMENT NO. 1 TO THE AGREEMENT  
BETWEEN THE COUNTY OF SAN MATEO AND  
eCLINICAL WORKS, LLC**

THIS AMENDMENT TO THE AGREEMENT, entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the COUNTY OF SAN MATEO, hereinafter called "County," and eCLINICAL WORKS, LLC, hereinafter called "Contractor";

W I T N E S S E T H:

WHEREAS, pursuant to Government Code Section 31000, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof;

WHEREAS, the parties entered into an Agreement to install and maintain an Ambulatory Electronic Medical Record (AEMR) at the San Mateo Medical Center (SMMC) on January 8, 2008; and

WHEREAS, the parties wish to amend the Agreement to add \$700,000 to the Agreement, for a new total maximum fiscal obligation of no more than \$2,500,000.

**NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:**

1. Section 1 of the Agreement is amended to read as follows:

The definition of "License Fee" shall be amended to read as follows:

"License Fee" shall mean a one-time fee charged for each Provider License except for Resident Licenses, for which an annual fee is charged. Where a Provider License is required for a non-Provider to perform certain system functions (such as a Nurse, except for Nurse Practitioners, signing a chart), additional Provider Licenses shall be provided at no cost to County for such non-Providers.

The definition of "Provider(s)" shall be amended to read as follows:

"Provider(s)" shall mean Physicians, Nurse Practitioners, Physicians' Assistants, Optometrists, Physical Therapists, Psychologists, Dentists, Hygienists, Midwives, Nutritionists, Podiatrists, Licensed Social Workers, Counselors, and Audiologists employed by or under contract with the County to provide services within the medical field and for whom the County is paying a License Fee as set forth in this Agreement. The term Provider shall not include County personnel employed by or under contract with the County such as office managers, secretaries, other administrative staff, Dentists, Nurses (other than Nurse Practitioners), or

Residents. For a category not identified above, Contractor and County shall agree in writing as to who is a Provider.

The following definitions are added:

“Resident(s)” shall mean a “physician in training” who is unable to practice without supervision or countersignature and is employed by or under contract with the County to provide services within the medical field and for whom the County is paying an annual Resident License Fee as set forth in this Agreement. Due to the rotation of Residents, more than one Resident may use the same Resident License during the annual period.

“Dentist(s)” shall mean a healthcare professional (DDS or DMD) employed by or under contract with the County qualified to practice dentistry after graduating with a degree from an accredited School of Dentistry and having a State license to practice dentistry. A FTE Provider License is granted at no charge for a Dentist to use the Software Products as described in Section 4 of Exhibit A to the Agreement. If County purchases EPM, as provided for in Section 7 of Exhibit B to the Agreement, EPM licenses for dentists will need to be purchased. If Contractor in the future develops an EMR for dentists, County will have the option to purchase EMR licenses for the dentists.

2. Section 4 of the Agreement is amended to read as follows:

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth herein and in Exhibit "A," County shall make payment to Contractor based on the rates and in the manner specified in Exhibit "B." The County reserves the right to withhold payment if the County determines that the quantity or quality of the work performed is unacceptable. The County's total fiscal obligation under this Agreement shall not exceed \$2,500,000 over the entire Term.

3. Section 23 is added to the Agreement to read as follows:

### **23. Employment Non-Solicitation**

Contractor and no person of hiring authority within San Mateo Medical Center and Information Services Department will solicit the employment of the other party's employees during the term of the support under this agreement, without the express written consent of the other party.

4. Original Exhibits A and B are amended to include the following, (rev. March, 2009).

All references in the Agreement to FTE Providers shall be changed from 72 to 100.

All references in the Agreement to Named Providers shall be changed from 160 to 296.

26 Residents Licenses are added to the Agreement.

18 Dentists Licenses (no charge) are added to the Agreement.

5. Original Exhibits A and B are amended to include the following, (rev. March, 2009):

Cost for the additional FTE Providers and Name Providers described above is as follows:

Additional License cost is \$126,000;

Additional E-prescribing/Formulary checking costs are an additional \$8,400 per year;

Additional Maintenance costs are an additional \$20,412 per year; and

Additional Support costs are an additional \$15,120 per year.

Costs for the Resident Licenses described above are \$13,000 per year total at a rate of \$500 per year per Resident (which includes SMS).

The total increased cost of the Agreement based on this Amendment is: \$126,000 for additional Provider licenses; plus \$43,932 per year in formulary, maintenance, and support costs; plus \$13,000 per year for Residents.

6. Original Exhibit B is amended to include the following, (rev. March, 2009):

Payment Terms for the additional FTE Providers and Named Providers shall be in accordance with Section 5, paragraphs 1 (License Fees), 6 (SMS), and 8 (E-Prescribing/Formulary Checking) of Exhibit B to the Agreement.

The annual fee for Resident Licenses shall commence upon FPU for each Resident License.

7. Original Exhibit B is amended to include the following, (rev. March, 2009):

Section 9 (Provider and FTE Breakdown) of Exhibit B to the Agreement shall be amended to read as follows:

	Number of Providers	Total Billable FTE Count
Full Time considered 1 FTE each:	37	37
Part Time considered 0.25 FTE each:	252	63
7 licenses are provided to the County at no cost and are not considered as part of the FTE count. These licenses are for 1 Licensed Social Worker, 3 Physical Therapists and 3 Nutritionists. If County hires additional Provider(s), then License(s) will need to be purchased for the new Providers.	7	0
<b>Total</b>	<b>296</b>	<b>100</b>

Residents	26	NA
Dentists (no charge)	18	NA

8. All other terms and conditions of the agreement dated January 8, 2008, between the County and Contractor shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO


By: \_\_\_\_\_  
 Mark Church, President  
 Board of Supervisors, San Mateo County

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
 Clerk of Said Board

eClinical Works, LLC

  
 \_\_\_\_\_  
 Contractor's Signature

Date: 2/27/09