FORM APPROVED COUNTY COUNSEL
BY: ANITA C. WILLIS DATE 9/16/15

Departmental Concurrence

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

FROM: Riverside County Regional Medical Center

SUBMITTAL DATE:
September 12, 2015

SUBJECT: Approval of Project Budget and Agreements Related to the MOU With Loma Linda University Hospital (LLUH) for the Implementation of EPIC Electronic Health Records System. Fifth District [$95.3 million over 7 years; Hospital Enterprise Fund].

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve and authorize the expenditures of $53.1 million in the attached EPIC project budget as Approved in Principle by the Board on June 2, 2015 to Implement a Shared Electronic Records Platform;
2. Approve and authorize the expenditures of $42.2 million in accordance with the Five-Year Service Level Agreement (SLA) with LLUSS for Annual System Support;
3. Approve and authorize the Chairman to execute the attached Master Services Agreement (MSA) with Loma Linda University Shared Services (LLUSS) including the Statement of Work (SOW) and Service Level Agreement (SLA);
4. Authorize the Assistant CEO – Health System to administer the Agreements on behalf of the County.

BACKGROUND:
(Continued on next page)

Zareh Sarrafian
Assistant CEO, Health System

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	$ 22.8 million	$ 30.4 million	$ 95.3 million	$ 8,447,067	Consent ☐ Policy ☑
NET COUNTY COST	$	$	$	$	

SOURCE OF FUNDS: Hospital Enterprise Fund (40050)

Budget Adjustment: none

For Fiscal Year: 15/16-21/22

C.E.O. RECOMMENDATION: APPROVE

BY: Christopher M. Hans

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

☐ Positions Added ☐ Change Order
☐ A-30 ☐ 4/5 Vote

Prev. Agn. Ref.: 3-30 6/2/15, 3-23 9/1/15 | **District: 5** | **Agenda Number:** 3-30

BACKGROUND:
Summary (continued)
On June 2, 2015 the Board of Supervisors approved in principle a three-year, $53.1 million EPIC project budget in collaboration with Loma Linda University Hospital, and directed the Assistant CEO/Health Systems to return with final agreements. The necessary agreements are complete and attached to this action item for Board consideration. An additional related agreement, with the Inland Empire Health Plan, is also before the Board for consideration today as a separate action item.

The cost of all the agreements for implementation remains at the $53.1 million approved by the Board on June 2, 2015. Included in the packet before the Board today is an agreement for ongoing operations and maintenance of the system. System operations and maintenance will be $8,447,067 yearly for the initial five-year term, beginning after implementation is complete.

Additionally included in the $53.1 million project budget is $5 million for implementation support service provided by Inland Empire Health Plan (IEHP) through a consulting contract they have with Huron Consulting. On today's agenda is a separate item seeking approval for this agreement with IEHP.

All the advantages of the proposed system that were presented to the Board in June remain true. It will provide a foundation for providing constantly-improving population health management and superior individual care. Additionally, Epic will allow Riverside County to align with the State's Medi-Cal 2020 goals:

- Holistic care delivery
- Focus on the integration of patient care in inpatient, primary and specialist settings
- Evolution toward value-based payments to care providers
- Expanded access for our residents, controlled care cost, improved patient health outcomes, and improved quality of life

EPIC IMPLEMENTATION PROJECT BUDGET

	Total	FY16	FY 17
Software and Infrastructure/Hosting Costs	$11,178,510	$ 5,589,255	$ 5,589,255
LLUH Labor for Implementation and Training	$20,114,435	$10,057,218	$10,057,218
RUHS Additional Staff/Consultant Costs	$ 5,826,888	$ 2,913,444	$ 2,913,444
RUHS Training	$ 6,849,000	$ 1,712,250	$ 5,136,750
IEHP/Huron Implementation Support	$ 5,000,000	$ 2,500,000	$ 2,500,000
Contingency	$ 4,171,883	$ -	$ 4,171,883
	$53,140,716	$22,772,167	$30,368,550

Funding Sources		FY16	FY 17
County General Fund	$20,000,000	$10,000,000	$10,000,000
Hospital Cash	$ 3,140,716	$12,772,167	$20,368,550
	$53,140,716	$22,772,167	$30,368,550

Impact on Citizens and Businesses

As stated in the Medi-Cal 2020 concept paper, an "integrated whole patient management system using value driven patient clinical date to demonstrate that California is reimbursing for clinical outcomes in a value driven system" is integral in this clinical transformation To improve goals of interoperability, data management and technology that will support and scale to population health management for the Inland Empire, a single robust electronic health record to support the objectives of the clinically integrated network is recommended.

Contract History and Price Reasonableness

$53.1 million of the costs associated with these agreements make up the in-principle budget approved by the Board on June 2, 2015. The $42.2 million in the Service Level Agreement represents five years' worth of annual operational support and maintenance provided by Loma Linda.

MASTER SERVICES AGREEMENT

entered into as of _____, 2015

between

Loma Linda University Shared Services,

on behalf of itself and its affiliates

and

Riverside University Health System,

an agency of the County of Riverside,

also known as Riverside County Regional Medical Center,

on behalf of itself and its affiliates

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Exhibits

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Exhibit B - Sample Statement of Work Appendix
Exhibit C - Service Level Agreement
Exhibit D - Rates and Charges
Exhibit E-1 - Business Associate Agreement (Customer)
Exhibit E-2 - Business Associate Agreement (LLUSS)

MASTER SERVICES AGREEMENT

This Master Services Agreement (this "***Agreement***") is entered into as of _____, 2015 (the "***Effective Date***") between Loma Linda University Shared Services, on behalf of itself and its Affiliates ("***LLUSS***") and Riverside University Health System, an agency of the County of Riverside, also known as Riverside County Regional Medical Center, on behalf of itself and its Affiliates ("***Customer***").

RECITALS

A. Loma Linda University Medical Center ("***LLUMC***"), an Affiliate of LLUSS, has entered into that certain License and Support Agreement dated as of June 16, 2011, as amended (the "***Epic License Agreement***") with Epic Systems Corporation ("***Epic***"), pursuant to which Epic has granted LLUMC a non-exclusive perpetual license to use the Epic Program Property (as defined below), subject to the terms and conditions of the Epic License Agreement.

B. LLUMC has installed and made operational the Epic Program Property (defined below), together with Required Third Party Software (defined below) which, taken together, comprise a system capable of, among other things, storing and processing electronic medical records (EMRs) and electronic health records (EHRs) (collectively, as it evolves, the "***LLUSS EHR Platform***").

C. LLUSS and Customer desire to enter into a contractual relationship that will facilitate the adoption by Customer of health information technology in the interest of quality care, patient safety and health care efficiency and, in connection therewith, Customer desires to obtain from LLUSS, and LLUSS desire to provide to Customer, access to the EMR and EHR functionality of the LLUSS EHR Platform as a service, all on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual agreements contained herein, the parties hereby agree as follows:

AGREEMENT

1. DEFINITIONS

In addition to the definitions found elsewhere in this Agreement, capitalized terms used in this Agreement, the Statement of Work and the Service Level Agreement, shall have the following meanings:

1.1 "Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity.

1.2 "Authorized Users" is defined in Section 8.2.

1.3 "Change" is defined in Section 4.1.

1.4 "Commercially Reasonable Efforts" – Everywhere in this Agreement the term "Commercially Reasonable Efforts" is used to describe LLUSS' obligation, the parties intend that LLUSS will use such efforts as are comparable to the efforts used by LLUSS in the support of its Affiliates, but not less than an obligation to act with good faith and exercise reasonable efforts and reasonable diligence in the context of its larger operations.

1.5 "Critical Error" means any Error that (a) impacts patient safety, has a significant negative financial impact, or does not meet regulatory requirements, (b) is attributable to the Epic Program Property itself or access to the Epic Program Property (including Errors in the Third Party Software and Data and/or LLUSS infrastructure that interferes with access to the Epic Program Property), and (c) for which a reasonable workaround is not available.

1.6 "Customer Data" means all data, content, records, files, reports, forms and other items that are submitted, stored, posted, displayed, transmitted or otherwise used by or through Customer using the LLUSS EHR Platform, but excluding PHI.

1.7 "Documentation" means user guides, manuals or other user documentation that LLUSS may provide to Customer hereunder solely in connection with Customer's permitted use of the LLUSS EHR Platform. As used herein, "Documentation" includes documentation prepared and provided by LLUSS or its third party providers, as the case may be.

1.8 "Epic 2015 Upgrade" means the standard upgrade to the Epic Program Property offered by Epic.

1.9 "Epic Model" means the standard business practices and workflows reflected in the then-current Epic Program Property, before configuration by any particular customer.

1.10 "Epic Program Property" means the software and applications licensed from Epic to LLUSS under the Epic License Agreement and described in Exhibit A of the Implementation Statement of Work.

1.11 "Error" means any reproducible and repeatable defect or combination of defects in the Riverside Service Area which prevent the Riverside Service Area from conforming to or performing in accordance with the Specifications.

1.12 "Go-Live" means the date on which Customer first uses an item of the Riverside Service Area to process patient data for production purposes. There may be both (i) a Go-Live for the ambulatory non-hospital based and FQHC clinics and (ii) a Go-Live for the inpatient hospital.

1.13 "Implementation Plan" means the implementation plan and schedule more particularly described in Section 3, as the Implementation Plan may be updated from time to time in accordance with the provisions hereof.

1.14 "Implementation Statement of Work" means the initial statement of work attached hereto as Exhibit A and as it is updated in accordance with the provisions of Section 3 below.

1.15 "Infrastructure" means all hardware, software, printers, peripherals, network connectivity, and other client-side components recommended or required for remote access to and use of the LLUSS EHR Platform (and not included as part of the LLUSS EHR Platform), as may be updated from time to time by Epic and/or LLUSS. The Infrastructure recommended or required at Go-Live consists of the third party software and the infrastructure to be developed in Phase 2 of the Implementation Plan, and as updated from time to time.

1.16 "Indemnitees" means the applicable party hereto; its Affiliates; and the employees, officers, directors, vendors, licensors, suppliers and contractors of the applicable party and its Affiliates.

1.17 "Interfaces" means the interfaces described in paragraph 2.3 of the Implementation Statement of Work.

1.18 "LLUSS EHR Platform" means collectively, the LL 2012 Platform, the LL 2015 Platform, the Riverside Service Area and any other service area (or upgrade thereto) as may be added from time to time, as it and they evolve over the term of this Agreement, access to which is made available by LLUSS to Customer hereunder.

1.19 "LL 2012 Platform" means the EMR and EHR platform installed and operational at LLUSS as of the Effective Date and generally described in Recital B above, consisting of the Epic Program Property and the Required Third Party Software.

1.20 "LL 2015 Platform" means the upgrade to the LL 2012 Platform to incorporate so much of the Epic 2015 Upgrade and the Required Third Party Software, applications and infrastructure as are implemented by LLUSS as more particularly described in Section 3.2 hereof, as such platform may evolve during the term hereof.

1.21 "Milestones" is defined paragraph 5.3 of the Implementation Statement of Work.

1.22 "Riverside Service Area" means the separately accessed area of the LL 2015 Platform to be implemented by the parties, as more particularly described in Section 3.2 hereof.

1.23 "Pass-Through Fees" means the fees payable by LLUSS to Epic and other third party providers as a result of Customer's use of the LLUSS EHR Platform, as more particularly described in the applicable agreement with the third party provider and estimated in the Implementation Statement of Work and the Service Level Agreement, as such fees may be changed from time to time by Epic or such third party provider during the term hereof.

1.24 "Personal Data" means any information relating to an identified or identifiable natural person that Customer or its Authorized Users enter into the LLUSS EHR Platform; an identified or identifiable natural person (a "data subject") is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his/her physical, physiological, mental, economic, cultural or social identity. Personal Data includes PHI.

1.25 "PHI" means "protected health information" as defined in 45 CFR 160.103 and equivalent state laws.

1.26 "Professional Services" means fee-based migration, implementation, training and/or consulting services that LLUSS performs hereunder, including without limitation (i) the implementation Services described in Section 3 and more particularly described in the Implementation Statement of Work attached as Exhibit A (Implementation SOW), and (ii) such additional services as may be agreed upon between the parties using the Statement of Work process set forth in Section 4, but excluding Support Services.

1.27 "Required Third Party Software" means that certain third party software, including without limitation operating system software, third party application software, databases and other systems software included within the LLUSS EHR Platform, as the LLUSS EHR Platform may evolve, but excluding the Epic Program Property. The Required Third Party Software in effect as of the Effective Date is described in paragraph 2.2 of the Implementation Statement of Work.

1.28 "Service Level Agreement" or "SLA" means the initial Service Level Agreement attached as Exhibit C, as updated from time to time during the term hereof.

1.29 "Services" means collectively the Professional Services and the Support Service.

1.30 "Specifications" means (a) with respect to the Epic Program Property, "Specifications" as defined in the Epic License Agreement, (b) with respect to Third Party Software, the specifications as defined in the applicable third party agreement, (c)(i) with respect to the LL 2012 Platform, the workflows as implemented as of the Effective Date as described by LLUSS during phase 1 of the Implementation Plan, as described in paragraph 5.3 of the Implementation Statement of Work, (ii) with respect to the LL 2015 Platform, the workflows as adopted by LLUSS, on the timeline described in paragraph 5.2 (Figure A) of the Implementation Statement of Work, and (iii) with respect to the Riverside Service Area, the workflows adopted by Customer during phase 2 of the Implementation Plan and modified during the build phase, all as described in paragraph 5.3 of the Implementation Statement of Work.

1.31 "Statement of Work" or "SOW" means each of (i) the Implementation Statement of Work and (ii) any additional statement of work, each describing Professional Services to be provided by LLUSS to Customer, entered into and executed by the parties in accordance with the provisions of Section 4. Each SOW will be in the form attached as Exhibit B (Sample Statement of Work Appendix), and will be sequentially numbered commencing with Exhibit B-1.

1.32 "Steering Committee" is the committee appointed as described in Section 6.1.

1.33 "Support Services" means the support services acquired by Customer hereunder, as described in this Agreement and more particularly described in the Service Level Agreement (SLA).

1.34 "Technology Refresh" means any upgrades, enhancements, releases or other modifications, including software, hardware or other infrastructure, of the LLUSS EHR Platform required by Epic or other third party providers or adopted by LLUSS, other than Updates.

1.35 "Third Party Software and Data" has the meaning specified in the Epic License Agreement.

1.36 "Transition and Stabilization Period" is defined in paragraph 5.0 of Exhibit D of the Implementation Statement of Work.

1.37 "Updates" means any minor bug fixes, patches, error corrections and other updates for the LLUSS EHR Platform released by Epic with respect to the Epic Program Property, and by the applicable third party providers with respect to the Required Third Party Software, as part of ordinary maintenance and support for no additional fee.

2. OVERVIEW.

2.1 Cooperation. It is the intent of the parties that the combined efforts and cooperative activities of the parties hereunder will further the efforts of each party to meet Centers for Medicare & Medicaid Services ("***CMS***") meaningful use criteria, foster integrated healthcare in the region, provide a rich spectrum of educational and clinical opportunities in the healthcare professions, meet community needs for high quality, cost-effective healthcare, and develop new regional linkages among healthcare providers.

2.2 Implementation of and Access to LLUSS EHR Platform. For the period described in Section 3, LLUSS shall use Commercially Reasonable Efforts to implement the LL 2015 Platform and to implement the Riverside Service Area, upon the terms and subject to the conditions set forth in Section 3.

2.3 Access to LLUSS EHR Platform; Provision of Support Services. For the period commencing at Go-Live, continuing during the term of this Agreement and for the period thereafter set forth in Section 17, LLUSS shall use Commercially Reasonable Efforts to provide Customer access to and use of LLUSS EHR Platform (i) during the term, in accordance with the service levels and performance standards set forth in the Service Level Agreement and the further terms and conditions set forth in Section 5 (Support Services), and (ii) thereafter, in accordance with any Disentanglement Services Plan SOW developed as required by Section 17.

3. PROFESSIONAL SERVICES; IMPLEMENTATION OF LL 2015 PLATFORM AND RIVERSIDE SERVICE AREA

3.1 Implementation Statement of Work. LLUSS shall use Commercially Reasonable Efforts to provide the implementation services described in this Section 3 and more particularly described in the Implementation Statement of Work. Such implementation services consist of (i) the upgrade from the LL 2012 Platform to the LL 2015 Platform, and (ii) the development and implementation of the Riverside Service Area. LLUSS' obligation to provide implementation services hereunder is subject to LLUSS' standard practices and procedures for such implementation, and to Customer's compliance with the requirements hereof. The timeframes and stated deadlines set forth in the Implementation Plan are for general planning purposes only, and are subject to adjustment based on, among other things, changes in the scope or required level of effort, delays in Customer making available personnel or performing its responsibilities, the testing and validation process, and other circumstances outside of LLUSS' reasonable control.

3.2 Upgrade from LL 2012 Platform to LL 2015 Platform; Development of Riverside Service Area. LLUSS shall use Commercially Reasonable Efforts to upgrade from the LL 2012 Platform to the LL 2015 Platform and to develop and implement the Riverside Service Area, all as more particularly described in the Implementation Statement of Work.

3.3 Initial Implementation Plan. Set forth in paragraph 5 of the Implementation Statement of Work is the Initial Implementation Plan, together with a high-level project timeline. The Initial Implementation Plan will operate as a base line for each subsequent Implementation Plan. At the time specified therefor in the Initial Implementation Plan, LLUSS shall deliver the first draft of the revised Implementation Plan. It is expected that the parties will work together to finalize the first revised Implementation Plan on or before the expiration of ten (10) days from receipt thereof, Customer shall have the right to approve the first revised Implementation Plan, which approval shall not be unreasonably withheld. The failure of Customer to provide written notice of rejection within such 10-day period shall constitute approval. Customer shall have the right to terminate this Agreement if Customer rejects the first revised Implementation Plan, exercisable on delivery of written notice of termination on or before the expiration of such 10-day period, and neither party shall have any further liability to the other hereunder.

3.4 Interfaces. LLUSS shall use Commercially Reasonable Efforts to implement Interfaces between patient records and data stored on the LLUSS EHR Platform and other software systems of Customer or third parties, all as more particularly described in the Implementation Statement of Work.

3.5 Training. Customer acknowledges that Epic requires all users to have comprehensive training prior to being provided access to the Epic Program Property. Customer agrees that no user will be provided access to the LLUSS EHR Platform in the production environment, including without

limitation be provided user name and password as described in Section 8.2, unless and until such user has been certified under such training. LLUSS shall use Commercially Reasonable Efforts to provide the training more particularly described in paragraph 2.4 of the Implementation Statement of Work, including delivery of Documentation.

3.6 Data Conversion. LLUSS shall assist Customer in the design, planning and implementation of a limited data conversion from the existing Customer information systems to the Riverside Service Area, as described in paragraph 2.6 of the Implementation SOW.

3.7 Additional Services. In addition to the foregoing, from time to time, Customer may request and LLUSS may agree to provide certain additional services related to the LLUSS EHR Platform, its implementation and ongoing use. Any such additional services desired by Customer will constitute a Change Request, governed by the provisions of Section 4.

3.8 Readiness Testing and Final Acceptance of Riverside Service Area.

(a) Customer shall have the right to participate in go-live readiness assessment ("***GLRA***") of the Riverside Service Area, conduct acceptance testing, identify Errors, and otherwise accept or reject the LL 2015 Platform and the Riverside Service Area as described in Exhibit D of the Implementation SOW. At the conclusion of the final 30 day Go-live Readiness Assessment (GLRA) identified in Phase 4 of the Implementation Plan, and again at the expiration of the Transition and Stabilization Period identified in Phase 5 of the Implementation Plan, Customer will deliver a written statement identifying Errors logged by LLUSS during such period and specifically identifying those Errors that Customer deems to be Critical Errors (each, a "***Statement of Critical Errors***").

(b) At the conclusion of the final 30 day Go-live Readiness Assessment (GLRA), and prior to Go-Live, the failure of LLUSS or Epic, as the case may be, to remedy Critical Errors identified by Customer in its Statement of Critical Errors within thirty (30) days of receipt, shall give Customer the right to terminate, as follows:

(i) Outstanding Critical Errors Customer deems so severe that Customer elects not to authorize a transition to the live environment for the particular application or component thereof affected by such Critical Errors, shall give the Customer the right to terminate this Agreement with respect to the particular application or component thereof affected by such Critical Errors; or

(ii) Outstanding Critical Errors Customer deems so severe that Customer elects not to authorize a transition to the live environment for the LLUSS EHR Platform (i.e., not to go-live), shall give the Customer the right to terminate this Agreement.

(c) At the conclusion of the Transition and Stabilization Period, Customer will finally accept or reject the Riverside Service Area. The failure of LLUSS or Epic, as the case may be, to remedy Critical Errors identified by Customer in its Statement of Critical Errors within sixty (60) days of receipt, shall give Customer the right to terminate, as follows:

(i) Outstanding Critical Errors Customer deems so severe that Customer elects to terminate access to the particular application or component thereof affected by such Critical Errors shall give the Customer the right to terminate this Agreement with respect to the particular application or component thereof affected by such Critical Errors; and

(ii) Outstanding Critical Errors impacting the operations of the Riverside Service Area as a whole that Customer deems so severe that Customer elects to transition off the LLUSS EHR Platform shall give the Customer the right to terminate this Agreement in its entirety.

(d) The right to terminate described in Section 3.8(b) and in Section 3.8(c) shall be effective upon delivery of written notice thereof to LLUSS, specifying in reasonable detail the Critical Error giving rise to the right to terminate. Customer shall continue to operate its legacy system through the Transition and Stabilization Period, and therefore LLUSS shall have no obligation to provide post-termination disentanglement services described in Section 17 in the event of any such termination. Neither party shall have any liability or obligation to account to the other thereafter. In the event of such termination, LLUSS shall have no obligation to refund to Customer fees paid, including license, service, or support fees. LLUSS shall render a final invoice, and Customer shall pay any outstanding invoices together with the final invoice.

4. PROFESSIONAL SERVICES; CHANGE PROCESS

4.1 Request for Change. Each of the following shall constitute a request for modification, enhancement, improvement or other change hereunder (each, a "***Change***") and shall be subject to the change control process described in this Section 4:

(a) Prior to Go-Live, any of the following is a "Change":

(i) the configuration of the LL 2015 Platform to create the Riverside Service Area above the "level of effort" reflected therefor in the Implementation Statement of Work;

(ii) The Implementation Statement of Work, and the included scope, plans and other materials, were developed by LLUSS in reliance on the information provided to LLUSS by Customer and reflected in Exhibits B and C attached to the Implementation Statement of Work. If, during the course of the performance of the Professional Services described in the Implementation Statement of Work, LLUSS discovers information different than that described in such exhibits, then any modification, enhancement, improvement or other change to the Implementation Statement of Work directly resulting therefrom is a "Change".

(iii) any modification, enhancement, improvement or other change to the Interfaces or additional interfaces;

(iv) any modification, enhancement, improvement or other change required as a result of the Customer failing to perform the tasks allocated to Customer in the Implementation Plan;

(v) any modification, enhancement, improvement or other change (other than as described above) to the Initial Implementation Plan or any subsequent revised Implementation Plan that impacts price.

(b) After Go-Live, the following are in-scope and not considered a "Change" hereunder: (i) incident management, consisting of Tier 2 and Tier 3 support, as described in paragraph 5.1 of the SLA and subject to the limitations described in paragraph 6.0 of the SLA, (ii) business-as-usual request fulfillment, consisting of ongoing support of standard workflows, as described in paragraph 5.2 of the SLA and subject to the limitations described in paragraph 6.0 of the SLA, and (iii) minor Updates included within the annual LLUSS budget;

(c) After Go-Live, the following are not in-scope and are considered a "Change" hereunder:

(i) Any modification, enhancement, improvement or other change to the LL 2015 Platform after go-live of the LL 2015 Platform to the LLUSS EHR Platform and initiated by LLUSS by Change Request and for which LLUSS desires to allocate costs among the participants of the LLUSS EHR Platform;

(ii) Any modification, enhancement, improvement or other change to the Riverside Service Area after Go-Live (A) to the LLUSS EHR Platform and initiated by Customer by Change Request other than incident management, business-as-usual request fulfillment and minor Updates described in Section 4.1(b), or (B) as a result of a change to any metrics described in paragraph 6.0 of the Service Level Agreement; and

(iii) On an annual basis, any adjustment to Pass-Through Fees, any adjustment to fees for Support Services, and any other Technology Refresh or other modifications of the LLUSS EHR Platform required by Epic or other third party providers above the limits and subject to the process described in paragraph 6.4 of the SLA.

4.2 Request for Change; Statements of Work. Any Change (i) described in Section 4.1(a) shall be evidenced in revisions to the Implementation Statement of Work, including the Implementation Plan, and to the extent such Change impacts Support Services, to the SLA, and (ii) described in Section 4.1(b) and Section 4.1(c) shall require the preparation of a new Statement of Work(s), and to the extent such Change impacts Support Services, shall require the preparation of a revised SLA, each using the process described in Section 4.4.

4.3 Revisions to Implementation Statements of Work and revised Service Level Agreement. Changes prior to Go-Live described in Section 4.1(a) require revisions to the Implementation Statement of Work (and corresponding revisions to the SLA) and are governed by paragraph 6 of the Implementation Statement of Work.

4.4 Preparation of Statements of Work and revised Service Level Agreement. Any Changes described in Section 4.1 that require the preparation of a Statement of Work (and corresponding revisions to the Service Level Agreement, if any) are governed by paragraph 5.3 of the SLA and this Section 4.4. LLUSS shall prepare Statements of Work and revised Service Level Agreements as follows:

(a) After consultation in the Steering Committee, LLUSS will reasonably promptly prepare a draft Statement of Work, including a draft revised SLA, if required, for (i) each Change Request initiated by Customer to the Riverside Service Area (so long as it meets the requirements of Section 6.1(d)(ii)), and (ii) for any other Change Request that LLUSS determines it is willing to implement, which Statement of Work will contain the terms and conditions described in the Sample Statement of Work Appendix, as applicable. Additional Professional Services and additional Support Services (above the "level of effort" described in the SLA) shall be provided at LLUSS' then-current rates, unless otherwise mutually agreed upon in writing by the parties in accordance with this Section 4 and set forth in the applicable Statement of Work.

(b) The parties shall meet and consult with respect to the draft Statement of Work and draft revised SLA, if required.

(c) Customer and LLUSS shall, reasonably promptly after completion of their consultation and review under Section 4.4(b) provide each other with either a written acceptance of the

draft Statement of Work (and draft revised SLA, if required), or, in the case of a requested modification or amendment, a detailed statement specifying the basis for rejection. LLUSS may, in its discretion, further modify the draft Statement of Work (and draft revised SLA, if required) to reflect the discussions of the parties, and redeliver the draft Statement of Work (and draft revised SLA, if required) for further review. LLUSS may undertake to modify and redeliver a modified draft Statement of Work (and draft revised SLA, if required) multiple times using this process until the parties have agreed upon the modifications. Customer will compensate LLUSS on a time and materials basis for work incurred in the preparation of a draft Statement of Work (and draft revised SLA, if required) hereunder.

(d) At such time as the parties shall have agreed upon a draft Statement of Work including a draft revised SLA, if applicable, the Statement of Work and revised SLA as so completed and approved shall be binding and be incorporated by reference into this Agreement. In order to evidence their agreement to each Statement of Work (and revised SLA, if required), the parties shall sign the agreed-upon Statement of Work and SLA, as applicable.

5. SUPPORT SERVICES

5.1 Term of Support Services.

(a) LLUSS will use Commercially Reasonable Efforts to provide Customer with the Support Services described in the Service Level Agreement (SLA), during a term commencing on expiration of the Transition and Stabilization described as Phase 5 of the Implementation Plan and continuing for the term described in Section 16.1.

(b) Notwithstanding the foregoing, Customer acknowledges that LLUSS is not the vendor of the LLUSS EHR Platform, and shall have no direct responsibility or liability for the correction of Errors or other problems with the LLUSS EHR Platform other than to provide Updates as described in Section 4.4 of the SLA and Section 5.3 hereof, or for any unavailability of the LLUSS EHR Platform caused by such problems, other than to escalate such issues to Epic for resolution under the terms of support made available by Epic.

5.2 System Availability. LLUSS commits to maintain availability of the LLUSS EHR Platform for remote access and use by Customer on substantially the same basis that LLUSS makes the LLUSS EHR Platform available to its and its Affiliates' internal users, as further described in the Service Level Agreement (SLA).

5.3 Maintenance.

(a) During the term of the Agreement, LLUSS shall make available for remote access and use by Customer any Updates that Epic releases and LLUSS deploys for the LLUSS EHR Platform in accordance with the provisions of the SLA. In connection therewith, Customer acknowledges the following:

(i) LLUSS is an operating health care provider and the LLUSS EHR Platform is, as of the Effective Date, already installed, implemented and operational at LLUMC and other LLUSS Affiliates supporting the hospital and other health care operations of LLUMC and other LLUSS Affiliates;

(ii) LLUSS is extending the LLUSS EHR Platform to Customer by providing access to the Riverside Service Area hereunder.

(iii) The ability of LLUSS to offer Customer the pricing and other benefits of sharing the LLUSS EHR Platform with LLUSS depends upon Customer using the LLUSS EHR Platform (with the Riverside Service Area modifications), as implemented at the LLUSS Affiliate facilities and upon Customer adopting the subsequent Updates and Technology Refresh to the LLUSS EHR Platform as are implemented by LLUSS in its own operations.

(b) LLUSS may make changes or updates to the LLUSS EHR Platform, and therefore to the Riverside Service Area provided hereunder (such as infrastructure, security, technical configurations, application features, etc.) during the term hereof, including to reflect changes in technology, industry practices, patterns of system use, and availability of third party content. The Specifications are subject to change at LLUSS's discretion; provided that such LLUSS changes to the Specifications will not result in a material adverse impact on operations, or a material reduction in the level of performance, security or availability of the Riverside Service Area provided to Customer for the duration of the term hereof.

(c) LLUSS will provide access to the Riverside Service Area to Customer hereunder based upon the then-current LLUSS EHR Platform implemented by LLUSS in its own operations, modified to include the features of the Riverside Service Area as implemented at Go-Live (and as Customer may engage LLUSS to further modify using the change process specified in Section 4).

(d) Customer may request Changes to the Riverside Service Area using the Statement of Work process more particularly described in Section 4.

5.4 HIPAA Compliance.

(a) The parties to this Agreement shall comply with all applicable state and federal laws and regulations regarding confidentiality of patient records, including but not limited to the Health Insurance Portability and Accountability Act of 1996 and the Privacy and Security Standards (45 C.F.R. Parts 160 and 164) and the Standards for Electronic Transactions (45 C.F.R. Parts 160 and 162) (collectively, the "***Standards***") promulgated or to be promulgated by the Secretary of Health and Human Services on and after the applicable effective dates specified in the Standards. All medical information and data concerning specific patients, including but not limited to the identity of the patients, derived from the business relationship set forth in this Agreement shall be treated and maintained in a confidential manner by all parties to this Agreement and shall not be released, disclosed, or published to any party other than as required or permitted under applicable laws.

(b) The parties acknowledge that Customer intends to store Personal Data, including PHI, as part of its use of the Support Services, which PHI is subject to the U.S. Health Insurance Portability and Accountability Act (HIPAA). Customer and LLUSS agree to sign a separate Business Associate Agreement (BAA) with one another which will govern PHI in the form of the BAA attached hereto as Exhibit E-1 and Exhibit E-2, as applicable.

(c) The parties recognize that LLUSS EHR Platform permits electronic medical records containing PHI to be shared among multiple participants in the LLUSS EHR Platform. LLUSS will act on Customer's instructions concerning the treatment of Personal Data (including PHI) residing in the LLUSS EHR Platform arising out of specific services delivered by Customer Authorized Users attributable to a particular patient and associated with such Personal Data. Customer agrees to provide any notices and obtain any consents related to Customer's use of the Riverside Service Area and LLUSS's provision of the Support Services, including those related to the collection, use, processing, transfer and disclosure of Personal Data and PHI associated with specific services delivered by Customer Authorized Users to a particular patient. LLUSS, in consultation with the Steering Committee, intends to develop

procedures addressing, among other things, handling of such electronic medical records including without limitation Release of Information.

(d) Nothing in this Section 5.4 is intended to alter or expand LLUSS' obligations, in the provision of Services hereunder, with respect to the safety and security of the LLUSS EHR Platform, which is governed by the provisions of Section 12.6 hereof.

6. PROJECT MANAGEMENT.

Unless and until the parties (together or in connection with a larger strategy) agree in writing upon a different process, the change control process under this Agreement will be governed by the project management methodology described in this Section 6.

6.1 Steering Committee.

(a) LLUSS shall establish a Steering Committee which initially shall consist of the Chief Medical Information Officers ("***CMIO***") or lead clinical appointment designated by each of LLUSS and Customer. As LLUSS extends the LLUSS EHR Platform to additional health care providers, LLUSS may in its discretion add the CMIO or other representative of such additional health care providers to the Steering Committee. LLUSS will determine the entities to which LLUSS has extended the LLUSS EHR Platform entitled to a seat on the Steering Committee. LLUSS shall consult with and obtain input from the Steering Committee regarding preparation and revisions to the Implementation Plan under Section 3, Change Requests under Section 4, and changes to the Support Services under Section 5, including without limitation decisions as to which Updates to install and Technology Refresh to implement and make operational on the LLUSS EHR Platform.

(b) The purpose of the Steering Committee shall be to establish and preserve a joint electronic health records platform standard, utilizing to the extent possible, the Epic Model including best practices from LLUH, Customer and other participants in the LLUSS EHR Platform. The Steering Committee shall strive to reduce variation in clinical content and configuration to minimize additional costs to implement and maintain the LLUSS EHR Platform. Without limiting the foregoing, prior to delivery to LLUSS under Section 4 for preparation of an applicable Statement of Work, any Change Request to the LLUH EHR Platform by either party will be submitted to the Steering Committee which will review the change for its impact on the following:

(i) maintenance of a standards-based EHR model, based on the Epic Model;

(ii) show a result that improves quality and efficiency;

(iii) deploy consistent clinical protocols across the network with the goal of achieving measurable targets;

(iv) result in each party carrying its share of the IT cost; and

(v) prioritize requests, and identify and prioritize functional and operational needs.

(c) The purpose of the Steering Committee is to establish strong communication among and consultation between participants in the LLUSS EHR Platform, and to provide a body for discussing, addressing and resolving any issues that arise in the course of implementation, supporting and maintaining the LLUSS EHR Platform. The Steering Committee is a consulting body only and shall not

have decision-making authority over any particular participant. However, the recommendations of the Steering Committee shall be given serious consideration and weight by LLUSS in connection with ongoing operational and strategic decision-making for the LLUSS EHR Platform, and with respect to implementation, support, and other decisions made in connection therewith.

(d) Once an affiliation governance structure is agreed to between the parties as part of a larger clinically integrated network (CIN) or other affiliation strategy, that governance structure will govern the IT relationship between the parties under this Agreement if the parties so agree. Until an affiliation governance structure is agreed to between the parties as part of a larger CIN or other affiliation strategy, the Steering Committee will be advisory only and:

(i) LLUSS shall retain final discretion and control over decisions with respect to both the initial implementation of the LL 2015 Platform and to any changes to the LL 2015 Platform after go-live of the LL 2015 Platform that affect the system as a whole, including without limitation determining which Updates will be deployed for the LLUSS EHR Platform and the schedule for implementation of such Updates. Any impact on fees payable by Customer as a result of any such decision by LLUSS is subject to the provisions of paragraph 6.0 of the SLA.

(ii) Customer will retain final control over decisions with respect to both the Riverside Service Area as originally implemented and to any unique business needs that have not been accommodated by the LL 2015 Platform after Go-Live, so long as (i) the Changes do not affect the LL 2015 Platform or LLUSS EHR Platform as a whole, (ii) Customer agrees to pay for those Changes as described in Section 4, and (iii) LLUSS has the staff and resources (directly or through engaging third party contractors) sufficient to meet such Customer request. For the purposes of subparagraph (iii) hereof, LLUSS agrees to search for and engage third party contractors if LLUSS does not have adequate staff and resources to meet such Customer request.

6.2 Project Management Office. LLUSS will constitute and staff a Project Management Office under the supervision of the LLUSS Chief Information Officer, and with LLUSS subject matter experts including the Program Director, Technology Architect, Clinical Applications Director, Financial Applications Director, Data Specialist, and Hardware Specialist.

6.3 Staffing. Subject to the foregoing Sections 6.1 and 6.2 and Section 6.6, LLUSS shall have sole discretion in staffing the Professional Services and may use independent contractors or subcontractors ("***Authorized Contractors***") to assist in the delivery of the Services. LLUSS shall remain liable for the actions or omissions of such Authorized Contractors.

6.4 Designated Contact. Customer shall designate at least one employee with knowledge of Customer's business as its primary contact to be available for communication with LLUSS in providing the Professional Services.

6.5 Contract Manager. LLUSS shall designate a person as its representative to serve as the contact person for Customer for issues relating to this Agreement (which may be changed by LLUSS upon written notice to Customer). Should issues arise regarding the Services, Customer should first work informally and in good faith with the persons designated by LLUSS to provide such Services. If there are issues which are not satisfactorily resolved, however, Customer shall contact LLUSS's designated representative (which may be changed by LLUSS upon written notice to Customer):

NAME:	Doug Turner
TITLE:	Executive Director – IS Community Connect

ADDRESS:	11155 Mountain View Ave. Suite 220 Loma Linda CA 92354
EMAIL:	doturner@llu.edu
PHONE:	909 558 3244

6.6 Cooperation. Customer will cooperate with LLUSS, will provide LLUSS with accurate and complete information, will provide LLUSS with such assistance and access as LLUSS may reasonably require to make available the Riverside Service Area and otherwise perform the Professional Services, and will fulfill its responsibilities as set forth in this Agreement and the applicable SOW. If LLUSS personnel are required to be present on a Customer site, Customer will provide adequate workspace and may provide reasonable worksite safety and security rules to which such personnel are to conform. LLUSS personnel and contractors (a) physically on-site at Customer premises will comply with Customer's reasonable rules, policies, and regulations regarding personal and professional conduct (including without limitation, the wearing of a particular uniform, identification badge, or personal protective equipment and adhering to regulations and general safety practices or procedures (but excluding fingerprinting)) and otherwise conduct themselves in a professional and businesslike manner; (b) LLUSS will conduct, and cause its third party contractors to conduct, background checks on all LLUSS or contractor personnel given access to Customer patient clinical areas, and (c) if Customer reasonably believes any LLUSS personnel or contractor physically on-site at Customer premises poses a material security risk or risk to health and safety of Customer's facilities, personnel or patients, Customer shall notify LLUSS and the parties will cooperate to promptly remove such personnel.

7. CUSTOMER OBLIGATIONS; IMPLEMENTATION

7.1 Infrastructure. Customer acknowledges that the Infrastructure is necessary in order for Customer to access and use the LLUSS EHR Platform. Prior to installation of the LLUSS EHR Platform, and in consultation with LLUSS, Customer shall procure the Infrastructure listed in paragraph 2.5 of the Implementation Statement of Work, including maintenance and support plans from the applicable vendor, authorized reseller, or authorized service provider where applicable, at Customer's sole expense.

7.2 Third Party Software. For any third-party software included in the Infrastructure, Customer shall execute any required third-party license agreements prior to installation of the third-party software. If LLUSS installs such third-party software at Customer's request and acceptance of license terms is effected electronically (i.e. as the vendor's standard click-through license agreement), Customer authorizes LLUSS to accept the third-party license terms on Customer's behalf.

8. CUSTOMER OBLIGATIONS REGARDING USE OF THE RIVERSIDE SERVICE AREA.

8.1 Overall Customer Responsibilities. In addition to the responsibilities specifically identified elsewhere in this Agreement, Customer is responsible for: (i) appointing a qualified project leader to manage Customer's responsibilities and coordinate with LLUSS regarding the implementation and other activities under this Agreement; (ii) appointing and procuring training for at least one employee to serve as Customer's "Super User" in fielding day-to-day questions and issues encountered by Customer's end users; (iii) maintaining internal business continuity procedures in the event of unavailability of the LLUSS EHR Platform for any reason; and (iv) testing and validating the LLUSS EHR Platform for use in Customer's business, including compatibility with Customer's culture, policies, procedures and operations.

8.2 Use of the Riverside Service Area.

(a) Customer shall only authorize access to the LLUSS EHR Platform to individuals that are (i) Customer's qualified and trained staff who have a need to access and use the LLUSS EHR Platform for purposes of patient care under Customer's provider number; and (ii) physicians and/or physician groups employed by or affiliated with Customer who have a need to access and use the LLUSS EHR Platform for purposes of patient care under such physician's or physician group's provider number, and (iii) in each case who are qualified as more particularly described in Section 9.2 below (each, an "***Authorized User***").

(b) Customer shall create an account in the Riverside Service Area for each individual Customer desires be granted access to the LLUSS EHR Platform as an Authorized User, using the "real-time" technology and access mechanism designated by LLUSS to Customer therefor from time to time during the term hereof, and shall disable such account of each Authorized User whose access to the LLUSS EHR Platform Customer desires be suspended or terminated. Customer is responsible for identifying all Authorized Users, for providing LLUSS with notice of Customer's approval of access by such Authorized User to the LLUSS EHR Platform, and for maintaining the confidentiality of usernames, passwords and account information. LLUSS is not responsible for any harm caused by Authorized Users, including individuals who were not authorized to have access to the LLUSS EHR Platform but who were able to gain access because Customer did not provide LLUSS with timely notice that such usernames, passwords or accounts were to be terminated. Customer is responsible for all activities that occur under Customer's and Customer Authorized Users' usernames, passwords or accounts or as a result of Customer or Customer Users' access to the LLUSS EHR Platform. Customer agrees to notify LLUH immediately of any unauthorized use. Customer agrees to make every reasonable effort to prevent unauthorized third parties from accessing the LLUSS EHR Platform.

(c) Customer shall not use or permit use of the Riverside Service Area, including by uploading, emailing, posting, publishing or otherwise transmitting any material, including Customer Data, for any purpose that may (a) menace or harass any person or cause damage or injury to any person or property, (b) involve the publication of any material that is false, defamatory, harassing or obscene, (c) violate privacy rights or promote bigotry, racism, hatred or harm, (d) constitute unsolicited bulk e-mail, "junk mail", "spam" or chain letters; (e) constitute an infringement of intellectual property or other proprietary rights, or (f) otherwise violate applicable laws, ordinances or regulations. In addition to any other rights afforded to LLUSS under this Agreement, LLUSS reserves the right, but has no obligation, to take remedial action if any material violates the restrictions in the foregoing sentence, including the removal or disablement of access to such material. LLUSS shall have no liability to Customer in the event that LLUSS takes such action. Customer shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness and ownership of all of Customer Data. Customer agrees to defend and indemnify LLUSS against any claim arising out of a violation of Customer obligations under this Section 8.

8.3 Clinical Products. The access to Riverside Service Area provides Customer access to a sophisticated tool that can assist Customer and Authorized Users in the practice of medicine, but it is not a substitute for competent human intervention and discretionary thinking. Therefore, Customer agrees that Customer and Authorized Users will do each of the following (collectively, the "***Customer Clinical Responsibilities***"):

(i) Customer and Authorized Users will obtain information in accordance with applicable standards of good medical practice and be responsible for entering such information into the Riverside Service Area accurately and completely.

(ii) Customer and Authorized Users will be responsible for reading information displayed by the Riverside Service Area on computer screens accurately.

(iii) Customer and Authorized Users will be responsible for ensuring that Authorized Users are using the Riverside Service Area accurately in accordance with applicable Documentation.

(iv) Customer is responsible for decisions made by Customer in configuring the Riverside Service Area.

(v) Customer and Authorized Users will confirm the accuracy of life threatening information and critically important results that are accessed or stored though the Riverside Service Area in the same manner that such information and results would be confirmed or verified if it were in paper form or as would otherwise be confirmed or verified if Authorized Users were using applicable standards of good medical practice. For example, Authorized Users must verify allergies, current medications, relevant histories and problems with the patient and confirm questionable results (such as lab pathology or radiology results) with the applicable department using applicable standards of good medical practice to no less a degree than if Authorized Users were using paper records.

(vi) Customer and Authorized Users will report any errors or suspected errors in the Riverside Service Area as promptly as reasonable under the circumstances after discovery in the course of using the Riverside Service Area. Customer will report to LLUSS as promptly as reasonable under the circumstances after discovery any problems with the Riverside Service Area which have been discovered or reported by any of Authorized Users or which Customer or any of Authorized Users independently know or reasonably should know could adversely affect patient care. If Customer's or any of Authorized Users are alerted to a problem that Authorized Users know or reasonably should know could adversely affect patient care, Customer will immediately alert all of Authorized Users who could reasonably be affected by the problem.

(vii) Customer and Authorized Users will conduct reasonable testing of the Riverside Service Area in Customer's environment before use (which may include testing protocols described to Customer by LLUSS). Customer will conduct reasonable testing of all critical areas in the Riverside Service Area before Customer release it and will not use it until Customer has assured itself of the accuracy of the Riverside Service Area.

(viii) Customer and Authorized Users will use the Riverside Service Area only in accordance with applicable standards of good medical practice. While software products such as the Riverside Service Area can improve the quality of service that Customer and Authorized Users offer to patients, many factors, including the provider/patient relationship can affect a patient outcome, and with intricate and interdependent technologies and complex decision-making it is often difficult or impossible to accurately determine what the factors were and in what proportion they affected an outcome.

8.4 Compliance with Agreement, Law and Regulations. Each party shall (i) access and use the LLUSS EHR Platform in accordance with this Agreement and applicable laws and government regulations, (ii) be responsible for the accuracy, quality and legality of its own data and the means by which it acquired such data, (iii) enter into a BAA in the form attached as Exhibit E-1 (with respect to Customer) and Exhibit E-2 (with respect to LLUSS) prior to transmitting Personal Data, including PHI for Customer or on Customer's behalf in connection with the Riverside Service Area without an executed BAA between the parties and except in compliance with all applicable laws, (iv) use Commercially Reasonable Efforts to prevent unauthorized access to or use of the LLUSS EHR Platform, and notify one another promptly of any such unauthorized access or use. Customer shall be responsible for obtaining

and maintaining all telephone, computer hardware, Internet access services and other equipment or services needed to access and use the Riverside Service Area and all costs and fees associated therewith.

8.5 Prohibited Activities. In addition to the license restrictions set forth in Section 9.3, Customer agrees that it will not: (a) license, sublicense, sell, resell, rent, lease, transfer, distribute or otherwise similarly exploit the Riverside Service Area; (b) use the Riverside Service Area to store, collect, transmit or process any material that is infringing, obscene, threatening, libelous, or otherwise unlawful or tortious, including material that is harmful to children or violates third party rights; (c) use the Riverside Service Area to send, store, publish, post, upload or otherwise transmit any viruses, Trojan horses, worms, time bombs, corrupted files or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any systems, data, personal information or property of another; (d) interfere with or disrupt the integrity or performance of the Riverside Service Area; (e) attempt to gain unauthorized access to the Riverside Service Area or its related systems or networks; (f) use or knowingly permit others to use any security testing tools in order to probe, scan or attempt to penetrate or ascertain the security of the Riverside Service Area; or (g) copy, create a derivative work of, reverse engineer, reverse assemble, disassemble, or decompile the Riverside Service Area or any part thereof or otherwise attempt to discover any source code or modify the Riverside Service Area.

9. LLUSS EHR PLATFORM LICENSE

9.1 License. During the term of this Agreement, and subject to the provisions hereof, LLUSS hereby grants to Customer, and Customer hereby accepts, a non-exclusive, non-transferable (except as permitted in Section 21.8), non-sublicensable license to remotely access and use the LLUSS EHR Platform, solely for storing, processing and displaying medical records and other information, images and content related to the provision of healthcare to patients of Customer, in compliance with all applicable laws and regulations. Access to and use of the LLUSS EHR Platform under the foregoing license is strictly limited to Authorized Users.

9.2 Authorized Users. In order to remotely access and use the LLUSS EHR Platform, Epic requires Customer to participate in the Epic Accreditation Program and to ensure that all Customer users receive training (as described in the Training Plan). Customer must set up user accounts for each of its Authorized Users in accordance with LLUSS's standard policies and procedures. LLUSS agrees to cooperate with Customer to establish LLUSS EHR Platform access for each Authorized User individual designated by Customer within the time period specified therefor in the SLA. Each account may be used only by the individual authorized by Customer. Customer is solely responsible for the selection of its Authorized Users, all use of user IDs and passwords assigned to or chosen by Authorized Users, the implementation and maintenance of security relating to access to the LLUSS EHR Platform from Customer's facility, and all activities occurring under its user accounts.

9.3 License Restrictions. Customer shall not, nor shall it authorize or enable any other person or entity to: (a) reproduce, distribute, publicly display, sublicense, lease, rent, loan, transfer, or otherwise make available the LLUSS EHR Platform to any third party; (b) modify, adapt, alter, translate, or create derivative works of the LLUSS EHR Platform; (c) use the LLUSS EHR Platform for the benefit of a third party, whether in or as part of a service bureau, timesharing or other capacity; (d) use the LLUSS EHR Platform in violation of any import, export, re-export or other applicable laws or regulations; (e) attempt to deactivate, bypass, or otherwise circumvent the license keys, access controls, or other security measures for the LLUSS EHR Platform; (f) attempt to gain unauthorized access to any data, functionality, or systems of LLUSS or any other user of the LLUSS EHR Platform; (g) attempt to use automated systems (such as test tools, screen capture technology, scripted browsers, or other programmatic methods) not approved by LLUSS and Epic for use in conjunction with the LLUSS EHR

Platform; (h) remove or obscure any copyright or other proprietary rights, notices, trademarks, logos or trade designations for the LLUSS EHR Platform, or on any user screens or documentation therefor; (j) disclose the results of any benchmarking or other performance testing of the LLUSS EHR Platform, except as required to meet its obligations under this Agreement; or (k) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the LLUSS EHR Platform.

9.4 Customer Responsible for Use. Customer is responsible for all use of the LLUSS EHR Platform by its Authorized Users. Customer shall comply with: (a) all reasonable remote access and network security requirements communicated by LLUSS from time to time; and (b) all license and other terms imposed by Epic under the Epic License Agreement; and (c) all applicable federal, state or local laws and regulations and rules of professional conduct.

9.5 Reservation of Rights. Except for the express rights granted to Customer under this Agreement, all rights, title and interest in and to the LLUSS EHR Platform, the documentation and any other information and materials provided to Customer by LLUSS in connection with this Agreement, including all intellectual property rights therein, shall at all times remain solely with LLUSS and its suppliers. No rights or licenses, express or implied, are granted to Customer, other than the express license rights set forth in this Agreement or granted to Customer by the applicable supplier. The rights and licenses granted by LLUSS and its suppliers do not include a license to any patents or patent rights that may be held by a third party.

10. FEES AND PAYMENT.

10.1 Fees. Customer shall pay the following:

(a) For the Implementation Services described in the Implementation Statement of Work, the fees specified in the Implementation Statement of Work, subject to adjustment as more particularly described in Section 10.2, payable monthly as incurred;

(b) For other Professional Services provided by LLUSS hereunder, the fees specified therefore in any additional Statements of Work agreed upon between the parties or, if no fees are described in the applicable SOW, then on a time and material fees at LLUSS then-current rates and charges, payable monthly as incurred. The rates and charges in effect on the Effective Date are set forth in Exhibit D (Rates and Charges);

(c) For the Support Services during the Initial Term, the recurring annual fee specified in the SLA, subject to adjustment as more particularly described therein, payable annually in advance; and, for any Renewal Term after the first Renewal Term, the fees agreed upon between the parties at the time of the renewal under Section 16.1;

(d) Except as otherwise specified herein or in a subsequent SOW, (i) fees are quoted and payable in United States dollars, (ii) payment obligations are non-cancelable and fees paid are non-refundable, and (iii) access to the Riverside Service Area and the Support Services purchased cannot be decreased during the relevant term. All amounts payable under this Agreement will be made without setoff or counterclaim, and without any deduction or withholding.

10.2 Adjustment to Fees and Charges.

(a) Customer will pay for any configuration of the Riverside Service Area above the "level of effort" (Section 4.1(a)(i)), as such configuration is agreed to between the parties as part of the

Implementation Plan (Section 2.3) or the Change Process (Section 4) on a time and materials basis using the time and materials rates described in Exhibit D (Rates and Charges).

(b) Customer will pay for increased costs as a result of the inaccuracy of any assumptions described in the Implementation Statement of Work (Section 4.1(a)(ii)).

(c) The license and maintenance fees specified in the SLA are based on the initial Licensed Volume (defined therein) and other assumptions and limitations set forth in the SLA. If Customer's volume exceeds the Licensed Volume or other assumptions and limitations, then Customer agrees to pay the additional fees determined as a result of the Change process.

(d) Any other fees and charges agreed to between the parties in connection with the Implementation Statement of Work and any additional Statement of Work entered into hereunder.

(e) The recurring annual fee specified in the SLA is subject to annual adjustment as described in the SLA.

10.3 Invoicing and Payment. For all fees payable monthly as incurred, LLUSS will invoice Customer on or before the tenth (10^{th}) of each month on account of time and materials incurred in the immediately preceding month. For all fees payable annually in advance, LLUSS will invoice Customer not more than thirty (30) days prior to the commencement of the next annual period. Except as otherwise stated in the applicable SOW or SLA, Customer agrees to pay all invoiced amounts within thirty (30) days of the invoice date.

10.4 Overdue Charges. If LLUSS does not receive fees by the due date, then such overdue fees may accrue late charges at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid.

10.5 Suspension of Service.

(a) LLUSS may, without limiting any other LLUSS right or remedy, temporarily suspend Customer's access to the LLUSS EHR Platform upon the occurrence and during the continuance of any of the following:

(i) LLUSS has the right to monitor all use of the Riverside Service Area for security and operational purposes. LLUSS reserves the right to temporarily suspend access to the LLUSS EHR Platform and/or any user account, if such suspension is necessary to protect the security and integrity of the LLUSS EHR Platform.

(ii) If LLUSS desires to exercise remedies described in this Section 10.5, LLUSS shall provide Customer written notice of any amounts owed by Customer that are overdue, and if Customer does not remedy the failure to pay undisputed charges within thirty (30) days of delivery of such notice, LLUSS may temporarily suspend access to the LLUSS EHR Platform until such amounts are paid in full.

(iii) LLUSS will provide thirty (30) days' advance notice to Customer (with a copy to Customer's Chief Executive Officer sent certified mail, return receipt requested) of any such suspension, unless in LLUSS's reasonable discretion based on the nature of the circumstances giving rise to the suspension a shorter period is required. LLUSS will use reasonable efforts to re-establish the affected Services promptly after LLUSS determines, in its reasonable discretion, that the situation giving rise to the suspension has been cured.

(b) Notwithstanding the foregoing, during any suspension period, LLUSS will make available to Customer limited access to patient data as existing in the LLUSS EHR Platform on the date of suspension. Customer may seek without bond, from a court of law or equity, both temporary and permanent injunctive relief in order to prevent LLUSS from exercising its right to suspend Services. LLUSS may suspend the Services if any of the foregoing causes of suspension is not cured within thirty (30) days after LLUSS's initial notice thereof. Any suspension or termination by LLUSS under this paragraph shall not excuse Customer from Customer's obligation to make payment(s) under this Agreement.

10.6 Payment Disputes. LLUSS agrees that it will not exercise its rights under Section 10.4 (Overdue Charges) or 10.5 (Suspension of Service) if Customer is disputing the applicable charges reasonably and in good faith, has paid the undisputed portion in full and is cooperating diligently to resolve the dispute.

10.7 Taxes. Customer is responsible for payment of all taxes, levies, duties, assessments, including but not limited to value-added, sales, use or withholding taxes, assessed or collected by any governmental body (collectively, "***Taxes***") arising from LLUSS's provision of the Services hereunder, except any taxes assessed on LLUSS's net income. If LLUSS is required to directly pay or collect Taxes related to this Agreement, Customer agrees to promptly reimburse LLUSS for any amounts paid by LLUSS.

10.8 Expenses. Customer shall reimburse LLUSS all reasonable expenses, including without limitation travel and meals, incurred in performing its obligations hereunder.

11. LICENSE AND PROPRIETARY RIGHTS

11.1 LL 2015 Platform; Riverside Service Area; Support Services. LLUSS, its licensors and its service providers own all right, title and interest in and to the LLUSS EHR Platform and the Services, including all related intellectual property rights. LLUSS reserves all rights not expressly granted to Customer under this Agreement. Customer will not delete or in any manner alter the copyright, trademark, and other proprietary notices of LLUSS or its licensors and service providers appearing on the LLUSS EHR Platform or any portion thereof. In the event Customer provides LLUSS with any suggestions, enhancement requests, recommendations or other feedback provided by Customer relating to the Services ("***Feedback***"), Customer grants to LLUSS a non-exclusive, "as-is," perpetual, royalty free license to use the Feedback for its business purposes. The foregoing shall not be construed as a representation or warranty by the Customer that it has the rights, if any, to grant such license or to authorize such use. Company acknowledges and agrees that the Feedback is provided by the Customer as-is, without warranties of any kind. The Customer hereby disclaims all warranties, express and implied, including the implied warranties of merchantability, fitness for a particular purpose, title/non-infringement, and quality of information with regard to the Feedback.

11.2 Sublicense. Certain portions of the LLUSS EHR Platform require that Customer install Required Third Party Software at the Customer site. A list of Required Third Party Software is set forth in paragraph 2.2 of the Implementation Statement of Work. LLUSS hereby grants Customer a non-exclusive sublicense, under the terms of the applicable license agreement between the third party provider and LLUSS to use, and where required, copy and install the applicable Required Third Party Software solely for Customer's internal business purposes, solely for the use of the Riverside Service Area during the term hereof, and subject in all respects to the terms and conditions of this Agreement, the Epic License Agreement and the applicable third party license agreement. LLUSS shall provide to Customer written copies of all third party license agreements applicable to Customer.

11.3 Customer Data. Customer hereby grants LLUSS a limited , non-exclusive, terminable (concurrently with termination of this Agreement), term license to host, copy, transmit and display Customer Data created by or for Customer using the Riverside Service Area as necessary for LLUSS to provide the Services in accordance with this Agreement. Subject to the limited licenses granted herein, LLUSS acquires no right, title or interest from Customer or Customer licensors hereunder in or to Customer Data, including any intellectual property rights therein. Notwithstanding anything herein, Customer agrees that LLUSS may use, aggregate, keep, or share data processed through the Riverside Service Area which has been de-identified pursuant to all applicable standards, laws and regulations, for the purpose of improving the Services and analyzing features, functions, trends and requirements. Any other proposed use of Customer Data shall require Customer written approval.

11.4 Deliverables. Except as may be otherwise provided in the applicable Statement of Work and except with respect to Customer's Background Property, any deliverables developed by LLUSS and provided to Customer in connection with rendering Services shall be the sole property of LLUSS. Subject to any rights of third parties in such deliverables, LLUSS hereby grants Customer a non-exclusive, perpetual, sublicensable, royalty-free right and license to use, copy, modify, and distribute any such deliverables for Customer's internal business purposes. For purposes of this Section 11, "***Background Property***" means any and all technology and information, methodologies, data, designs, ideas, concepts, know-how, techniques, user-interfaces, templates, documentation, software, hardware, modules, development tools and other tangible or intangible technical material or information that Customer, its licensors or its service providers possesses or owns prior to the Effective Date or which it or they develop independent of any activities governed by this Agreement, and any derivatives, modifications or enhancements made to any such property. Background Property shall not include any enhancements, modifications or derivatives made by LLUSS to the Customer Background Property while performing Professional Services hereunder, and any software, modules, routines or algorithms which are developed by LLUSS during the term in providing the Professional Services to Customer, provided such software, modules, routines or algorithms do not include any content that is specific to Customer or which, directly or indirectly, incorporate or disclose Customer's Confidential Information.

11.5 Background Property License. To the extent that Customer provides LLUSS with Background Property for the purpose of incorporating such Customer Background Property into any deliverables, then Customer hereby grants LLUSS a non-exclusive, royalty-free, limited license during the term of this Agreement to use such Background Property solely to provide the Services hereunder for the benefit of Customer. Except for the limited licenses in Sections 11.3 and 11.5, Customer reserves all rights in and to the Customer Data and Customer Background Property.

12. CONFIDENTIALITY

12.1 Definition of Confidential Information. "Confidential Information" means all confidential or proprietary information of a party, its licensors, vendors and suppliers ("Disclosing Party") disclosed to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or reasonably should be understood to be confidential given the nature of information and the circumstances of disclosure. Without limiting the coverage of these confidentiality obligations, the parties acknowledge and agree that: (a) Customer Confidential Information shall include the Customer Data; (b) LLUSS Confidential Information shall include the LLUSS EHR Platform, Epic Program Property and Required Third Party Software; and (c) Confidential Information of each party shall include the terms and conditions of this Agreement, pricing and other terms set forth in all Exhibits, including SLAs and/or SOWs hereunder.

12.2 Exceptions. Confidential Information shall not include information that: (i) is or becomes publicly available without a breach of any obligation owed to the Disclosing Party, (ii) is already known

to the Receiving Party at the time of its disclosure by the Disclosing Party, without a breach of any obligation owed to the Disclosing Party, (iii) following its disclosure to the Receiving Party, is received by the Receiving Party from a third party without breach of any obligation of confidentiality owed to Disclosing Party, or (iv) is independently developed by Receiving Party without reference to or use of the Disclosing Party's Confidential Information.

12.3 Protection of Confidential Information. The Receiving Party shall use the same degree of care used to protect the confidentiality of its own Confidential Information of like kind (but in no event less than the standard of care imposed by applicable law, or if no such legal standard exists, reasonable care), and, except with Disclosing Party's written consent, shall (i) not use any Confidential Information of Disclosing Party for any purpose outside the scope of this Agreement and (ii) limit access to Confidential Information of Disclosing Party to those of its and its Affiliates' employees, contractors and agents who need such access for purposes consistent with this Agreement and who have a duty or obligation of confidentiality no less stringent than that set forth herein. Nothing in this Section 12.3 is intended to alter or expand LLUSS' obligations, in the provision of Services hereunder, with respect to the safety and security of the LLUSS EHR Platform, which is governed by the provisions of Section 12.6 hereof.

12.4 Compelled Disclosure. The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent required by applicable law, regulation or legal process, including through requests for disclosure pursuant to open records and similar laws applicable to public entities, provided that the Receiving Party (i) provides prompt written notice to the extent legally permitted, (ii) provides reasonable assistance, at Disclosing Party's cost, in the event the Disclosing Party wishes to oppose the disclosure, and (iii) limits disclosure to that required by law, regulation or legal process.

12.5 Injunctive Relief. The parties agree that any unauthorized disclosure of Confidential Information may cause immediate and irreparable injury to the Disclosing Party and that, in the event of such breach, the Receiving Party will be entitled, in addition to any other available remedies, to seek immediate injunctive and other equitable relief, without bond and without the necessity of showing actual monetary damages.

12.6 Security.

(a) LLUSS will use Commercially Reasonable Efforts to protect the LLUSS EHR Platform, and each component thereof including the Riverside Service Area, secure from theft or damage to hardware, the software, or information, as well as from disruption or misdirection of the Services. In connection therewith, LLUSS will use Commercially Reasonable Efforts to maintain and enforce safety and physical security procedures with respect to the access, use, and possession of Customer's Confidential Information, including Personal Data and PHI, that are (a) at least equal to industry standards for such types of locations, and (b) which are consistent with the level of security procedures LLUSS uses for its operations and the operations of its Affiliates.

(b) LLUSS will maintain a Disaster Recovery Plan for the LLUSS EHR Platform, as more particularly described in paragraph 5.10 of the SLA, and use Commercially Reasonable Efforts to implement such plan in the event of any unplanned interruption of access to the LLUSS EHR Platform.

(c) Customer shall maintain a Business Continuity Plan for its operations and shall cause any Customer Affiliate to whom Customer provides access to the LLUSS EHR Platform to similarly maintain a Business Continuity Plan and use commercially reasonable effort to implement such plan in the event of any unplanned interruption of access to the LLUSS EHR Platform.

13. WARRANTIES AND DISCLAIMERS.

13.1 LLUSS Warranties. LLUSS warrants that:

(a) LLUSS has the legal authority to enter into this Agreement;

(b) LLUMC has entered into the Epic License Agreement and the agreements with third parties with respect to the Required Third Party Software, and, to the best of its knowledge, has all rights required from Epic and from the third party licensors of the Required Third Party Software, as applicable, to provide the access to the LLUSS EHR Platform and perform the Services specified in this Agreement;

(c) the Services performed under the Implementation Statement of Work will materially conform to the requirements of the Implementation Statement of Work;

(d) the Support Services will materially conform to the requirements of the SLA;

(e) LLUSS will not materially decrease the functionality and security of the Riverside Service Area during the term hereof;

(f) Professional Services will be performed in a competent and workmanlike manner consistent with generally accepted industry standards;

(g) LLUSS will not take any action or refrain from taking any action that results in a termination of the Epic License Agreement; and

(h) LLUSS and its owners, employees and agents (collectively "Personnel") (i) are not listed on the General Services Administration's Excluded Parties List System ("GSA List"), and (ii) are not suspended or excluded from participation in any federal health care programs, as defined under 42. U.S.C. § 1320a-7b(f), or any form of state Medicaid program (collectively, "Government Payor Programs"), and to LLUSS's knowledge there are no pending or threatened governmental investigations that may lead to suspension or exclusion of LLUSS or Personnel from Government Payor Programs or may cause for listing on the GSA List (collectively, an "Investigation"). LLUSS agrees to notify Customer of an exclusion from Government Payor Programs within three (3) business days of LLUSS's first learning of it.

13.2 Remedies.

(a) For any failure of any Support Services or Professional Services, as applicable, to conform to their respective warranties, LLUSS's liability and Customer's sole and exclusive remedy shall be for LLUSS:

(i) in the case of a breach of the warranty set forth in Section 13.1(a) through 13.1(b) and Section 13.1(g), to use Commercially Reasonable Efforts to obtain the rights necessary to continue hereunder;

(ii) in the case of a breach of the warranty set forth in Section 13.1(c) through 13.1(f), to use Commercially Reasonable Efforts to correct such failure; or

(iii) in the case of a breach of the warranty set forth in Section 13.1(f) to re-perform the affected Professional Services.

(b) IF THE FOREGOING REMEDIES ARE NOT COMMERCIALLY PRACTICABLE, EITHER PARTY MAY TERMINATE THE APPLICABLE SERVICE UPON PROVIDING THE OTHER PARTY WITH WRITTEN NOTICE THEREOF (INCLUDING WINDING DOWN IN ACCORDANCE WITH THE PROVISIONS OF SECTION 17). IN SUCH EVENT, AND AS CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF ANY WARRANTY UNDER THIS SECTION 13, LLUSS SHALL REFUND TO CUSTOMER ANY SUPPORT SERVICES FEES PAID BY CUSTOMER WITH RESPECT TO THE UNEXPIRED PORTION OF THE CURRENT TERM FOR THE NON-CONFORMING SUPPORT SERVICES.

13.3 Customer Warranties.

(a) Customer warrants that (i) it has the legal authority to enter into this Agreement, and (ii) it will use the Services only as authorized by this Agreement and in compliance with all applicable laws, rules and regulations.

(b) Customer represents and warrants that Customer and its owners, employees and agents (collectively "***Personnel***") (i) are not listed on the General Services Administration's Excluded Parties List System ("***GSA List***"), and (ii) are not suspended or excluded from participation in any federal health care programs, as defined under 42. U.S.C. § 1320a-7b(f), or any form of state Medicaid program (collectively, "***Government Payor Programs***"), and to Customer's knowledge there are no pending or threatened governmental investigations that may lead to suspension or exclusion of Customer or Personnel from Government Payor Programs or may cause for listing on the GSA List (collectively, an "***Investigation***"). Customer agrees to notify LLUSS of the commencement of any Investigation or suspension or exclusion from Government Payor Programs within three (3) business days of Customer's first learning of it. LLUSS shall have the right to immediately terminate this Agreement upon learning of any such Investigation, suspension or exclusion. LLUSS shall be timely kept apprised by Customer of the status of any such Investigation.

13.4 Hardware and Third Party Software Warranty. The hardware and third party supporting the LLUSS EHR Platform located at LLUSS site is made available subject to the terms of the applicable original equipment manufacturer (the "***OEM***") and third party provider, including applicable licensing terms, and is warranted (if at all) only as expressly provided by the OEM or third party provider. LLUSS does not make any direct representations or warranties to Customer in connection with such hardware and third party.

13.5 DISCLAIMER. EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT, LLUSS MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, IN CONNECTION WITH THIS AGREEMENT, THE LLUSS EHR PLATFORM, THE CUSTOMER EQUIPMENT, THE SERVICES, OR CUSTOMER'S PURCHASE OR USE THEREOF. WITHOUT LIMITING THE FOREGOING, LLUSS HEREBY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, NON-INTERFERENCE OR QUIET ENJOYMENT. BOTH PARTIES ACKNOWLEDGE THAT THEY HAVE NOT RELIED ON ANY REPRESENTATIONS OR WARRANTIES BY THE OTHER PARTY, WRITTEN OR ORAL, OTHER THAN THE EXPRESS REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT.

13.6 No Guaranty. LLUSS DOES NOT GUARANTEE THAT (A) THE SERVICES WILL BE PERFORMED ERROR-FREE OR UNINTERRUPTED, OR THAT LLUSS WILL CORRECT ALL SERVICES ERRORS, (B) THE SERVICES WILL OPERATE IN COMBINATION WITH CUSTOMER DATA OR OTHER CUSTOMER APPLICATIONS, OR WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEMS, SERVICES OR DATA NOT PROVIDED BY LLUSS, AND (C) THE SERVICES WILL MEET CUSTOMER REQUIREMENTS, SPECIFICATIONS OR EXPECTATIONS. CUSTOMER ACKNOWLEDGES THAT LLUSS DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND THAT THE SERVICES MAY BE

SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES. LLUSS IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS. LLUSS IS NOT RESPONSIBLE FOR ANY ISSUES RELATED TO THE PERFORMANCE, OPERATION OR SECURITY OF THE SERVICES THAT ARISE FROM CUSTOMER DATA, CUSTOMER APPLICATIONS OR THIRD PARTY CONTENT. CUSTOMER IS SOLELY RESPONSIBLE FOR DETERMINING WHETHER THE LLUSS EHR PLATFORM AND CUSTOMER EQUIPMENT WILL MEET ITS BUSINESS AND TECHNICAL REQUIREMENTS.

14. MUTUAL INDEMNIFICATION.

14.1 No Independent Intellectual Property Infringement Indemnification.

(a) Customer acknowledges that LLUSS, LLUMC and other LLUSS Affiliates are operating health care providers or organizations supporting such health care providers. The LLUSS EHR Platform is provided to, and the Required Third Party Software is licensed to, LLUSS from third party providers. As such, LLUSS is not providing indemnification for claims of infringement of third party intellectual property rights.

(b) THE LLUSS EHR PLATFORM AND SERVICES ARE PROVIDED AND THE THIRD PARTY LICENSED PROGRAMS ARE LICENSED "AS IS", "WHERE IS" AND "WITH ALL FAULTS" WITH RESPECT TO OWNERSHIP AND GOOD TITLE, AND NO WARRANTY OF NON-INFRINGEMENT IS PROVIDED HEREUNDER.

14.2 Cooperation with respect to Intellectual Property Infringement Claims against Third Parties.

(a) The parties desire to cooperate with respect to intellectual property indemnification granted to LLUSS by Epic under the Epic License Agreement and by third party providers under the applicable agreements for Required Third Party Software. LLUSS hereby agrees to pass through to Customer, to the extent possible under the applicable third party agreement, any intellectual property indemnification granted to LLUSS thereunder. Each party agrees to promptly notify the other in writing should either party become aware of a possible infringement claim by a third party of any component of the LLUSS EHR Platform and to cooperate fully in the defense of such claim and the enforcement of any claim for indemnity against Epic or third party providers in connection therewith. Customer may by written notice to LLUSS request LLUSS to take steps to enforce any intellectual property indemnification claim LLUSS may have in connection with the LLUSS EHR Platform (as to which Customer does not have the independent right to enforce). LLUSS and Customer shall share in the costs of such enforcement, and Customer shall reimburse LLUSS Customer's *pro rata* share of the cost of such enforcement (defined in Section 14.2(d) below).

(b) Without limiting the foregoing obligation to cooperate, Customer agrees that it will at its expense fully cooperate with and supply all assistance reasonably requested by LLUSS, including by: (i) using commercially reasonable efforts to have its employees consult and testify when requested; (ii) making available relevant records, papers, information, and the like; and (ii) joining any such action in which it is an indispensable party. LLUSS shall keep Customer reasonably informed of the progress of discussions with Epic and the third party provider, as applicable, and Customer shall be entitled to participate in such discussion at its own expense and using counsel of its choice.

(c) LLUSS shall control the discussions and enforcement of such rights and shall have the right to settle any claims with respect thereto. In the event that Epic or the other third party provider terminates or threatens to terminate rights to the Epic Program Property or Required Third Party

Software, or component thereof, pursuant to the Epic License Agreement or applicable third party agreement, then LLUSS and Customer will cooperate in selecting a replacement property, work-around or other method to replace the terminated features or functions, and Customer shall reimburse LLUSS Customer's *pro rata* share of the cost of such investigation and replacement (defined in Section 14.2(d) below).

(d) Customer's *pro rata* share of costs under this Section 14.2 shall be determined by the Steering Committee.

14.3 Mutual Indemnification.

(a) Each party (the "***Indemnifying Party***") agrees to defend, indemnify and hold the other party (the "***Indemnified Party***") and its Indemnitees harmless from any claims, demands, actions, liabilities, damages and expenses relating thereto, including, without limitation, settlement costs, and reasonable attorney's fees (each a "***Claim***") by or on behalf of any patient of the Indemnifying Party or the Indemnifying Party's Authorized User(s), or by or on behalf of any other third party or person claiming damage by virtue of a familial or financial relationship with such a patient, which is brought against Indemnified Party or its Indemnitees, if the proximate and direct cause of the event giving rise to the Claim for indemnification is Indemnifying Party's gross negligence or intentional misconduct in connection with the Claim. The indemnification under this Section 14.3 will not apply if the proximate and direct cause of the event giving rise to the Claim for indemnification is Indemnified Party's gross negligence or intentional misconduct in connection with the Claim. To satisfy this exception, Indemnifying Party shall have used the LLUSS EHR Platform only in accordance with the Documentation, and, with respect to Customer, Customer shall have satisfied each of the Customer Responsibilities set forth in this Agreement, including without limitation those set forth in Section 8.3.

(b) As a result of the complexities and uncertainties inherent in the patient care process, each party (the "***Indemnifying Party***") further agrees to defend, indemnify and hold Epic (and the Epic Indemnitees, as defined in the Epic License Agreement) harmless from any Claim by or on behalf of any patient of Indemnifying Party or its personnel or Authorized Users, or by or on behalf of any other third party or person claiming damage by virtue of a familial or financial relationship with such a patient, which is brought against Epic Indemnitees, regardless of the cause if such Claim arises for any reason whatsoever (including without limitation Epic's negligence, except as provided below) out of the operation of the Epic Program Property. To the extent applicable, the Indemnifying Party will obtain Epic's prior written consent to any settlement or judgment in which Indemnifying Party agrees to any finding of fault of Epic or defect in the Epic Program Property or Epic's services. The indemnification under this Section 14.3 will not apply if the proximate and direct cause of the event giving rise to the Claim for indemnification is Epic's negligence with respect to an Error in the Program Property and the Indemnifying Party and its personnel and Authorized Users have, in connection with the Claim, used the Epic Program Property only in accordance with the Documentation therefor.

14.4 Misuse of Third Party Product. Customer agree that Customer will use Required Third Party Software only in accordance with the permitted or licensed use of such Required Third Party Software and Customer agrees to defend, indemnify and hold LLUSS Indemnitees harmless from any Claim by or on behalf of any third party which is brought against LLUSS Indemnitees arising out of any use of any Required Third Party Software in violation of the terms of this Agreement or the agreement for the Required Third Party Software or any infringement of any third party's rights with respect to Customer's use, copying, modification, distribution, display or other activity relating to any Required Third Party Software unless such activity is within the scope of the license granted to Customer under this Agreement or the agreement between Customer and the applicable third party with respect to the applicable Required Third Party Software.

14.5 Indemnification Process. The Indemnified Party shall give written notice to the Indemnifying Party, promptly after such Indemnified Party has actual knowledge of any Claim as to which indemnity may be sought, and shall permit the Indemnifying Party to assume the defense of any such Claim or any litigation resulting therefrom with counsel selected by the Indemnifying Party. The failure of any Indemnified Party to give notice as provided herein shall not relieve the Indemnifying Party of its obligations under this Section 14 except to the extent that the failure to give such notice is materially prejudicial to the Indemnifying Party's ability to defend such action. An Indemnified Party shall have the right to retain separate counsel, at its expense. If the Indemnifying Party has assumed the defense of any Claim under this Section 14, no Indemnified Party will enter into any settlement of any such claim without the consent of the Indemnifying Party, which consent will not be unreasonably withheld.

14.6 Exclusive Remedy. This Section 14 states the Indemnifying Party's sole liability to, and the Indemnified Party's exclusive remedy against, the other party for any type of claim described in this Section 14.

15. LIMITATION OF LIABILITY.

15.1 Limitation of Liability. OTHER THAN FOR EITHER PARTY'S BREACH OF SECTION 12 (CONFIDENTIALITY), EITHER PARTY'S LIABILITY FOR BREACH OF WARRANTY UNDER SECTION 13 (WARRANTIES AND DISCLAIMERS), OR EITHER PARTY'S OBLIGATIONS UNDER SECTION 14.3 (MUTUAL INDEMNIFICATION), ALL OF WHICH ARE GOVERNED BY THE TERMS OF SECTION 12, SECTION 13 OR SECTION 14.3, RESPECTIVELY, OR EITHER PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY'S TOTAL AGGREGATE LIABILITY RELATING TO THIS AGREEMENT (WHETHER IN CONTRACT OR TORT OR UNDER ANY OTHER THEORY OF LIABILITY) SHALL EXCEED THE LESSER OF (A) FIVE MILLION DOLLARS ($5,000,000.00) OR (B) THE AMOUNT PAID OR PAYABLE TO LLUSS HEREUNDER IN THE 18 MONTHS PRECEDING THE APPLICABLE INCIDENT. THE FOREGOING SHALL NOT LIMIT CUSTOMER'S PAYMENT OBLIGATIONS UNDER SECTION 10 (FEES AND PAYMENT).

15.2 Exclusion of Consequential and Related Damages. OTHER THAN FOR EITHER PARTY'S BREACH OF SECTION 12 (CONFIDENTIALITY), EITHER PARTY'S LIABILITY FOR BREACH OF WARRANTY UNDER SECTION 13 (WARRANTIES AND DISCLAIMERS), OR EITHER PARTY'S OBLIGATIONS UNDER SECTION 14 (MUTUAL INDEMNIFICATION), ALL OF WHICH ARE GOVERNED BY THE TERMS OF SECTION 12, SECTION 13 OR SECTION 14.3, RESPECTIVELY, OR EITHER PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS OR REVENUES OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

16. TERM AND TERMINATION.

16.1 Initial Term; Renewal. The term of this Agreement shall commence on the Effective Date and shall continue for an initial term of five (5) years after the initial Go-Live (the "***Initial Term***"), unless sooner terminated in accordance with the provisions hereof. At the conclusion of the Initial Term, Customer may, in its sole discretion, renew this Agreement for one additional and consecutive renewal term of five (5) years (a "***Renewal Term***"), exercisable by Customer providing not less than one hundred eighty (180) days' written notice of intent to renew. Following the Initial Term and the first Renewal Term, the parties may mutually agree to renew the Agreement for additional Renewal Terms of such duration and on such terms and conditions, including pricing, as may be agreed upon at that time and evidenced in a written amendment to this Agreement signed by an authorized representative of each party.

No later than one hundred eighty (180) days prior to the expiration of the subsequent Renewal Term, the parties shall meet in person or by phone to discuss such potential renewal. The Initial Term and any and all Renewal Terms are referred to collectively herein as the "term" of this Agreement.

16.2 Termination without Cause. Customer shall have the right to terminate this Agreement without cause upon written notice of intent to terminate delivered no more than fifteen (15) calendar days after the occurrence of each of the following events:

(a) Rejection by Customer of the first revised Implementation Plan, as described in Section 3.3;

(b) Election by Customer not to authorize a transition to the live environment for the LLUSS EHR Platform at the conclusion of the final 30 day GLRA, as described in Section 3.8(b);

(c) Election by Customer to transition off the LLUSS EHR Platform at the conclusion of the Transition and Stabilization Period, as described in Section 3.8(c); and

(d) Election by Customer to terminate by reason of increase in annual support fees or Technology Refresh fees, as described in paragraph 6.4 of the SLA.

Customer shall not be entitled to the benefit of the post-termination disentanglement services described in Section 17 in the event this Agreement is terminated under Sections 16.2(a), 16.2(b) or 16.2(c). Section 17 shall apply to Customer's termination under Section 16.2(d).

16.3 Termination for Cause. A party may terminate this Agreement for cause, upon written notice to the other party stating the effective date of termination, if the other party: (i) fails to make a payment when due hereunder (other than payments which Customer disputes in good faith, as to which Customer has paid the undisputed portion and is pursuing resolution of the dispute), which failure continues for thirty (30) days after the due date thereof, (ii) materially breaches any other provision of this Agreement, and fails to cure such breach within a period of sixty (60) days after receipt of notice of such breach from the other party or, if it is not feasible to such breach within such 60-day period, if the breaching party fails to commence cure within such 60-day period and is diligently pursuing cure thereafter. Each party agrees that neither party may terminate this Agreement for cause under this Section 16.3 until the procedures set forth in Section 19 have been exhausted.

16.4 Termination upon Insolvency or Bankruptcy. A party may terminate this Agreement immediately upon written notice to the other party if the other party ceases operating as a going concern, becomes or is declared insolvent, makes a general assignment for the benefit of creditors, suffers a receiver to be appointed for it, enters into an agreement for the composition, extension, or readjustment of all or substantially all of its obligations, files a voluntary petition in bankruptcy, or has an involuntary petition in bankruptcy filed against it, which petition is not dismissed with prejudice within sixty (60) days after filing.

16.5 Termination or Modification in the Event of Government Action. 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. If the parties, after good faith negotiations that shall not exceed ninety (90) 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 thirty (30) days after a written notice of termination is given

to the other Party (subject to the requirements of Section 17, unless compliance with Section 17 is impossible or infeasible, as determined in LLUSS' discretion, in which event LLUSS will comply with Section 17for such shorter period as is possible and feasible). 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:

(a) revocation or threat of revocation of the status of any license, certification or accreditation granted to LLUSS or any LLUSS Affiliate or Customer;

(b) revocation or threat of revocation of the federal, state or local tax-exempt status of LLUSS or any LLUSS Affiliate or Customer, or their respective tax-exempt financial obligations;

(c) prohibit or restrict the ability of LLUSS or any LLUSS Affiliate or Customer to issue tax-exempt bonds, certificates of participation or other tax-exempt financial obligations;

(d) violation of or threat of prosecution under 42 U.S.C. § 1320a-7b(b) (commonly referred to as the Anti-Kickback Law), 42 U.S.C. § 1395nn (commonly referred to as the Stark Law) or any comparable state law governing kickbacks, bribes, rebates or patient referrals if either Customer or any Authorized User referred patients to LLUSS or any LLUSS Affiliate;

(e) violation by either party of, or threat of prosecution of either party under, any law, regulation, rule or procedure applicable to such party, materially and adversely impacting the continued operation of the LLUSS EHR Platform;

(f) prohibit LLUSS or any LLUSS Affiliate or Customer from submitting claims or materially reducing the reimbursement received by LLUSS or any LLUSS Affiliate or Customer for services provided to patients referred by Customer or an Authorized User;

(g) subject LLUSS or any LLUSS Affiliate or Customer, 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 § 4958), on the basis of their approval of or participation in this Agreement or performing their respective obligations under this Agreement.

16.6 Refund of License and Unused Services Fees. In the event this Agreement is properly terminated by Customer pursuant to Section 16.2 (Termination without Cause) or by either party pursuant to Section 16.4 (Termination Upon Insolvency or Bankruptcy), or Section 16.5 (Termination or Modification in the Event of Government Action), LLUSS shall refund to Customer: (i) the unamortized portion of the license fees paid by Customer for the LLUSS EHR Platform, calculated by amortizing the actual license fees paid by Customer to LLUSS for the LLUSS EHR Platform over a five (5) year straight-line basis, commencing on the date such license fees first become due and payable; and (ii) any pre-payments made by Customer with respect to unused maintenance, support, or other Services to be provided by LLUSS to Customer after the date of termination. THIS SECTION STATES CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY TERMINATION OF THIS AGREEMENT BY CUSTOMER PURSUANT TO SECTION 16.2 OR BY EITHER PARTY PURSUANT TO SECTION 16.4 OR SECTION 16.5. For purposes of clarification, this Section 16.6 only applies to termination under 16.2 (Termination without Cause),

Section 16.4 (Termination Upon Insolvency or Bankruptcy), and Section 16.5 (Termination or Modification in the Event of Government Action).

16.7 Effects of Termination. Upon the expiration or termination of this Agreement for any reason, but subject to the transition and wind-down (if any) under Section 17: (a) LLUSS shall cease providing the Services; (b) Customer's right and license to access and use the LLUSS EHR Platform shall automatically terminate; (c) Customer shall discontinue use of the LLUSS EHR Platform, promptly (within 5 days) uninstall and remove any remnants of the LLUSS EHR Platform and documentation from its computers, network and systems, and destroy (or return to LLUSS) all tangible copies of the LLUSS EHR Platform and documentation in its possession; (d) Customer shall pay all amounts due and owing to LLUSS through the date of expiration or termination; and (e) each party shall perform and abide by its surviving obligations under this Agreement. Unless otherwise expressly agreed to in writing by the parties, the expiration or termination of this Agreement shall not relieve either party of its obligations and liabilities incurred prior to such expiration or termination, including without limitation Customer's obligation to pay amounts due and owing for the LLUSS EHR Platform and the Services. Subject to Section 17 and any applicable requirements of law, each party will promptly return or destroy (at the other party's request) all Confidential Information (including Customer Data and PHI) of the other party.

16.8 Survival. Sections 1 (Definitions), 9.3 (License Restrictions), 9.4 (Customer Responsible for Use), 9.5 (Reservation of Rights), 10 (Fees and Payment), 11 (License and Proprietary Rights), 12 (Confidentiality), 13.5 (Disclaimer), 13.6 (No Guaranty), 14 (Mutual Indemnification), 15 (Limitation of Liability), 16 (Term and Termination), 17 (Post-Termination Disentanglement Services), 20 (Notice, Governing Law and Jurisdiction) and 21 (General Provisions) shall survive the expiration or termination of this Agreement for any reason, and shall be binding on and inure to the benefit of the parties and their respective successors and permitted assigns.

17. POST-TERMINATION DISENTANGLEMENT SERVICES.

17.1 General Obligations. Subject to the payment of fees and charges as described in this Section 17, under certain conditions described herein, LLUSS shall assist Customer in accomplishing a complete transition of the Support Services from LLUSS to Customer, its Affiliates and/or to any replacement provider designated by Customer (the "Replacement Provider") as directed by Customer. As part of the Services, and using the process described in Section 4.4 to develop the applicable Statement of Work, LLUSS shall use Commercially Reasonable Efforts to perform the obligations set forth in this Section 17 and the applicable Statement of Work (collectively, the "Disentanglement Services"). LLUSS shall have no right to withhold or limit its performance or any of such Disentanglement Services on the basis of any alleged breach of this Agreement by Customer, other than a failure by Customer to timely pay the amounts due hereunder, unless and until LLUSS obtains an order from a court of competent jurisdiction permitting such withholding or limiting. Customer shall have the right to seek specific performance of this Section in any court of competent jurisdiction. Compliance with this Section by either party shall not constitute a waiver or estoppel with regard to any rights or remedies otherwise available to the parties hereunder.

17.2 Transition and Wind-Down. Upon the expiration or termination of this Agreement for any reason, the parties shall cooperate in good faith to wind-down Customer's use of the LLUSS EHR Platform. With respect to the expiration or termination of this Agreement for any reason other than termination without cause by Customer under Section 16.2, the parties shall cooperate in good faith to transition Customer to another EHR solution of its choosing. Customer shall bear all costs of selecting, procuring and transitioning to such alternative EHR solution. In connection with such wind-down, Customer shall use commercially reasonable efforts to identify, select and procure an alternative EHR solution and shall transfer to such solution on or prior to the date of expiration or termination of this

Agreement and the disentanglement period described herein. Upon Customer's request, provided that Customer remains current with its payment obligations, LLUSS agrees to extend Customer's right to access and use the LLUSS EHR Platform under this Agreement on a chargeable basis for not less than twelve (12) months and not more than twenty-four (24) months (unless a different time period is agreed to by the parties in writing) while Customer procures and implements its alternative EHR solution. LLUSS shall provide the Services in connection with the provision of such disentanglement services, all at the pricing and on the terms set forth herein, subject to Customer paying or reimbursing LLUSS for any applicable Epic and other third party charges imposed by reason of early termination thereof. Any such extension shall not be deemed a renewal of this Agreement, nor relieve Customer for any payment obligations or other liabilities incurred during the term hereof.

17.3 Disentanglement Process and Performance. The Disentanglement Services shall begin on any of the following dates: (a) the date designated by Customer in connection with the expiration of the Term, which date shall not be earlier than eighteen (18) months prior to the expiration of the Term; or (b) the Termination Date specified in any Termination Notice delivered by Customer to LLUSS, if Customer terminates by reason of LLUSS default under Section 16.3. At Customer's request, LLUSS shall provide the Disentanglement Services directly to Customer, Customer's Affiliates and/or the Replacement Provider. The Disentanglement Services shall continue: (a) in the case the expiration of the Term, until not less than twelve (12) months and not more than twenty-four (24) months following the effective date of the expiration or termination of this Agreement. Customer shall provide not less than ninety (90) days written notice of termination of disentanglement services.

17.4 Disentanglement Services Plan. Using the process described in Section 4.4 to develop the applicable Statement of Work, LLUSS shall provide for Customer's review, comment and approval a Statement of Work setting forth the services required to implement the transition of Customer (including all of Customer's Data and PHI) off the LLUSS EHR Platform. LLUSS shall provide the Disentanglement Services on a time and materials basis at LLUSS's then-current rates.

17.5 Full Cooperation, Information and Knowledge Transfer. During the provision of the Disentanglement Services, the parties shall cooperate fully with one another to facilitate a smooth transition of the terminated Services from LLUSS to Customer, its Affiliates and/or the Replacement Provider. Without limiting the generality of the foregoing, LLUSS shall: (a) cooperate with Customer, its Affiliates and/or the Replacement Provider and otherwise promptly take all steps reasonably required to assist Customer in effectuating the Disentanglement Services; (b) provide to Customer, its Affiliates and/or the Replacement Provider full, complete, detailed and sufficient information (including all information then being utilized by LLUSS with respect to data conversions, interface specification, programs, tools, utilities and other resources used to provide the Services) and knowledge transfer with respect to all such information in order to enable Customer's, its Affiliate's and/or the Replacement Provider's personnel (or that of Third Parties) to fully assume, become self-reliant with respect to and continue without interruption the provision of the Services; (c) provide for the prompt and orderly conclusion of all work, as Customer may direct, including completion or partial completion of Services, documentation of work in progress, and other measures to assure an orderly transition to Customer, its Affiliates and/or the Replacement Provider; and (d) accomplish the other specific obligations described in this Section 17 (Disentanglement Obligations) and the Statement of Work.

17.6 Complete Documentation. LLUSS shall provide to Customer such information as may be in LLUSS's possession (free and clear of any obligation of confidentiality to third parties) and reasonably required, including documentation, in accordance with the standards and methodologies to be implemented by LLUSS, for all Required Third Party Software (but excluding applications to which Customer is provided access as part of the Support Services for which Customer must license directly from Epic or through another Epic licensee).

17.7 Delivery of Documentation and Data. LLUSS shall use Commercially Reasonable Efforts to deliver to Customer, its Affiliates and/or the Replacement Provider all documentation and data related to Customer, including the Customer Data, in LLUSS's possession, in such format as shall be reasonably determined by LLUSS.

18. INSURANCE.

18.1 Insurance. Each party shall, at such party's own expense, obtain, maintain, and keep in full force and effect, at all times during the term hereof, insurance coverage with respect to its property, plant and equipment and its activities conducted thereon and under this Agreement consisting of, and shall name the other party an additional insured (to the extent the other party's insurable interest, if any) under, the following:

(a) "All Risk" property and fire insurance (with extended coverage endorsement including malicious mischief and vandalism) in an amount not less than the full replacement value of the improvements and equipment (with a deductible not to exceed $250,000);

(b) Comprehensive general liability insurance in an amount not less than $10,000,000.00 insuring against personal injury, death and property damage;

(c) Business interruption insurance covering loss of income for up to twelve (12) months;

(d) Cyber and privacy insurance or technology errors and omissions insurance covering liability and property losses, including liability for data breach, including: notification costs, credit monitoring, costs to defend claims by state regulators, fines and penalties, loss resulting from identity theft and the like with an occurrence or per claim limit and annual aggregate limit of not less than $5,000,000 each claim/$5,000,000 annual aggregate.

18.2 Self-Insurance. In lieu of maintaining commercial insurance coverage, a party may adopt alternative risk management programs which the governing body of such party determines to be reasonable and which shall not have a material adverse impact on reimbursement from third party payers, including, without limitation, to self-insure in whole or in part individually or in connection with other institutions, to participate in programs of captive insurance companies, to participate with other health care institutions in mutual or other cooperative insurance or other risk management programs, to participate in state or federal insurance programs, to take advantage of state or federal laws now or hereafter in existence limiting medical and malpractice liability, or to establish or participate in other alternative risk management programs.

18.3 Company Requirements. Other than with respect to a party's self-insurance or other alternative risk management programs described above, all of the insurance policies required hereunder shall be issued by corporate insurers licensed to do business in California and rated A- or better by A.M. Best Company.

19. ESCALATION PROCEDURE

19.1 Disputes. As used in this Section 19, "***Dispute***" means any action, dispute, claim or controversy of any kind, whether in contract or tort, statutory or common law, legal or equitable, now existing or hereafter arising under or in connection with, or in any way pertaining to this Agreement.

19.2 Notification. In the event of a Dispute, the Project Manager of either party (referred to for convenience in this Section as the "delivering party") shall notify the other Project Manager (referred to for convenience as the "receiving party") in writing of the Dispute, specifying such Dispute in reasonable detail (the "Dispute Notice").

19.3 Response. The receiving party shall respond to the Dispute Notice in writing within ten (10) business days of delivery thereof.

(a) If the receiving party acknowledges default or failure to meet the requirements of this Agreement, the response shall specify the steps the receiving party will take to resolve such matters and the time schedule for such resolution. The parties agree to consider all good faith and reasonable solutions and to exercise all reasonable efforts to resolve such matters; or

(b) If the receiving party states that no such default or failure has occurred, the Project Managers of the parties will meet in person within two (2) business days of the delivery of such statement or the expiration of the original ten (10) business day period, whichever is earlier, with the sole task of endeavoring to determine whether a default or failure has occurred, and, if so, what steps the receiving party should take to resolve the default. The Project Managers shall meet as often as reasonably necessary and shall gather and furnish to the other party all relevant information reasonably necessary and appropriate to resolve the Dispute.

19.4 Escalation to Steering Committee. In the event the Project Managers are unable to resolve the Dispute, the Project Manager of each party shall provide to the Steering Committee a copy of the original Dispute Notice together with a brief description of the discussions between the Project Managers with respect thereto. The Steering Committee will meet in person within ten (10) business days with the sole task of endeavoring to determine whether a default or failure has occurred, and, if so, what steps the parties should take to resolve the Dispute. The Steering Committee shall meet as often as reasonably necessary to recommend a resolution of the Dispute to the executive officers described in Section 19.5 or, failing a recommendation, to conclude that no consensus can be reached. Upon conclusion of its deliberations, the Steering Committee shall provide written notice to the officers described in Section 19.5

19.5 Escalation to Executive Officers. The Steering Committee (if it is able to reach a consensus recommendation) will provide to the officers described below a copy of the original Dispute Notice together the Steering Committee's recommendation for resolution of the Dispute. In the event the officers specified below of each party are unable to reach resolution of the Dispute, within the number of business days from receipt of the receiving party's response to the Dispute Notice, then the parties shall escalate the Dispute to the next level:

	Party	Officer	Business Days
Level 1	LLUSS	CIO	5
	Customer	CIO	
Level 2	LLUSS	CEO	10
	Customer	CEO	

Each party shall cause the officer(s) specified above to meet with the specified officer(s) of the other party as soon as possible but at most within the number of business days specified above to discuss and attempt to reach a mutually satisfactory resolution of the Dispute.

19.6 Dispute Resolution Prior to Formal Legal Proceedings. Each party agrees that the initiation of formal legal proceedings for the adjudication of Disputes shall not be commenced until the procedures set forth in this Section 19 have been exhausted.

20. NOTICES, GOVERNING LAW AND JURISDICTION.

20.1 Manner of Giving Notice. Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) the second business day after being sent by certified mail return receipt requested, or (iii) the first business day after sending by a generally recognized national guaranteed overnight delivery service. Each party shall send all notices, demands, requests or other communications which may be or are required to be given hereunder to the other party at the address set forth below:

To LLUSS:
Mark Zirkelbach
Chief Information Officer
11155 Mountain View Ave.
Suite 220
Loma Linda CA 92354
mzirkelbach@llu.edu

With a copy to:
Kent Hansen
Office of General Counsel
Loma Linda University Health
24890 Tulip Ave.
Loma Linda, CA 92354
khansen@llu.edu

To Customer:
Jennifer Cruikshank
Chief Operating Officer
Riverside University Health System
Riverside Regional Medical Center
26520 Cactus Avenue
Moreno Valley, CA 92555

With a copy to:
County Counsel
3960 Orange Street, Suite 500
Riverside, CA 92501

When notice is required to be delivered to Customer's CEO:
Zareh Sarrafian
Assistant CEO
Riverside University Health System
Riverside Regional Medical Center
26520 Cactus Avenue
Moreno Valley, CA 92555

With a copy to: County Counsel
3960 Orange Street, Suite 500
Riverside, CA 92501

Each party may change the address to which notices are to be sent by providing notice in accordance with this Section 20.1.

20.2 Governing Law and Jurisdiction. This Agreement shall be governed and construed in accordance with the laws of the State of California, excluding its conflicts of law rules. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act do not apply to the Agreement.

21. GENERAL PROVISIONS.

21.1 Export Compliance. The Services, other technology that LLUSS makes available, and any derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it is not named on any U.S. government denied-party list. Customer shall not permit users to access or use Services in a U.S.-embargoed country or in violation of any U.S. export law or regulation.

21.2 Relationship of the Parties. The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

21.3 Non-Solicitation. Each party agrees that during the term of this Agreement and for twelve (12) months thereafter, it will not knowingly solicit, hire or attempt to hire, any person employed by the other party with whom it has contact in the performance of this Agreement. Nothing in this clause shall be construed to prohibit individual employees from responding to public employment advertisements, postings or job fairs of a party or from being hired in any other instance in which the employee independently approaches the other party, provided such response is not prompted by a party intentionally circumventing the restrictions of this Section.

21.4 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement.

21.5 Waiver. No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right.

21.6 Force Majeure. Neither party shall be liable under this Agreement for delays, failures to perform, damages, losses or destruction, or malfunction of any equipment, or any consequence thereof, caused or occasioned by, or due to fire, earthquake, flood, water, the elements, labor disputes or shortages, utility curtailments, power failures, explosions, civil disturbances, governmental actions, shortages of equipment or supplies, unavailability of transportation, acts or omissions of third parties, or any other cause beyond its reasonable control. This section does not excuse either party's obligation to take reasonable steps to follow its normal disaster recovery procedures or Customer's obligation to pay for the Services.

21.7 Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

21.8 Assignment. Neither party may assign its rights and obligations hereunder, either in whole or in part, whether by operation of law or otherwise, without the prior written consent of the other party, except that LLUSS may assign this Agreement in whole or in part to an Affiliate. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

21.9 Referrals. The parties acknowledge that none of the benefits granted to either party hereunder are conditioned on any requirement that either party make referrals or be in a position to make or influence referrals to, or otherwise generate business for, the other party. The parties further acknowledge that neither party is restricted from establishing affiliate privileges at, referring any service to, or otherwise generating any business for any other entity of the other party's choosing. Neither the fees charged to Customer under this Agreement nor Customer's eligibility to enter into this Agreement were determined in a manner that takes into account the volume or value of referrals or other business generated between the parties.

21.10 Access to Records. For a period of four (4) years after services are furnished by LLUSS to Customer under this Agreement, LLUSS shall retain and permit the Comptroller General of the United States, the U.S. Department of Health and Human Services, and their respective duly authorized representatives access to examine or copy this Agreement and to such books, documents, and records of LLUSS as are reasonably necessary to verify the nature and extent of the costs of the services supplied under this Agreement. In the event LLUSS provides any of its services under this Agreement pursuant to a sub-contract and if (i) the services provided pursuant to said subcontract have a value or cost of Ten Thousand Dollars ($10,000.00) or more over a twelve (12) month period and (ii) said subcontract is with a related organization, then LLUSS agrees that said subcontract shall contain a clause requiring the subcontractor to retain and allow access to its records on the same terms and conditions as required by LLUSS. This provision shall be null and void should it be determined that Section 1861(v)(1)(I) of the Social Security Act is not applicable to this Agreement.

21.11 Publicity. Neither party shall, without the prior written consent of the other party in each instance: (a) issue any press releases or make any other public statements concerning the existence of this Agreement; (b) disclose the pricing or terms of this Agreement to any third party, except to its legal, financial and other advisors under a duty of confidentiality, as may be required by applicable law, or as may be required in order to enforce its rights hereunder in a court of competent jurisdiction; or (c) use in any advertising or marketing materials the name, logo or trademarks of the other party or its affiliates.

21.12 Equitable Relief. The parties acknowledge that any actual or threatened material breach by the other party of this Agreement may cause irreparable harm, the extent of which would be difficult and impracticable to assess, and that money damages would not be an adequate remedy for such breach. Accordingly, in addition to all other remedies available at law or in equity, and as an express exception to the requirement of escalation set forth in Section 19 of this Agreement, each party shall be entitled to seek immediate injunctive or other non-monetary provisional relief in any court of competent jurisdiction.

21.13 Attorneys' Fees and Costs. In any action, suit or proceeding to enforce this Agreement, the prevailing party shall be entitled to recover from the other party its reasonable attorneys' fees and costs, in addition to any other relief that it may receive.

21.14 Amendment; Waiver. This Agreement may be amended only by a written instrument executed by a duly authorized representative of each party. No rights shall be waived by any act, omission or knowledge of a party, except by an instrument in writing expressly waiving such rights and signed by a duly authorized representative of the waiving party. Any waiver on one occasion shall not constitute a waiver on subsequent occasions.

21.15 Severability; Construction. If any provision of this Agreement is determined to be invalid or unenforceable under applicable law, the provision shall be amended and interpreted by a court of competent jurisdiction to accomplish the objectives of such provision to the greatest extent possible under applicable law, or severed from this Agreement if such amendment is not possible, and the remaining provisions of this Agreement shall continue in full force and effect. The headings in this Agreement are for reference purposes only, and shall not affect the meaning or interpretation of this Agreement. The term "including" as used herein means "including without limitation." The terms "herein", "hereunder", "hereof," and similar variations refer to this Agreement as a whole, rather than to any particular paragraph.

21.16 Entire Agreement. This Agreement, including the Exhibits hereto, sets forth the entire agreement of the parties, and supersedes all prior and contemporaneous proposals, negotiations and agreements, written or oral, with regard to the subject matter hereof. This Agreement, and any amendment hereto or waiver hereof, may be signed in counterparts, each of which shall constitute an original, and all of which together shall constitute one and the same instrument. Any signature may be delivered by facsimile (including electronic PDF), which shall have the same effect as an original signature.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year last set forth below.

LLUSS:

Loma Linda University Shared Services, on behalf of itself and its affiliates

By: _____
Name: _____
Its:

Customer:

Riverside University Health System, an agency of the County of Riverside, also known as Riverside County Regional Medical Center, on behalf of itself and its affiliates

By: _____
Marion Ashley, Chairperson
Board of Supervisors

ATTEST: Kecia Harper-Ihem
Clerk of the Board

By: _____
Deputy

APPROVED AS TO FORM:
Gregory P. Priamos

By: _____
Anita C. Willis,
Assistant County Counsel

Exhibit A

Implementation Statement of Work

Exhibit B

Sample Statement of Work Appendix

Exhibit C

Service Level Agreement

Exhibit D

Rates and Charges

Position	Status	Rate
Project Leadership	Hourly	$98.50
Technical Resources	Hourly	$60.00
Training Resources	Hourly	$60.00
EHR Analysts	Hourly	$112.50
Third Party Contractors	Hourly	At Cost

Exhibit E-1

Business Associate Agreement
(Customer)

HIPAA Business Associate Agreement

Addendum to Contract Between the County of Riverside and Loma Linda University Shared Services, on behalf of itself and its affiliates.

This HIPAA Business Associate Agreement (the "Addendum") supplements, and is made part of, the Master Services Agreement (the "Underlying Agreement") between the County of Riverside ("County") and Loma Linda University Shared Services on behalf of itself and its affiliates ("Contractor") and shall be effective as of the date the Underlying Agreement is approved by both Parties (the "Effective Date").

RECITALS

WHEREAS, County and Contractor entered into the Underlying Agreement pursuant to which the Contractor provides services to County, and in conjunction with the provision of such services certain protected health information ("PHI") and/or certain electronic protected health information ("ePHI") may be created by or made available to Contractor for the purposes of carrying out its obligations under the Underlying Agreement; and,

WHEREAS, the provisions of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Public Law 104-191 enacted August 21, 1996, and the Health Information Technology for Economic and Clinical Health Act ("HITECH") of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 enacted February 17, 2009, and the laws and regulations promulgated subsequent thereto, as may be amended from time to time, are applicable to the protection of any use or disclosure of PHI and/or ePHI pursuant to the Underlying Agreement; and,

WHEREAS, County is a covered entity, as defined in the Privacy Rule; and,

WHEREAS, to the extent County discloses PHI and/or ePHI to Contractor or Contractor creates, receives, maintains, transmits, or has access to PHI and/or ePHI of County, Contractor is a business associate, as defined in the Privacy Rule; and,

WHEREAS, pursuant to 42 USC §17931 and §17934, certain provisions of the Security Rule and Privacy Rule apply to a business associate of a covered entity in the same manner that they apply to the covered entity, the additional security and privacy requirements of HITECH are applicable to business associates and must be incorporated into the business associate agreement, and a business associate is liable for civil and criminal penalties for failure to comply with these security and/or privacy provisions; and,

WHEREAS, the parties mutually agree that any use or disclosure of PHI and/or ePHI must be in compliance with the Privacy Rule, Security Rule, HIPAA, HITECH and any other applicable law; and,

WHEREAS, the parties intend to enter into this Addendum to address the requirements and obligations set forth in the Privacy Rule, Security Rule, HITECH and HIPAA as they apply to

Contractor as a business associate of County, including the establishment of permitted and required uses and disclosures of PHI and/or ePHI created or received by Contractor during the course of performing functions, services and activities on behalf of County, and appropriate limitations and conditions on such uses and disclosures;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. **Definitions.** Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in HITECH, HIPAA, Security Rule and/or Privacy Rule, as may be amended from time to time.

   A. "Breach" when used in connection with PHI means the acquisition, access, use or disclosure of PHI in a manner not permitted under subpart E of the Privacy Rule which compromises the security or privacy of the PHI, and shall have the meaning given such term in 45 CFR §164.402.

      (1) Except as provided below in Paragraph (2) of this definition, acquisition, access, use, or disclosure of PHI in a manner not permitted by subpart E of the Privacy Rule is presumed to be a breach unless Contractor demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following four factors:

         (a) The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;

         (b) The unauthorized person who used the PHI or to whom the disclosure was made;

         (c) Whether the PHI was actually acquired or viewed; and

         (d) The extent to which the risk to the PHI has been mitigated.

      (2) Breach excludes:

         (a) Any unintentional acquisition, access or use of PHI by a workforce member or person acting under the authority of a covered entity or business associate, if such acquisition, access or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under subpart E of the Privacy Rule.

         (b) Any inadvertent disclosure by a person who is authorized to access PHI at a covered entity or business associate to another person authorized to access PHI at the same covered entity, business associate, or organized health care arrangement in which County participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted by subpart E of the Privacy Rule.

(c) A disclosure of PHI where a covered entity or business associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

B. "Business associate" has the meaning given such term in 45 CFR §164.501, including but not limited to a subcontractor that creates, receives, maintains, transmits or accesses PHI on behalf of the business associate.

C. "Data aggregation" has the meaning given such term in 45 CFR §164.501.

D. "Designated record set" as defined in 45 CFR §164.501 means a group of records maintained by or for a covered entity that may include: the medical records and billing records about individuals maintained by or for a covered health care provider; the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or, used, in whole or in part, by or for the covered entity to make decisions about individuals.

E. "Electronic protected health information" ("ePHI") as defined in 45 CFR §160.103 means protected health information transmitted by or maintained in electronic media.

F. "Electronic health record" means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff, and shall have the meaning given such term in 42 USC §17921(5).

G. "Health care operations" has the meaning given such term in 45 CFR §164.501.

H. "Individual" as defined in 45 CFR §160.103 means the person who is the subject of protected health information.

I. "Person" as defined in 45 CFR §160.103 means a natural person, trust or estate, partnership, corporation, professional association or corporation, or other entity, public or private.

J. "Privacy Rule" means the HIPAA regulations codified at 45 CFR Parts 160 and 164, Subparts A and E.

K. "Protected health information" ("PHI") has the meaning given such term in 45 CFR §160.103, which includes ePHI.

L. "Required by law" has the meaning given such term in 45 CFR §164.103.

M. "Secretary" means the Secretary of the U.S. Department of Health and Human Services ("HHS").

N. "Security incident" as defined in 45 CFR §164.304 means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

O. "Security Rule" means the HIPAA Regulations codified at 45 CFR Parts 160 and 164, Subparts A and C.

P. "Subcontractor" as defined in 45 CFR §160.103 means a person to whom a business associate delegates a function, activity, or service, other than in the capacity of a member of the workforce of such business associate.

Q. "Unsecured protected health information" and "unsecured PHI" as defined in 45 CFR §164.402 means PHI not rendered unusable, unreadable, or indecipherable to unauthorized persons through use of a technology or methodology specified by the Secretary in the guidance issued under 42 USC §17932(h)(2).

2. Scope of Use and Disclosure by Contractor of County's PHI and/or ePHI.

A. Except as otherwise provided in this Addendum, Contractor may use, disclose, or access PHI and/or ePHI as necessary to perform any and all obligations of Contractor under the Underlying Agreement or to perform functions, activities or services for, or on behalf of, County as specified in this Addendum, if such use or disclosure does not violate HIPAA, HITECH, the Privacy Rule and/or Security Rule.

B. Unless otherwise limited herein, in addition to any other uses and/or disclosures permitted or authorized by this Addendum or required by law, in accordance with 45 CFR §164.504(e)(2), Contractor may:

(1) Use PHI and/or ePHI if necessary for Contractor's proper management and administration and to carry out its legal responsibilities; and,

(2) Disclose PHI and/or ePHI for the purpose of Contractor's proper management and administration or to carry out its legal responsibilities, only if:

(a) The disclosure is required by law; or,

(b) Contractor obtains reasonable assurances, in writing, from the person to whom Contractor will disclose such PHI and/or ePHI that the person will:

(i) Hold such PHI and/or ePHI in confidence and use or further disclose it only for the purpose for which Contractor disclosed it to the person, or as required by law; and,

(ii) Notify Contractor of any instances of which it becomes aware in which the confidentiality of the information has been breached; and,

(3) Use PHI to provide data aggregation services relating to the health care operations of County pursuant to the Underlying Agreement or as requested by County; and,

(4) De-identify all PHI and/or ePHI of County received by Contractor under this Addendum provided that the de-identification conforms to the requirements of the Privacy Rule and/or Security Rule and does not preclude timely payment and/or claims processing and receipt.

C. Notwithstanding the foregoing, in any instance where applicable state and/or federal laws and/or regulations are more stringent in their requirements than the provisions of HIPAA, including, but not limited to, prohibiting disclosure of mental health and/or substance abuse records, the applicable state and/or federal laws and/or regulations shall control the disclosure of records.

3. Prohibited Uses and Disclosures.

A. Contractor may neither use, disclose, nor access PHI and/or ePHI in a manner not authorized by the Underlying Agreement or this Addendum without patient authorization or de-identification of the PHI and/or ePHI and as authorized in writing from County.

B. Contractor may neither use, disclose, nor access PHI and/or ePHI it receives from County or from another business associate of County, except as permitted or required by this Addendum, or as required by law.

C. Contractor agrees not to make any disclosure of PHI and/or ePHI that County would be prohibited from making.

D. Contractor shall not use or disclose PHI for any purpose prohibited by the Privacy Rule, Security Rule, HIPAA and/or HITECH, including, but not limited to 42 USC §17935 and §17936. Contractor agrees:

(1) Not to use or disclose PHI for fundraising , unless pursuant to the Underlying Agreement and only if permitted by and in compliance with the requirements of 45 CFR §164.514(f) or 45 CFR §164.508;

(2) Not to use or disclose PHI for marketing, as defined in 45 CFR §164.501, unless pursuant to the Underlying Agreement and only if permitted by and in compliance with the requirements of 45 CFR §164.508(a)(3);

(3) Not to disclose PHI, except as otherwise required by law, to a health plan for purposes of carrying out payment or health care operations, if the individual has requested this restriction pursuant to 42 USC §17935(a) and 45 CFR §164.522, and has paid out of pocket in full for the health care item or service to which the PHI solely relates; and,

(4) Not to receive, directly or indirectly, remuneration in exchange for PHI, or engage in any act that would constitute a sale of PHI, as defined in 45 CFR §164.502(a)(5)(ii), unless permitted by the Underlying Agreement and in compliance with the requirements of a valid authorization under 45 CFR

§164.508(a)(4). This prohibition shall not apply to payment by County to Contractor for services provided pursuant to the Underlying Agreement.

4. **Obligations of County.**

A. County agrees to make its best efforts to notify Contractor promptly in writing of any restrictions on the use or disclosure of PHI and/or ePHI agreed to by County that may affect Contractor's ability to perform its obligations under the Underlying Agreement, or this Addendum.

B. County agrees to make its best efforts to promptly notify Contractor in writing of any changes in, or revocation of, permission by any individual to use or disclose PHI and/or ePHI, if such changes or revocation may affect Contractor's ability to perform its obligations under the Underlying Agreement, or this Addendum.

C. County agrees to make its best efforts to promptly notify Contractor in writing of any known limitation(s) in its notice of privacy practices to the extent that such limitation may affect Contractor's use or disclosure of PHI and/or ePHI.

D. County agrees not to request Contractor to use or disclose PHI and/or ePHI in any manner that would not be permissible under HITECH, HIPAA, the Privacy Rule, and/or Security Rule.

E. County agrees to obtain any authorizations necessary for the use or disclosure of PHI and/or ePHI, so that Contractor can perform its obligations under this Addendum and/or Underlying Agreement.

5. **Obligations of Contractor.** In connection with the use or disclosure of PHI and/or ePHI, Contractor agrees to:

A. Use or disclose PHI only if such use or disclosure complies with each applicable requirement of 45 CFR §164.504(e). Contractor shall also comply with the additional privacy requirements that are applicable to covered entities in HITECH, as may be amended from time to time.

B. Not use or further disclose PHI and/or ePHI other than as permitted or required by this Addendum or as required by law. Contractor shall promptly notify County if Contractor is required by law to disclose PHI and/or ePHI.

C. Use appropriate safeguards and comply, where applicable, with the Security Rule with respect to ePHI, to prevent use or disclosure of PHI and/or ePHI other than as provided for by this Addendum.

D. Mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PHI and/or ePHI by Contractor in violation of this Addendum.

E. Report to County any use or disclosure of PHI and/or ePHI not provided for by this Addendum or otherwise in violation of HITECH, HIPAA, the Privacy Rule, and/or

Security Rule of which Contractor becomes aware, including breaches of unsecured PHI as required by 45 CFR §164.410.

F. In accordance with 45 CFR §164.502(e)(1)(ii), require that any subcontractors that create, receive, maintain, transmit or access PHI on behalf of the Contractor agree through contract to the same restrictions and conditions that apply to Contractor with respect to such PHI and/or ePHI, including the restrictions and conditions pursuant to this Addendum.

G. Make available to County or the Secretary, in the time and manner designated by County or Secretary, Contractor's internal practices, books and records relating to the use, disclosure and privacy protection of PHI received from County, or created or received by Contractor on behalf of County, for purposes of determining, investigating or auditing Contractor's and/or County's compliance with the Privacy Rule.

H. Request, use or disclose only the minimum amount of PHI necessary to accomplish the intended purpose of the request, use or disclosure in accordance with 42 USC §17935(b) and 45 CFR §164.502(b)(1).

I. Comply with requirements of satisfactory assurances under 45 CFR §164.512 relating to notice or qualified protective order in response to a third party's subpoena, discovery request, or other lawful process for the disclosure of PHI, which Contractor shall promptly notify County upon Contractor's receipt of such request from a third party.

J. Not require an individual to provide patient authorization for use or disclosure of PHI as a condition for treatment, payment, enrollment in any health plan (including the health plan administered by County), or eligibility of benefits, unless otherwise excepted under 45 CFR §164.508(b)(4) and authorized in writing by County.

K. Use appropriate administrative, technical and physical safeguards to prevent inappropriate use, disclosure, or access of PHI and/or ePHI.

L. Obtain and maintain knowledge of applicable laws and regulations related to HIPAA and HITECH, as may be amended from time to time.

M. Comply with the requirements of the Privacy Rule that apply to the County to the extent Contractor is to carry out County's obligations under the Privacy Rule.

N. Take reasonable steps to cure or end any pattern of activity or practice of its subcontractor of which Contractor becomes aware that constitute a material breach or violation of the subcontractor's obligations under the business associate contract with Contractor, and if such steps are unsuccessful, Contractor agrees to terminate its contract with the subcontractor if feasible.

6. **Access to PHI, Amendment and Disclosure Accounting.** Contractor agrees to:

A. **Access to PHI, including ePHI.** Provide access to PHI, including ePHI if maintained electronically, in a designated record set to County or an individual as directed by County, within five (5) days of request from County, to satisfy the requirements of 45 CFR §164.524.

B. **Amendment of PHI.** Make PHI available for amendment and incorporate amendments to PHI in a designated record set County directs or agrees to at the request of an individual, within fifteen (15) days of receiving a written request from County, in accordance with 45 CFR §164.526.

C. **Accounting of disclosures of PHI and electronic health record.** Assist County to fulfill its obligations to provide accounting of disclosures of PHI under 45 CFR §164.528 and, where applicable, electronic health records under 42 USC §17935(c) if Contractor uses or maintains electronic health records. Contractor shall:

(1) Document such disclosures of PHI and/or electronic health records, and information related to such disclosures, as would be required for County to respond to a request by an individual for an accounting of disclosures of PHI and/or electronic health record in accordance with 45 CFR §164.528.

(2) Within fifteen (15) days of receiving a written request from County, provide to County or any individual as directed by County information collected in accordance with this section to permit County to respond to a request by an individual for an accounting of disclosures of PHI and/or electronic health record.

(3) Make available for County information required by this Section 6.C for six (6) years preceding the individual's request for accounting of disclosures of PHI, and for three (3) years preceding the individual's request for accounting of disclosures of electronic health record.

7. **Security of ePHI.** In the event County discloses ePHI to Contractor or Contractor needs to create, receive, maintain, transmit or have access to County ePHI, in accordance with 42 USC §17931 and 45 CFR §164.314(a)(2)(i), and §164.306, Contractor shall:

A. Comply with the applicable requirements of the Security Rule, and implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of ePHI that Contractor creates, receives, maintains, or transmits on behalf of County in accordance with 45 CFR §164.308, §164.310, and §164.312;

B. Comply with each of the requirements of 45 CFR §164.316 relating to the implementation of policies, procedures and documentation requirements with respect to ePHI;

C. Protect against any reasonably anticipated threats or hazards to the security or integrity of ePHI;

D. Protect against any reasonably anticipated uses or disclosures of ePHI that are not permitted or required under the Privacy Rule;

E. Ensure compliance with the Security Rule by Contractor's workforce;

F. In accordance with 45 CFR §164.308(b)(2), require that any subcontractors that create, receive, maintain, transmit, or access ePHI on behalf of Contractor agree through contract to the same restrictions and requirements contained in this Addendum and comply with the applicable requirements of the Security Rule;

G. Report to County any security incident of which Contractor becomes aware, including breaches of unsecured PHI as required by 45 CFR §164.410; and,

H. Comply with any additional security requirements that are applicable to covered entities in Title 42 (Public Health and Welfare) of the United States Code, as may be amended from time to time, including but not limited to HITECH.

8. **Breach of Unsecured PHI.** In the case of breach of unsecured PHI, Contractor shall comply with the applicable provisions of 42 USC §17932 and 45 CFR Part 164, Subpart D, including but not limited to 45 CFR §164.410.

A. **Discovery and notification.** Following the discovery of a breach of unsecured PHI, Contractor shall notify County in writing of such breach without unreasonable delay and in no case later than 60 calendar days after discovery of a breach, except as provided in 45 CFR §164.412.

(1) **Breaches treated as discovered.** A breach is treated as discovered by Contractor as of the first day on which such breach is known to Contractor or, by exercising reasonable diligence, would have been known to Contractor, which includes any person, other than the person committing the breach, who is an employee, officer, or other agent of Contractor (determined in accordance with the federal common law of agency).

(2) **Content of notification.** The written notification to County relating to breach of unsecured PHI shall include, to the extent possible, the following information if known (or can be reasonably obtained) by Contractor:

(a) The identification of each individual whose unsecured PHI has been, or is reasonably believed by Contractor to have been accessed, acquired, used or disclosed during the breach;

(b) A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known;

(c) A description of the types of unsecured PHI involved in the breach, such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved;

(d) Any steps individuals should take to protect themselves from potential harm resulting from the breach;

(e) A brief description of what Contractor is doing to investigate the breach, to mitigate harm to individuals, and to protect against any further breaches; and,

(f) Contact procedures for individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.

B. **Cooperation.** With respect to any breach of unsecured PHI reported by Contractor, Contractor shall cooperate with County and shall provide County with any information requested by County to enable County to fulfill in a timely manner its own reporting and notification obligations, including but not limited to providing notice to individuals, prominent media outlets and the Secretary in accordance with 42 USC §17932 and 45 CFR §164.404, §164.406 and §164.408.

C. **Breach log.** To the extent breach of unsecured PHI involves less than 500 individuals, Contractor shall maintain a log or other documentation of such breaches and provide such log or other documentation on an annual basis to County not later than fifteen (15) days after the end of each calendar year for submission to the Secretary.

D. **Delay of notification authorized by law enforcement.** If Contractor delays notification of breach of unsecured PHI pursuant to a law enforcement official's statement that required notification, notice or posting would impede a criminal investigation or cause damage to national security, Contractor shall maintain documentation sufficient to demonstrate its compliance with the requirements of 45 CFR §164.412.

E. **Payment of costs.** With respect to any breach of unsecured PHI caused solely by the Contractor's failure to comply with one or more of its obligations under this Addendum and/or the provisions of HITECH, HIPAA, the Privacy Rule or the Security Rule, Contractor agrees to pay any and all costs associated with providing all legally required notifications to individuals, media outlets, and the Secretary. This provision shall not be construed to limit or diminish Contractor's obligations to indemnify, defend and hold harmless County under Section 9 of this Addendum.

F. **Documentation.** Pursuant to 45 CFR §164.414(b), in the event Contractor's use or disclosure of PHI and/or ePHI violates the Privacy Rule, Contractor shall maintain documentation sufficient to demonstrate that all notifications were made by Contractor as required by 45 CFR Part 164, Subpart D, or that such use or disclosure

did not constitute a breach, including Contractor's completed risk assessment and investigation documentation.

G. **Additional State Reporting Requirements.** The parties agree that this Section 8.G applies only if and/or when County, in its capacity as a licensed clinic, health facility, home health agency, or hospice, is required to report unlawful or unauthorized access, use, or disclosure of medical information under the more stringent requirements of California Health & Safety Code §1280.15. For purposes of this Section 8.G, "unauthorized" has the meaning given such term in California Health & Safety Code §1280.15(j)(2).

(1) Contractor agrees to assist County to fulfill its reporting obligations to affected patients and to the California Department of Public Health ("CDPH") in a timely manner under the California Health & Safety Code §1280.15.

(2) Contractor agrees to report to County any unlawful or unauthorized access, use, or disclosure of patient's medical information without unreasonable delay and no later than two (2) business days after Contractor detects such incident. Contractor further agrees such report shall be made in writing, and shall include substantially the same types of information listed above in Section 8.A.2 (Content of Notification) as applicable to the unlawful or unauthorized access, use, or disclosure as defined above in this section, understanding and acknowledging that the term "breach" as used in Section 8.A.2 does not apply to California Health & Safety Code §1280.15.

9. <u>Hold Harmless/Indemnification</u>.

A. Contractor agrees to indemnify and hold harmless County, all Agencies, Districts, Special Districts and Departments of County, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives from any liability whatsoever, based or asserted upon any services of Contractor, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Addendum, including but not limited to property damage, bodily injury, death, or any other element of any kind or nature whatsoever arising from the performance of Contractor, its officers, agents, employees, subcontractors, agents or representatives from this Addendum. Contractor shall defend, at its sole expense, all costs and fees, including but not limited to attorney fees, cost of investigation, defense and settlements or awards, of County, all Agencies, Districts, Special Districts and Departments of County, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents or representatives in any claim or action based upon such alleged acts or omissions.

B. With respect to any action or claim subject to indemnification herein by Contractor, Contractor shall, at their sole cost, have the right to use counsel of their choice, subject to the approval of County, which shall not be unreasonably withheld, and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of County; provided, however, that any such adjustment, settlement

or compromise in no manner whatsoever limits or circumscribes Contractor's indemnification to County as set forth herein. Contractor's obligation to defend, indemnify and hold harmless County shall be subject to County having given Contractor written notice within a reasonable period of time of the claim or of the commencement of the related action, as the case may be, and information and reasonable assistance, at Contractor's expense, for the defense or settlement thereof. Contractor's obligation hereunder shall be satisfied when Contractor has provided to County the appropriate form of dismissal relieving County from any liability for the action or claim involved.

C. The specified insurance limits required in the Underlying Agreement of this Addendum shall in no way limit or circumscribe Contractor's obligations to indemnify and hold harmless County herein from third party claims arising from issues of this Addendum.

D. In the event there is conflict between this clause and California Civil Code §2782, this clause shall be interpreted to comply with Civil Code §2782. Such interpretation shall not relieve the Contractor from indemnifying County to the fullest extent allowed by law.

E. In the event there is a conflict between this indemnification clause and an indemnification clause contained in the Underlying Agreement of this Addendum, this indemnification shall only apply to the subject issues included within this Addendum.

10. **Term.** This Addendum shall commence upon the Effective Date and shall terminate when all PHI and/or ePHI provided by County to Contractor, or created or received by Contractor on behalf of County, is destroyed or returned to County, or, if it is infeasible to return or destroy PHI and/ePHI, protections are extended to such information, in accordance with section 11.B of this Addendum.

11. **Termination.**

A. **Termination for Breach of Contract.** A breach of any provision of this Addendum by either party shall constitute a material breach of the Underlying Agreement and will provide grounds for terminating this Addendum and the Underlying Agreement with or without an opportunity to cure the breach, notwithstanding any provision in the Underlying Agreement to the contrary. Either party, upon written notice to the other party describing the breach, may take any of the following actions:

(1) Terminate the Underlying Agreement and this Addendum, effective immediately, if the other party breaches a material provision of this Addendum.

(2) Provide the other party with an opportunity to cure the alleged material breach and in the event the other party fails to cure the breach to the satisfaction of the non-breaching party in a timely manner, the non-breaching party has the right to immediately terminate the Underlying Agreement and this Addendum.

(3) If termination of the Underlying Agreement is not feasible, the breaching party, upon the request of the non-breaching party, shall implement, at its own expense, a plan to cure the breach and report regularly on its compliance with such plan to the non-breaching party.

B. **Effect of Termination.**

(1) Upon termination of this Addendum, for any reason, Contractor shall return or, if agreed to in writing by County, destroy all PHI and/or ePHI received from County, or created or received by the Contractor on behalf of County, and, in the event of destruction, Contractor shall certify such destruction, in writing, to County. This provision shall apply to all PHI and/or ePHI which are in the possession of subcontractors or agents of Contractor. Contractor shall retain no copies of PHI and/or ePHI, except as provided below in paragraph (2) of this section.

(2) In the event that Contractor determines that returning or destroying the PHI and/or ePHI is not feasible, Contractor shall provide written notification to County of the conditions that make such return or destruction not feasible. Upon determination by Contractor that return or destruction of PHI and/or ePHI is not feasible, Contractor shall extend the protections of this Addendum to such PHI and/or ePHI and limit further uses and disclosures of such PHI and/or ePHI to those purposes which make the return or destruction not feasible, for so long as Contractor maintains such PHI and/or ePHI.

12. General Provisions.

A. **Retention Period.** Whenever Contractor is required to document or maintain documentation pursuant to the terms of this Addendum, Contractor shall retain such documentation for 6 years from the date of its creation or as otherwise prescribed by law, whichever is later.

B. **Amendment.** The parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for County to comply with HITECH, the Privacy Rule, Security Rule, and HIPAA generally.

C. **Survival.** The obligations of Contractor under Sections 3, 5, 6, 7, 8, 9, 11.B and 12.A of this Addendum shall survive the termination or expiration of this Addendum.

D. Regulatory and Statutory References. A reference in this Addendum to a section in HITECH, HIPAA, the Privacy Rule and/or Security Rule means the section(s) as in effect or as amended.

E. **Conflicts.** The provisions of this Addendum shall prevail over any provisions in the Underlying Agreement that conflict or appear inconsistent with any provision in this Addendum.

F. **Interpretation of Addendum.**

(1) This Addendum shall be construed to be part of the Underlying Agreement as one document. The purpose is to supplement the Underlying Agreement to include the requirements of the Privacy Rule, Security Rule, HIPAA and HITECH.

(2) Any ambiguity between this Addendum and the Underlying Agreement shall be resolved to permit County to comply with the Privacy Rule, Security Rule, HIPAA and HITECH generally.

G. **Notices to County.** All notifications required to be given by Contractor to County pursuant to the terms of this Addendum shall be made in writing and delivered to the County both by fax and to both of the addresses listed below by either registered or certified mail return receipt requested or guaranteed overnight mail with tracing capability, or at such other address as County may hereafter designate. All notices to County provided by Contractor pursuant to this Section shall be deemed given or made when received by County.

County HIPAA Privacy Officer:	HIPAA Privacy Manager
County HIPAA Privacy Officer Address:	26520 Cactus Avenue Moreno Valley, CA 92555
County HIPAA Privacy Officer Fax Number:	(951) 955-HIPAA or (951) 824-7816

——————TO BE COMPLETED BY COUNTY PERSONNEL ONLY——————

County Departmental Officer: _____

County Departmental Officer Title: _____

County Department Address: _____

County Department Fax Number: _____

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Exhibit E-2

Business Associate Agreement
(LLUSS)

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("Agreement"), effective as of the date fully executed (the "Agreement Effective Date") by and between **Riverside University Health System (RUHS), an agency of the County of Riverside, also known as Riverside County Regional Medical Center, on behalf of itself and its affiliates**, Business Associate ("BA") and **Loma Linda University Adventist Health Sciences Center dba. Loma Linda University Health,** Covered Entity ("CE") (each a "Party" and collectively the "Parties") supplements and is made a part of any and all contracts that the Parties have entered, and/or in the future will enter, into the performance of which will require BA to receive protected health information ("PHI") from, or create or receive on behalf of CE.

RECITALS

A. CE wishes to disclose certain information to BA pursuant to the terms of the Contract, some of which may constitute Protected Health Information ("PHI") (defined below).

B. CE and BA intend to protect the privacy and provide for the security of PHI disclosed to BA pursuant to the Contract in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("HITECH Act"), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable laws.

C. As part of the HIPAA Regulations, the Privacy Rule and the Security Rule (defined below) require CE to enter into a contract containing specific requirements with BA prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e) and 164.504(e) of the Code of Federal Regulations ("C.F.R.") and contained in this Agreement.

D. Pursuant to the HITECH Act, BA shall fulfill the responsibilities of this Agreement by being in compliance with the applicable provisions of the HIPAA Standards for Privacy of PHI set forth at 45 CFR 164.308 (Administrative Safeguards); 45 CFR 164.310 (Physical Safeguards); 45 CFR 164.312 (Technical Safeguards); 45 CFR 164.316 (Policies and Procedures and Documentation Requirements); and 42 USC Section 17932 (security breach reporting requirement), in the same manner as they apply to a Covered Entity under HIPAA. BA shall also comply with additional or modified requirements set forth in any Annual Guidance published by the Secretary and with the additional requirements of the HITECH Act that relate to the security of PHI.

In consideration of the mutual promises below and the exchange of information pursuant to this Agreement, the parties agree as follows:

1) Definitions

Unless otherwise specified herein, capitalized terms used in this Agreement shall have the same meanings as given in the HIPAA Privacy Rule, the Security Rule, the Breach Notification Rule, and HITECH, as and when amended from time to time.

a) **Breach** shall have the meaning given to such term under the HIPAA Regulations and the HITECH Act, and as described in California Civil Code Section 1798.82. [42 U.S.C. Section 17921 & 45 C.F.R. Section 164.402].

b) **Business Associate** shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921 and 45 C.F.R. Section 160.103.

c) **Compliance Date** shall mean, with respect to any applicable provision in this Agreement, the latter of the date by which compliance with such provision is required under HITECH and the effective date of this Agreement.

d) **Covered Entity** shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.

e) **Data Aggregation** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

f) **Designated Record Set** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

g) **Electronic Health Record** shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921.

h) **Electronic Protected Health Information or EPHI** means Protected Health Information that is maintained in or transmitted by electronic media. (45 C.F.R. Section 164.103).

i) **Health Care Operations** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

j) **HIPAA Rules** shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. Part 160 and Part 164

k) **Individual** shall have the same meaning given to such term in 45 C.F.R. 160.103.

l) **Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.

m) **Protected Health Information or PHI** means any information created or received by BA from or on behalf of CE, whether oral or recorded in any form or medium: (i) that 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) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R Section 160.103. Protected Health Information includes Electronic Protected Health Information.

n) **Protected Information** shall mean PHI or EPHI provided by CE to BA or created or received by BA on CE's behalf.

o) **Secretary** means the Secretary of the U.S. Department of Health and Human Services

p) **Security Incident** means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system as defined under 45 C.F.R. Section 164.304.

q) **Security Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.

r) **Subcontractor** shall have the meaning given to such term under 45 C.F.R. Section 160.103.

s) **Unsecured PHI** shall have the meaning given to such term under HITECH Act and any guidance issued pursuant to such Act including, but not limited to 42 USC Section 17932(h).

2) Obligations and Activities of the Business Associate and its Subcontractors or Agents

a) **Permitted Uses.** BA shall not use Protected Information except for the purpose of performing BA's obligations under the Contract or as permitted under the Contract and Agreement. BA shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by CE. However, BA may use Protected Information (i) for the proper management and administration of BA, (ii) to carry out the legal responsibilities of BA, as required by law, or (iii) for Data Aggregation purposes for the Health Care Operations of CE.

b) **Permitted Disclosures.** BA shall not disclose Protected Information except for the purpose of performing BA's obligations under the Contract or as permitted under the Contract and Agreement. BA shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by CE. However, BA may disclose Protected Information (i) for the proper management and administration of BA; (ii) to carry out the legal responsibilities of BA; or (iii) as required by law; or (iv) for Data Aggregation purposes for the Health Care Operations of CE. If BA discloses Protected Information to a third party, BA must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such Protected Information will be held confidential as provided pursuant to this Agreement and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify BA of any breaches of confidentiality of the Protected Information, to the extent it has obtained knowledge of such breach [42 U.S.C. Section 17932; 45 C.F.R. Sections 164.504(e)(2)(i), 164.504(e)(2)(i)(B), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(ii)]

c) **Limited Data Set and Minimum Necessary.** BA shall limit its use, disclosure, or request of Protected Information to a Limited Data Set as defined by the Privacy Rule (45 C.F.R. § 164.514(e)(2)), or if a Limited Data Set is not practicable, to the Minimum Necessary to accomplish the intended purpose of such use, disclosure, or request.

d) **Prohibited Uses and Disclosures.** BA shall not use or disclose Protected Information in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by CE. Notwithstanding any other provision in this Addendum, BA shall comply with the following requirements: (i) BA shall not use or disclose Protected Information for fundraising or marketing purposes, except as provided under the Contract and consistent with the requirements of 42 U.S.C. 17936; (ii) BA shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates, 42 U.S.C. Section 17935(a); (iii) BA shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of CE and authorization from the subject of the PHI as permitted by the HITECH Act, 42 U.S.C. Section 17935(d)(1) and (2), or unless an exception specified in regulations published by the Secretary applies.

e) **Appropriate Safeguards.** BA shall implement appropriate safeguards to prevent the use or disclosure of Protected Information otherwise than as permitted by the Contract or this Agreement, including, but not limited to, administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Protected Information, BA creates, receives, maintains, or transmits on CE's behalf, in accordance with 45 C.F.R. Sections 164.308, 164.310, 164.312, and 164.316. [45 C.F.R. Section 164.504(e)(2)(ii)(B); 45 C.F.R. Section 164.308(b)]. In accordance to 45 C.F.R. Section 164.316, BA shall maintain comprehensive written policies and procedures for its privacy and security program in order to comply with the standards, implementation specifications, or other requirements of the Privacy Rule and applicable provisions of the Security Rule. BA shall provide appropriate training for its workforce on the requirements of the HIPAA regulations as those regulations affect the proper handling, use, confidentiality and disclosure of the Covered Entity's PHI. Such training will include specific guidance relating to sanctions against workforce members who fail to comply with security policies and procedures and the obligations of the BA under this Agreement.

f) **Reporting of Improper Access, Use or Disclosure.** BA shall report to CE in writing of any successful unauthorized access, use, disclosure, modification or destruction of Protected Information not permitted by the Contract and this Agreement of which it becomes aware without unreasonable delay but in no case later than five (5) business days. For Breach of Unsecured PHI refer to Section 2.M. herein. [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)].

g) **Business Associate's Subcontractors and Agents.** BA shall ensure that any agents, including subcontractors that create, receive, maintain, or transmit Protected Information on behalf of the BA, agree in writing to the same restrictions, conditions, and requirements that apply to BA with respect to such information and implement the safeguards required by paragraph e above with respect to Electronic PHI [45 C.F.R. Sections 164.502(e)(1)(ii), 164.504(e)(2)(ii)(D); 45 C.F.R. Section 164.308(b)]. BA shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation (45 C.F.R. Sections 164.530(f) and 164.530(e)(1)).

h) **Access to Protected Information.** To the extent BA maintains a Designated Record on behalf of the CE, BA shall make Protected Information maintained by BA or its agents or subcontractors in Designated Record Sets available to CE for inspection and copying within ten (10) days of a request by CE to enable CE to fulfill its obligations under the Privacy Rule and California law, including, but not limited to, 45 C.F.R. Section 164.524 [45 C.F.R. Section 164.504(e)(2)(ii)(E)] (Cal. Health & Safety Code §123110(b)). If BA maintains an Electronic Health Record, BA shall provide such information in electronic format to enable CE to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17935(e). If BA receives a request from an Individual for access to PHI, BA shall immediately forward such request to CE.

i) **Amendment of PHI.** To the extent BA maintains a Designated Record on behalf of the CE, within ten (10) days of receipt of a request from CE for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, BA or its agents or subcontractors shall make such Protected Information available to CE for amendment and incorporate any such amendment to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.526. If any individual requests an amendment of Protected Information directly from BA or its agents or subcontractors, BA must notify CE in writing within five (5) days of the request. Any approval or denial of amendment of Protected Information maintained by BA or its agents or subcontractors shall be the responsibility of CE [45 C.F.R. Section 164.504(e)(2)(ii)(F)].

j) **Accounting Rights.** Within ten (10) days of notice by CE of a request for an accounting of disclosures of Protected Information, BA and its agents or subcontractors shall make available to CE the information required to provide an accounting of disclosures to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to,

45 C.F.R. Section 164.528, and the HITECH Act, including but not limited to 42 U.S.C. Section 17935(c). BA Agrees to implement a process that allows for an accounting to be collected and maintained by BA and its agents or subcontractors for at least six (6) years prior to the request. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed; and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure. In the event that the request for an accounting is delivered directly to BA or its agents or subcontractors, BA shall within five (5) days of a request forward it to CE in writing. It shall be CE's responsibility to prepare and deliver any such accounting requested. BA shall not disclose any Protected Information except as set forth in Sections 2(b) of this Agreement [45 C.F.R. Sections 164.504(e)(2)(ii)(G) and 165.528]. The provisions of this subparagraph shall survive the termination of this Agreement.

k) **Governmental Access to Records.** BA shall make its internal practices, books and records, including policies and procedures, relating to the use and disclosure of Protected Information and the security of EPHI, received from, or created or received by BA on behalf of CE, available to the Secretary or its agents for purposes of determining BA's or CE's compliance with the Privacy Rule [45 C.F.R. Section 164.504(e)(2)(ii)(H)]. Except to the extent prohibited by law, BA agrees to notify CE of any request by the Secretary for Protected Information of CE, and to provide CE with a copy of any Protected Information that BA provided to Secretary within five (5) days of doing so.

l) **Data Ownership.** BA acknowledges that BA has no ownership rights with respect to the Protected Information.

m) **Notification of Security Incidents and Breaches.** BA, following the discovery of a Security Incident, including any Breach of Unsecured PHI, BA shall notify CE's Corporate Compliance Office of the Security Incident and/or Breach as soon as practicable and without unreasonable delay, but in no case later than three (3) business days after such Security Incident and/or Breach is discovered by BA, in the manner described or defined by the HIPAA Rules and in accordance with California Health & Safety Code § 1280.15 and California state breach notification law SB 541.

Security Incidents and/or Breaches are to be reported in writing to the Corporate Compliance Office by Fax at (909) 651-4213. The Corporate Compliance Office may also be reached by phone at (909) 651-4200.

A Breach shall be treated as discovered by the BA as of the first day on which the Breach is known to the BA or, by exercising reasonable diligence, would have been known to any person, other than the person committing the Security Incident/Breach, who is an employee, officer, or other agent or subcontractor of the BA. BA shall (i) take immediate corrective action to cure the Breach, (ii) take any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations, and (iii) reimburse CE for the actual costs of CE to provide required notifications with respect to any breach of PHI by BA, its agents or subcontractors, and any associated costs incurred by CE, such as postage, alternative means of notice, media notification, credit monitoring services for affected patients, and including any civil or criminal monetary penalties or fines levied by any federal or state authority having jurisdiction if CE reasonably determines that the nature of the breach warrants such measures.

BA shall provide to the CE, to the extent possible (and subsequently as the information becomes available), the identification of each individual whose Unsecured PHI has been, or is reasonably believed by BA to have been, accessed, acquired, used, or disclosure during the Security Incident and/or Breach. In addition, BA shall provide the CE with any of the following information that the CE is required to include in notification to the individual under 45 C.F.R. Section 164.404(c): (i) the date of the Breach, (ii) the date of the discovery of the Breach, (iii) a description of the types of PHI that were involved, and (iv) any other details necessary to complete an assessment of the risk of harm to the Individual.[42 U.S.C. Section 17932(b); 45 C.F.R. Section 164.410]

n) **Breach Pattern or Practice by Covered Entity.** Pursuant to 42 U.S.C. Section 17934(b), if the BA knows of a pattern of activity or practice of the CE that constitutes a material breach or violation of the CE's obligations under the Contract or Agreement or other arrangement, the BA must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the BA must terminate the Contract or other arrangement if feasible, or if termination is not feasible, report the problem to the Secretary of DHHS. BA shall provide written notice to CE of any pattern of activity or practice of the CE that BA believes constitutes a material breach or violation of the CE's obligations under the Contract or Agreement or other arrangement within five (5) days of discovery and shall meet with CE to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.

o) **Audits, Inspection and Enforcement.** Within ten (10) days of a written request by CE, BA and its agents or subcontractors shall allow CE to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of Protected Information, in written or electronic form, pursuant to this Agreement for the purpose of determining whether BA has complied with this Agreement; provided, however, that (i) BA and CE shall mutually agree in advance upon the scope, timing and location of such an inspection, (ii) CE shall protect the confidentiality of all confidential and proprietary information of BA to which CE has access during the course of such inspection; and (iii) CE shall execute a nondisclosure agreement, upon terms mutually agreed upon by the parties, if requested by BA. BA will correct any violation of this Agreement found by CE and will certify in writing that the correction has been made. The fact that CE inspects, or fails to inspect, or has the right to inspect, BA's facilities, systems, books, records, agreements, policies and procedures does not relieve BA of its responsibility to comply with this Agreement, nor does CE's (i) failure to detect or (ii) detection, but failure to notify BA or require BA's remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of CE's enforcement rights under the Contract or Agreement. BA shall notify CE within ten (10) days or learning that BA has become the subject of an audit, compliance review, or complaint investigation by the Office for Civil Rights which concerns the use or disclosure of Protected Information pursuant to this Agreement.

p) **Mitigation.** BA agrees to mitigate, to the extent reasonably possible, any harmful effect that is known to BA from any use or disclosure of PHI by BA that is not authorized by this Agreement. BA further agrees to mitigate, to the extent reasonably possible, any harmful effect that is known to BA from any Security Incident or, after a reasonable investigation, would be known to BA.

3) Obligations and Activities of the Covered Entity

CE agrees that it will: (1) not make any disclosure of Protected Information to BA if such disclosure would violate HIPAA Rules, HITECH, or any applicable federal or state law or regulation; (2) not request BA to use or make any disclosure of Protected Information in any manner that would not be permissible under HIPAA Rules, HITECH, or any applicable federal or state law or regulation if such use or disclosure were done by CE; and (3) limit any disclosure of Protected Information to BA, to the extent practicable, to the Limited Data Set of such Protected Information, or, if the disclosure of Protected Information that is not in a Limited Data Set is necessary for BA's performance of the Services, to limit the disclosure of such Protected Information to the minimum necessary to accomplish the intended purpose of such disclosure, provided, however, that the requirements set forth above in this subsection shall be superseded and replaced by the requirements of the "minimum necessary" regulations or guidance to be issued by the Secretary (pursuant to 42 U.S.C. § 17935(b)(l)(B)) on and after its Compliance Date.

4) Termination

a) **Material Breach.** A breach by BA of any provision of this Agreement, as determined by CE, shall constitute a material breach of the Contract and shall provide grounds for immediate termination of the Contract, any provision in the Contract to the contrary notwithstanding. [45 C.F.R. Section 164.504(e)(2)(iii)]. CE shall have the option to either: (i) provide an opportunity for BA to cure the breach or end the violation within the time specified by CE; and, if BA does not cure the breach or end the violation within the time specified by CE, CE may terminate the Contract and this Agreement; or (ii) If CE reasonably determines that cure is not possible, CE may immediately terminate the Contract and this Agreement.

b) **Judicial or Administrative Proceedings.** CE may terminate the Contract, effective immediately, if (i) BA is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws or (ii) a finding or stipulation is made in any administrative or civil proceeding in which the BA has been joined that the BA has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws.

c) **Effect of termination.** Upon termination of the Contract for any reason, BA shall, at the option of CE, promptly return or destroy all Protected Information that BA or its agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by CE, BA shall: (i) retain only that Protected Information which is necessary for BA to continue its proper management and administration or to carry out its legal responsibilities, (ii) continue to extend the safeguards listed on Section 2 of this Agreement and Subpart C of 45 C.F.R. Part 164 to such information, (iii) limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible, and (iv) report to CE in writing of any successful unauthorized access, use, disclosure, modification or destruction of Protected Information not permitted by the Contract and this Agreement of which it becomes aware without unreasonable delay but in no case later than five

(5) days. [45 C.F.R. Section 164.504(e)(2)(ii)(I)]. If CE elects destruction of the PHI, BA shall certify in writing to CE that such PHI has been destroyed.

5) Insurance and Indemnification

a) **Insurance.** In addition to any general and/or professional liability insurance coverage required of BA under the Contract for services, BA shall provide appropriate liability insurance coverage during the term of this Agreement to cover any and all claims, causes of action, and demands whatsoever made for loss, damage, or injury to any person arising from the Breach of the security, privacy, or confidentiality obligations of BA, its agents or employees, under this Agreement and under HIPAA 45 C.F.R. Parts 160 and 164, Subparts A and E.

b) **Indemnification.** To the extent permitted by law and in addition to any indemnification obligations undertaken by BA under the parties Contract for services, BA shall indemnify, defend and hold harmless CE and its respective employees, directors, officers, subcontractors, agents and affiliates from and against all claims, actions, damages, losses, liabilities, fines, penalties, costs or expenses (including without limitation reasonable attorneys' fees) suffered by CE arising from or in connection with any breach of this Agreement, or any negligent or wrongful acts or omissions in connection with this Agreement, by BA or by its employees, directors, officers, subcontractors, or agents. This provision shall survive the termination of this Agreement.

6) Disclaimer

CE makes no warranty or representation that compliance by BA with this Agreement, HIPAA, the HITECH Act, or the HIPAA Regulations will be adequate or satisfactory for BA's own purposes. BA is solely responsible for all decisions made by BA regarding the safeguarding of PHI.

7) Certification

To the extent that CE determines that such examination is necessary to comply with CE's legal obligations pursuant to HIPAA, the HIPAA Regulations, and the HITECH Act relating to certification of its security practices, CE or its authorized agents or contractors, may, at CE's expense, examine BA's facilities, systems, procedures (including but not limited to review of training procedures for BA's staff) and records as may be necessary for such agents or contractors to certify to CE the extent to which BA's security safeguards comply with HIPAA, the HITECH Act, the HIPAA Regulations or this Agreement.

8) Amendment

The parties acknowledge that state and federal laws related to privacy and security of PHI are rapidly evolving and that amendment of the Contract or this Agreement may be required to ensure compliance with such developments. The parties shall negotiate in good faith to amend this Agreement when and as necessary to comply with applicable laws. If either party does not agree to so amend this Agreement within 30 days after receiving a request for amendment from the other, either party may terminate the Agreement upon written notice. To the extent an amendment to this Agreement is required by law and this Agreement has not been so amended to comply with the applicable law in a timely manner, the amendment required by law shall be deemed to be incorporated into this Agreement automatically and without further action required by either of the parties. Subject to the foregoing, this Agreement may not be modified, nor shall any provision hereof be waived or amended, except in a writing duly signed and agreed to by BA and CE.

9) Assistance in Litigation or Administrative Proceedings

BA shall make itself, and any subcontractors, employees or agents assisting BA in the performance of its obligations under the Contract or Agreement, available to CE, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CE, its directors, officers or employees based upon a claimed violation of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule, or other laws relating to security and privacy, except where BA or its subcontractor, employee or agent is a named adverse party.

10) No Third-Party Beneficiaries

Nothing express or implied in the Contract or Agreement is intended to confer, nor shall anything herein confer, upon any person other than CE, BA and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

11) Effect on Contract

Except as specifically required to implement the purposes of this Agreement, or to the extent inconsistent with this Agreement, all other terms of the Contract shall remain in full force and effect.

12) Survival

The respective rights and obligations and rights of CE and BA relating to protecting the confidentiality or a patient's Protected Information shall survive the termination of the Contract or this Agreement.

13) Interpretation

The provisions of this Agreement shall prevail over any provisions in the Contract that may conflict or appear inconsistent with any provision in this Agreement. This Agreement and the Contract shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule. The parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act, and the regulations promulgated thereunder, as amended from time to time.

14) Compliance with State Law

In addition to HIPAA and all applicable HIPAA Regulations, BA acknowledges that BA and CE may have confidentiality and privacy obligations under State law, including, but not limited to, the California Confidentiality of Medical Information Act, Cal. Civil Code §56, et seq. ("CMIA"). If any provisions of this Agreement or HIPAA Regulations or the HITECH Act conflict with CMIA or any other California State law regarding the degree of protection provided for PHI and patient medical records, then BA shall comply with the more restrictive requirements.

15) Notices

All notices required or permitted to be given under this Agreement shall be in writing and shall be sufficient in all respects if delivered personally, by nationally recognized overnight delivery service, by registered or certified mail, postage prepaid, by confirmed fax, or by other electronic means, provided that delivery can be confirmed, addressed as shown below:

IN WITNESS WHEREOF, the parties hereto acknowledge and warrant that they have the authority to bind and have duly executed this Agreement as of the Agreement Effective Date.

BUSINESS ASSOCIATE		**COVERED ENTITY** **Loma Linda University Adventist Health Sciences Center dba. Loma Linda University Health**
_____		_____
Signature		Signature
Print Name:	Marion Ashley	Print Name:
Title:	Chairman, Board of Supervisors	Title:
Date:	September 22, 2015	Date:
Address:	4080 Lemon Street, 5th Floor	Address:
City:	Riverside	City:
State, Zip Code:	California 92501	State, Zip Code:
Phone:		Phone:
Fax:		Fax: