

CENCAL HEALTH MUTUAL CONFIDENTIALITY AGREEMENT

THIS AGREEMENT is by and between _____, a _____, and Santa Barbara San Luis Obispo Regional Health Authority, dba CenCal Health. This Mutual Confidentiality Agreement (the "**Agreement**") shall be effective as of the later of the dates set forth beneath the signatures of the parties below (the "**Effective Date**").

1. **Purpose.** The parties hereto wish to explore or pursue a possible business relationship (the "**Relationship**") in connection with which a party (the "**Disclosing Party**") may disclose confidential information to the other party (the "**Receiving Party**"). The terms and conditions applicable to use and disclosure of such confidential Information shall be as set forth in this Agreement.

2. **Definition of Confidential Information.** "**Confidential Information**" means any information, data, or materials, including but not limited to, technical data, know-how, business plans, financial projections, agreements with third parties, employee information, patents, patent applications, trade secrets, research, product plans, products, services, suppliers, customers, prices and costs, markets, software, developments, inventions, processes, technology, designs, drawings, engineering, hardware configuration, marketing, licenses, budgets and/or finances, however documented and regardless of its form or format (whether paper, electronic, verbal, or otherwise), that is provided, made available, or made accessible by the Disclosing Party to the Receiving Party, or that is otherwise learned by the Receiving Party in the course of its discussions or business dealings with, or its physical or electronic access to the premises and electronic systems of, the Disclosing Party. Confidential Information does not include information that (i) is or becomes publicly or generally available through no wrongful act; (ii) was or is in the possession of the Receiving Party prior to being disclosed by the Disclosing Party; (iii) was independently developed by Receiving Party without use of any Confidential Information supplied by the Disclosing Party; or (iv) is confirmed in writing by Disclosing Party to no longer be confidential. Additionally, notwithstanding anything to the contrary herein, if the Receiving Party becomes legally obligated to disclose to a governmental entity with jurisdiction over it, it may do so, provided that, the Receiving Party will give the Disclosing Party prompt written notice to allow the Disclosing Party to seek a protective order or other appropriate remedy. Such notice must include, without limitation, identification of the information to be so disclosed. Following such notification, the Receiving Party shall cooperate with the Disclosing Party, at the Disclosing Party's reasonable expense, in seeking and obtaining protection for the Disclosing Party's Confidential Information. The Receiving Party will disclose only such information as is legally required.

3. **Use of Confidential Information.** Each party agrees not to use any Confidential Information disclosed to it by the other party except as reasonably necessary to carry out discussions concerning, or the undertaking of, the Relationship. Each party will restrict the possession, knowledge, development and use of Confidential Information to its officers, directors, employees, agents, independent subcontractors, consultants, advisors, legal counsel, accountants, financial advisors and entities that it controls or that control it who have a need to know Confidential Information in connection with the purposes stated herein (collectively, "Personnel"). Personnel shall be granted access only to the Confidential Information they need

for consideration or undertaking of the Relationship, and only after they have agreed in writing to protect the confidentiality of such information in accordance with the terms of this Agreement. Each party will ensure that its Personnel comply with this Agreement and will promptly notify the other party of any breach of this Agreement. Each party agrees that it will take all reasonable measures to protect the secrecy of and avoid disclosure or use of Confidential Information of the other party. Such measures shall include, but not be limited to, those measures that the Receiving Party uses to protect its own Confidential Information, but which shall be no less than reasonable care. Each party agrees to promptly notify the other in writing of any misuse or misappropriation of Confidential Information of the Disclosing Party. Neither party shall reverse engineer, disassemble or decompile any prototypes, software or other tangible objects which embody the other party's Confidential Information and which are provided to the party hereunder.

4. Protected Health Information. Protected Health Information ("PHI"), as defined in the Health Insurance Portability and Accountability Act of 1996, as amended, and its accompanying regulations at 45 CFR Parts 160, 162 and 164 ("HIPAA"). PHI will not be shared during the term of this Agreement. After execution of an agreement for a license deal, and before sending PHI, the parties shall enter into a HIPAA-compliant Business Associate Agreement ("BAA"). With respect to the protection, use and/or disclosure of any PHI, in the event of a conflict between the terms of this Agreement and the terms of the BAA, the terms of the BAA shall prevail.

5. Return of Materials. Upon the earlier of the Disclosing Party's written request or termination of this Agreement, the Receiving Party promptly will return or destroy (or, in the case of electronic embodiments, permanently erase) all tangible material embodying Confidential Information (in any form and including, without limitation, all summaries, copies and excerpts of Confidential Information) in its possession or under its control.

6. Compliance with Laws. Each party will comply with all applicable federal, state, and local statutes, rules and regulations, including but not limited to, United States export control laws and regulations as they currently exist and as they may be amended from time to time.

7. No Rights Granted; No Warranty; Limitation of Liability. Each party shall retain all ownership rights in and to its Confidential Information. Nothing in this Agreement is intended to grant any rights under any patent, copyright, trade secret or other intellectual property right of either party, nor shall this Agreement grant either party any rights in or to the other party's Confidential Information other than the limited right to review such Confidential Information in connection with the Relationship. ALL CONFIDENTIAL INFORMATION IS PROVIDED "AS IS". EACH PARTY MAKES NO WARRANTIES, EXPRESS, IMPLIED OR OTHERWISE, REGARDING ITS ACCURACY, COMPLETENESS OR PERFORMANCE. Unless otherwise agreed by the parties in writing, in no event shall the Disclosing Party be liable to the Receiving Party for amounts representing loss of profits, loss of business, or other indirect, consequential, or punitive damages suffered in connection with the provision or use of its Confidential Information.

8. Independent Development. The Disclosing Party acknowledges that the Receiving Party may currently or in the future be developing information internally, or receiving information from other parties, that is similar to the Confidential Information. Accordingly, nothing in this Agreement will be construed as a representation or agreement that the Receiving Party will not develop or have developed for it products, concepts, systems or techniques that are similar to or compete with the products, concepts, systems or techniques contemplated by or embodied in

the Confidential Information, provided that the Receiving Party does not violate any of its obligations under this Agreement in connection with such development.

9. Non-Disclosure of Discussions. Except as permitted in Section 3, above, neither party shall disclose to another person or entity not party to this Agreement, (i) that the parties have entered into discussions or negotiations regarding a potential Relationship; (ii) any of the specific terms or content of the discussions or negotiations; (iii) the fact that Confidential Information has been or will be made available to Receiving Party; or (iv) that Receiving Party has inspected or reviewed any Confidential Information.

10. Term. This Agreement is intended to cover Confidential Information disclosed or received by either party prior or subsequent to the date of this Agreement. Either party may terminate this Agreement with fifteen (15) days written notice to the other party, provided, however, that each party's obligations with respect to the other party's Confidential Information disclosed or received prior to termination will survive three (3) years after termination of this Agreement. This Agreement shall remain in effect for a period of one (1) year from the Effective Date, unless the Agreement is terminated earlier per the requisite written notice discussed in this section.

11. Remedies. Each party agrees that its obligations under this Agreement are necessary and reasonable to protect the Disclosing Party and its business, and each party expressly agrees that any breach or threatened breach of this Agreement may cause the Disclosing Party irreparable harm for which there is no adequate remedy at law. Consequently, the Disclosing Party shall be entitled to seek issuance by a court of competent jurisdiction of an injunction, restraining order or other equitable relief in favor of itself, without the necessity of posting bond, restraining the Receiving Party from committing or continuing to commit any such violation. Any right to obtain an injunction, restraining order, or other equitable relief shall not be deemed a waiver of any right to assert any other remedy that may be available in law or in equity.

12. Miscellaneous. This Agreement shall be effective on the Effective Date. Signatures in counterpart, and photocopy, facsimile, electronic or other copies shall have the same effect for all purposes as an ink-signed original. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings between the parties related thereto. Any failure to enforce any provision of this Agreement will not constitute a waiver thereof or of any other provision. This Agreement may not be amended, nor any obligation waived, except by a writing signed by both parties hereto. Neither party will assign or transfer any rights or obligations under this Agreement without the prior written consent of the other party. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective permitted successors and assigns of the parties. In any action or suit to enforce any right or remedy under this Agreement, or to interpret any provision of this Agreement, the substantially prevailing party shall be entitled to recover its costs, including reasonable attorneys' fees. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provisions of this Agreement, which shall remain in full force and effect.

13. Governing Law. This Agreement and any disputes that may arise under, out of or in connection with this Agreement, shall be governed by and construed and enforced in

accordance with the laws of the State of California, and shall be binding on the parties to this Agreement in the United States and worldwide. Each party waives all defenses of lack of personal jurisdiction and forum non conveniens.

14. Notices. All notices or reports permitted or required under this Agreement shall be in writing and shall be delivered by personal delivery, electronic mail, facsimile transmission or by certified or registered mail, return receipt requested, and shall be deemed given upon personal delivery, five (5) days after deposit in the mail, or upon acknowledgment of receipt of electronic transmission. Notices shall be sent to the addresses set forth below or such other address as either party may specify in writing.

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

CENCAL HEALTH

Signature: _____

Print Name: _____

Title: _____

Date: _____

ADDRESS: 4050 Calle Real
Santa Barbara, CA 93110
(800)421-2560

_____ **(name of vendor)**

Signature: _____

Print Name: _____

Title: _____

Date: _____

ADDRESS: