125

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

FROM: Human Resources Department

SUBMITTAL DATE: April 9, 2014

SUBJECT: Approval of the McKesson Health Solutions Master Agreement No. 16159, from April 1, 2014 to March 31, 2017, which provides Exclusive Care use of the InterQual CERMe software and clinical content. [Districts - All] [Total Cost - $62,821] [Exclusive Care premiums paid by enrolled membership]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Ratify and approve the Master Agreement and Order Form with McKesson Health Solutions, LLC, for a total cost of $62,821, for the period of April 1, 2014 through March 31, 2017.
2. Authorize the Purchasing Agent, in accordance with Ordinance No. 459, to exercise renewal options, based on the availablility of fiscal funding and to sign amendments that do not change the substantive terms of the agreement, including amendments to the compensation not to exceed ten percent (10%) above the aggregate amount of the contract.
3. Authorize the Chairperson to sign three (3) copies of the agreement, retain one copy, and return two (2) copies to Human Resources for distribution

FORM APPROVED COUNTY COUNSEL
BY: NEAL R. KIPNIS DATE 7/16/14
Departmental Concurrence

Michael T. Stock
Asst. County Executive Officer/
Human Resources Director

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	$ 30,713	$ $16,982	$ $62,821	$	Consent ☐ Policy ☑
NET COUNTY COST	$ 0.00	$ 0.00	$ 0.00	$	

SOURCE OF FUNDS: Premiums and copayments from Exclusive Care enrolled membership

Budget Adjustment: No

For Fiscal Year: 13/14 - 16/17

C.E.O. RECOMMENDATION: APPROVE

BY: Samuel Wong 7/21/14
Samuel Wong

County Executive Office Signature

Purchasing: Mark Seiler, Assistant Director

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

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Tavaglione, seconded by Supervisor Jeffries and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: July 29, 2014
xc: H.R.S Purchasing

Kecia Harper-Ihem
Clerk of the Board
By: Deputy

Prev. Agn. Ref.: | **District: All** | **Agenda Number:** 3-32

BACKGROUND:

Summary

Exclusive Care, the County's self-funded Exclusive Provider Option (EPO) health plan (currently with 13,000 enrolled members) is expected to pay in excess of $46,000,000 this year in medical and hospital claims.

In order to provide quality healthcare for the members' premium dollar, it is imperative to adhere to established clinical care guidelines to determine medical appropriateness. The Clinical Content within InterQual's CERMe software application contains evidence based clinical guidelines which are recognized and accepted by all government and private payors.

The two most widely used products which contain evidence based clinical guidelines are McKesson InterQual/CERMe and Milliman Care Guidelines. Exclusive Care previously contracted with Milliman Care Guidelines. However, the final renewal rates provided by Milliman represented a 45% rate increase over the previous year.

Riverside County Regional Medical Center (RCRMC) currently utilizes the McKesson/InterQual's CERMe system, Exclusive Care contacted McKesson to determine if their system has similar capabilities at lower cost. The research concluded the CERMe system provided additional interactive capabilities at a cost which was 36% below Milliman's final renewal rates for a three year contract.

An approved RCIT procurement (H11) form and an approved sole source procurement form are included with this package.

There is no direct cost to the County for the recommended action, as these costs are funded by Exclusive Care premiums.

Impact on Residents and Businesses

Exclusive Care is able to provide quality health care for its members while maintaining premium rates which are significantly lower than other contracted carriers.

SUPPLEMENTAL:

Additional Fiscal Information

Exclusive Care is expected to reimburse McKesson for use of the CERMe software $30,713 during FY13-14, $16,982 during FY14-15 and $15,126 during FY15-16 for a total of $62,821.

Contract History and Price Reasonableness

Exclusive Care previously contracted with Milliman to provide access to clinical care guidelines. Milliman presented Exclusive Care renewal rates with a 45% rate increase. Exclusive Care contacted McKesson to research the InterQual/CERMe system used by RCRMC and obtain a price quote. The price for the CERMe software is 36% lower compared to Milliman's renewal for a three year contract.

Attachments:

A. McKesson Health Solutions Master Agreement
B. Sole Source Form
C. H11

Date: January 30, 2014

From: Michael T. Stock Department/Agency: Human Resources

To: Board of Supervisors/Purchasing Agent

Via: Purchasing Agent

Subject: Sole Source Procurement; Request for McKesson/InterQual Care Enhance Review Manager Enterprise (CERMe) software

The below information is provided in support of my Department requesting approval for a sole source. Outside of a duly declared emergency, the time to develop a statement of work or specifications is not in itself justification for sole source.

1. **Supply/Service being requested:** *McKesson/InterQual Care Enhance Review Manager Enterprise (CERMe) software to be used by Exclusive Care Medical Management case managers in their daily workflow to determine medical appropriateness.*

2. **Supplier being requested:** *McKesson Health Solutions*

3. **Alternative suppliers that can or might be able to provide supply/service:** *The two most widely used products are McKesson/InterQual's CERMe and Milliman Care Guidelines. Exclusive Care's previous vendor was Milliman. Milliman presented Exclusive Care with a 45% rate increase for 2014.*

4. **Extent of market search conducted:** *Riverside County Regional Medical Center (RCRMC) currently uses the CERMe system, therefore Exclusive Care reached out to McKesson to determine if their system has similar capabilities compared to Milliman Care Guidelines at lower cost. McKesson provided a demonstration system for Exclusive Care's use. It was determined the InterQual system provided more features and costs 36% less for a three year contract compared to Milliman's renewal.*

   The request for RCRMC to purchase the InterQual CERMe system was approved by the Board February 26, 2013 (Agenda Item 3.58). Market research conducted during RCRMC's Sole Source Procurement Request dated January 30, 2013 determined that the majority of hospitals in the area use CERMe and research by the American Case Management Association indicates CERMe is the product of choice by the majority of hospitals for the Utilization Management process.

5. **Unique features of the supply/service being requested from this supplier, which no alternative supplier can provide:** *McKesson Health Solutions is the only company that develops and distributes InterQual Clinical Content and CERMe software.*

6. **Reasons why my department requires these unique features and what benefit will accrue to the county:** *Exclusive Care is projected to process in excess of $46 million dollars of claims for FY2013-14. In order to provide our members quality care for their premium dollar, it is imperative to adhere to established clinical care guidelines to determine medical appropriateness. The Clinical Content within InterQual's CERMe application contains evidence-based clinical guidelines which are recognized and accepted by all government and private payors.*

7. **Price Reasonableness including purchase price and any ongoing maintenance or ancillary costs from the supplier:** *The total cost for the CERMe application is $62,820.64 over a three year period from April 1, 2014 through March 31, 2017. This cost includes an implementation fee of $11,875 for the first year. This contract represents a 36% reduction compared to the Milliman renewal for a three year contract.*

8. **Does moving forward on this product or service further obligate the county to future similar contractual arrangements or any ongoing costs affiliated with this sole source? (Maintenance, support, or upgrades, if so, please explain).** *No.*

9. **Period of Performance:** *Three (3) year contract beginning April 1, 2014 through March 31, 2017.*

(Provide a defined period of performance. Please note multi-year terms require Board approval, unless renewable in one year increments and the Purchasing Agent approves the terms.)

Department Head Signature — **Date** 3/25/14

Purchasing Department Comments:

Approve | Approve with Condition/s | Disapprove

Not to exceed: $ See below | One time ✓ Annual Amount through 3-31-17

Purchasing Agent — **Date** 3-26-14 — **Approval Number** (Reference on Purchasing Documents) 14-426

Year 1 $30,713
Year 2 $16,982
Year 3 $15,126

Form # 116-333 rev 8/10/11

3/25/14

PR2014-013249

Tracking Number for Internal Use Only

4/7

RIVERSIDE COUNTY INFORMATION TECHNOLOGY PROCUREMENT FORM
To be completed for all departmental purchases of IT systems, services or renewals

REQUESTED PURCHASE:	**APPROVAL OF CONTRACT WITH MCKESSON FOR INTEROUAL/CERME**
DEPARTMENT/AGENCY:	**EXCLUSIVE CARE/COUNTY OF RIVERSIDE HUMAN RESOURCES**
CONTACT NAME/PHONE:	**JAMES BURKE, PLAN MANAGER X59552**
PURCHASE REQUEST:	☒ NEW EQUIPMENT/SERVICES ☐ UPGRADE ☐ REPLACEMENT
PURCHASE TYPE:	☒ PROFESSIONAL SERVICES ☒ SOFTWARE ☐ HARDWARE ☐ RENEWAL
DESCRIBE REQUESTED PURCHASE	Contract with McKesson to purchase InterQual/CERMe software which allows Exclusive Care's Medical Management Team access to clinical care guidelines. Cost is $62,821 for the three year contract and is included in Exclusive Care's budget. Contract is for the period 4/1/2014 through 3/31/2017.
BUSINESS NEEDS ADDRESSED	Exclusive Care is projected to pay $46 million in medical claims during FY2013-14. In order to provide quality care at reasonable cost to its members, it is imperative to adhere to established clinical care guidelines to determine medical appropriateness. Exclusive Care previously used Milliman Care Guidelines. Milliman issued a 45% rate increase upon renewal of their contract. Exclusive Care contacted McKesson to research their InterQual/CERMe system which is used by the Riverside County Regional Medical Center. The Clinical Content within InterQual's CERMe application contains evidence based clinical guidelines which are recognized by all government and private payors. McKesson's quote is 36% lower than Milliman's renewal.
ARE THERE ANY OTHER COUNTY SYSTEMS THAT PROVIDE THE SAME FUNCTIONALITY?	☒ NO ☐ YES ☐ UNKNOWN
BUSINESS CRITICALITY	☒ Run the business ☐ Grow the business ☐ Transform the business
BUSINESS IMPACT (SELECT ALL THAT APPLY)	☒ Support current operations ☐ Reduce Expenses ☐ Improve Customer Service ☐ Improve Operational Efficiencies
BUSINESS RISKS	Financial: The clinical care guidelines within CERMe allow Exclusive Care to provide quality health care for our member's premium dollar. Operational: The clinical care guidelines are evidence based and are recognized and accepted by all government payors. This allows sound decision-making with regards to utilization management.
ALTERNATIVE SOLUTIONS	1. none

PR2014-01324

RIVERSIDE COUNTY INFORMATION TECHNOLOGY PROCUREMENT FORM

To be completed for all departmental purchases of IT systems, services or renewals

Tracking Number for Internal Use Only

4/7

TRANSACTION	☒ Cash Purchase ☐ Lease Purchase Lease Years: _____

PURCHASE COSTS

Hardware: $

Software: $ 62,821

Labor: $

TOTAL COST: $62,821

COST BENEFIT ANALYSIS

	MCKESSON/ INTERQUAL/CERME	ALTERNATIVE	ALTERNATIVE
Current Annual Cost	$30,713		
Ongoing Annual Cost	$16,982 (FY14-15) $15,126 (FY15-16)		
Annual Cost Savings	N/A		
Net Annual Savings	N/A		
Project Implementation Cost	N/A		
Project Payback Period? yrs	N/A		

Department Head Signature: _____ Date: 3/25/14

45800 · 1132000000 – 52380 Agree 3/26/14

RCIT RECOMMENDATION – for purchases and renewals under $100,000

Recommended: ☐ Yes ☐ No (Non-recommended requests submit to TSOC)

By:

Chief Information Officer Signature: RCIT - APPROVED Date: 4/10/14

Date:

RQ

RCIT explanation for non-recommended requests:

TSOC RECOMMENDATION: for purchases and renewals over $100,000 and RCIT non-recommended purchases or renewals

Recommended: ☐ Yes ☐ No (In no, provide explanation below)

TSOC Chair Signature: Date:

TSOC explanation for denied requests:

WHEN DOCUMENT IS FULLY EXECUTED RETURN
CLERK'S COPY
to Riverside County Clerk of the Board, Stop 1010
Post Office Box 1147, Riverside, Ca 92502-1147
Thank you.

McKESSON

ORDER FORM

This ORDER FORM amends the McKesson Health Solutions Master Agreement No. 16159 dated contemporaneously herewith and incorporating all referenced Exhibits, Schedules, and Attachments (**"Order Form"**) and is made binding as of the latest date in the signature block below (the **"OF Effective Date"**). In the event the OF Effective Date is prior to the Effective Date provided in the MA, the OF Effective Date is automatically amended to be the same as the Effective Date provided in the MA.

Exhibits

A-1	**Fees Summary, Payment Schedule, Term and Administration**
A-2	**Reserved**
A-3	**Medical Management Terms**
B-1	**Implementation, Education, and Consulting Services**
C-1	**Reserved**
D-1	**Reserved**
E-1	**Products and ASP Services**

AUTHORIZATION. The pricing in this Order Form and McKesson's corresponding offer to Customer expires unless McKesson receives this Order Form signed by Customer on or before June 30, 2014.

By signing this Order Form, Customer acknowledges and agrees that (a) McKesson has made no warranty or commitment with regard to any functionality not Generally Available as of the OF Effective Date, whether or not included as part of Software Maintenance Services, for any of the Software licensed by this Order Form; and (b) Customer has not relied on the availability of any future version of the purchased Product or any other future Product in executing this Order Form.

SIGNATURE PAGE TO FOLLOW

JUL 29 2014 3-32

2014-8-123813

FORM APPROVED COUNTY COUNSEL
BY: _____ DATE 7/9/14
NEAL R. KIPNIS

ATTEST:
KECIA HARPER-IHEM, Clerk
By _____ DEPUTY

Each signatory hereto represents and warrants that it is duly authorized to sign, execute, and deliver this Order Form on behalf of the party it represents and the applicable Facilities.

EXCLUSIVE CARE

By: Jeff Stone
Name: JEFF STONE
Title: CHAIRMAN, BOARD OF SUPERVISORS
Date: JUL 29 2014

MCKESSON HEALTH SOLUTIONS LLC

By: Susan Van Dorsten
Name: Susan Van Dorsten
Title: Sr Sales Executive
Date: 8-5-14

CUSTOMER – For Execution:
McKesson no longer requires the exchanging and signing of hard copy contracts. Please fax or email (scanned document) the signed agreement to your sales executive or account manager.

McKesson Health Solutions LLC
5995 Windward Parkway
Alpharetta, Georgia 30005
Attn: General Counsel

With a copy to:
McKesson Health Solutions
275 Grove Street
Suite 1-210
Newton, MA 02466
Attn: Vice President of Product Operations

Customer Number	**EXC504**
Service Contract Number	**MHS9049**
SAP Number	**TBD**
Contract Number	**24404**
Quote Number	**114717**

EXHIBIT A-1

FEES SUMMARY, PAYMENT SCHEDULE, TERM AND ADMINISTRATION

FEES SUMMARY.

	Fees
Software/Clinical Content/ASP Services:	**$50,945.64**
Implementation, Education and Consulting Services:	**$11,875.00**
GRAND TOTALS:	**$62,820.64**

PAYMENT SCHEDULE FOR PRODUCTS AND ASP SERVICES LICENSE FEES. Notwithstanding anything to the contrary in the MA, the annual payments for the Software, Clinical Content, and ASP Services, and the number of Covered Lives set forth herein are not subject to decrease.

$18,837.50* due on the OF Effective Date.

$16,981.88* due on the first anniversary of the OF Effective Date.

$15,126.26* due on the second anniversary of the OF Effective Date.

*Plus applicable taxes.

PAYMENT SCHEDULE FOR SERVICES FEES.

$11,875.00* due on the OF Effective Date.

*Plus applicable taxes.

UPGRADES.

- Installation and/or implementation of the Software by McKesson as a result of Upgrades to the Software and/or new Releases of the Software are beyond the scope of the Services outlined hereunder. Unless otherwise addressed by this Order Form, such additional services shall be contracted for separately and additional fees will apply. McKesson and Customer will determine the scope of the additional services to be provided and the terms and conditions pursuant to which such additional services shall be provided by McKesson.

- Upgrades to the ASP Software are included within the ASP Services contemplated herein. Notwithstanding the foregoing, the parties agree to execute an amendment to this Order Form for additional services in the event of any Customer-specific integrations, data mapping or configuration of any business rules, or additional training that may be needed as a result of such Upgrades, and additional fees will apply. McKesson and Customer will determine the scope of the additional services to be provided and the terms and conditions pursuant to which such additional services shall be provided by McKesson.

TERM. The initial term of this Order Form begins on OF Effective Date and shall continue for three years (the **"Initial Term"**). The Initial Term of this Order Form will renew automatically for one year terms (each, a **"Renewal Term"**, together the Initial Term and Renewal Term, will be referred to as the **"Term"**) upon the expiration of the Initial Term and each subsequent Renewal Term, unless either party provides written notice of termination to the other party not less than 60 days prior to the expiration of the then current term. The license fee payable during any Renewal Term will be the Prevailing Rate.

INCREASE IN USAGE BASED VARIABLES. If, during the Initial Term, Customer's Usage-Based Variables increase above the limitation set forth herein, or in an Order Form, for any reason other than Customer's acquisition of another entity (**"Natural Growth"**), Customer will pay the Prevailing Rates for

such increased Usage-Based Variables. Pursuant to this Section, the parties acknowledge and agree that Customer will provide notification of any increase in the Usage-Based Variables and McKesson shall bill Customer accordingly for any increase in fees.

DISCOUNT REPORTING. Customer is solely responsible for reporting all discounts or appropriate net prices received from McKesson pursuant to this Order Form on cost reports filed by Customer with any government entity.

TAXES. Unless Customer provides McKesson prior to the OF Effective Date satisfactory evidence of exemption (including evidence of renewal if applicable) from applicable sales, use, value-added, or other similar taxes or duties, McKesson will invoice Customer for all such taxes applicable to the transactions under this Order Form.

ADMINISTRATION.

Sold To:	**Bill To:**
Exclusive Care	Exclusive Care
PO Box 1508	PO Box 1508
Riverside, CA 9250	Riverside, CA 9250
	Attention: Eric Quon, HR Analyst II
	Telephone: (951) 955 9909
	E-mail: equon@RC-HR.com
Taxable: ☒ Yes ☐ No	
Ship To: See Facility information on Exhibit E-1.	**Download Central Administrator:**
	Eric Quon
Customer IRR Administrator:	E-mail: equon@RC-HR.com
Clark Montgomery	
E-mail: Clark.Montgomery@Riv.Co.IT.org	

EXHIBIT A-3

MEDICAL MANAGEMENT TERMS

SECTION 1: CAREENHANCE® REVIEW MANAGER ENTERPRISE SOFTWARE ("REVIEW MANAGER")

The following terms apply to the Review Manager Software, Clinical Content and ASP Services:

1.1 Interface/Integration. Only interfaces and/or integrations from McKesson's Alliance Partners, or other interfaces and integrations that have been approved by McKesson in writing, are permitted to be used in conjunction with Review Manager. Additionally, notwithstanding anything to the contrary in the MA, Customer is solely responsible for securing the installation, support, and maintenance of any interface or integration. Customer will not implement an Alliance Partner interface or integration for a new release or update until the Alliance Partner has obtained a validation certificate from McKesson.

1.2 Display of CPT Codes. McKesson and Customer acknowledge and agree that the display and search functionality of the CPT Codes within the CareEnhance® Review Manager Bookview and the InterQual® SmartSheets™ is for Customer's internal use only. Should Customer desire to make the Clinical Content available over the internet or to its Provider network, the parties will execute an amendment for such expanded use.

SECTION 2: INTERQUAL® INTERRATER RELIABILITY SUITE

The following terms only apply to the licensure of the InterQual® Interrater Reliability Suite Software, Clinical Content, and ASP Services:

2.1 Data. Customer acknowledges that McKesson may use the data collected from the Customer's use and customization of the InterQual Interrater Reliability Suite for various internal purposes, including, but not limited to product development and improvement, marketing, benchmark reporting and identifying additional Customer specific training opportunities. All information collected will be used and maintained in accordance with the Confidentiality provisions of the MA.

2.2 License Grant. No license is granted for the use of the services and Products licensed hereunder for the preparation of tests unrelated to the Clinical Content.

EXHIBIT B-1
IMPLEMENTATION, EDUCATION, AND CONSULTING SERVICES TERMS

CareEnhance® Review Manager Enterprise ("Review Manager") Implementation Services and InterQual® Learning Source ("ILS") Training

Table 1 (MHS9049-E): Services for Exclusive Care

ILS Training Package(s)	Number of Participants	Fee (Year 1)
Review Manager Implementation Services - Standalone • Remote Project Management Support • Remote Technical Installation Services		$8,750.00
ILS: Review Manager Stand-Alone for System Administrators • VILT - Review Manager System Administration (Non Integrated) Material: 75005576	Up to 4 participants	$1,000.00
ILS: Review Manager Reports • VILT - Review Manager Reports Material: 75005577	Up to 4 participants	$1,000.00
ILS CP: InterQual® Procedures Review Manager • Ask the Expert Webinar - CP: InterQual® Procedures Criteria Material: 75005565	Up to 5 participants	$1,125.00
	Fixed Fee Total:	**$11,875.00**

Definitions
"CareEnhance® Review Manager Enterprise" ("Review Manager") also referred to as "the Software."
"Fixed Fee (FF)" means that the Services will be delivered by McKesson at a set price, determined by McKesson, taking into account the project scope and the time and resources necessary to complete the Services.
"VILT" means virtual instructor-lead training. This method of delivering traditional classroom courses using the Internet and teleconferencing technologies whereby the instructor and students are at independent locations.

PAYMENT TERMS - SERVICES FEES
***$11,875.00** due on the OF Effective Date
* plus any applicable taxes

Service Assumption(s)
1. Customer will incur additional fees and training material costs for each additional participant beyond the agreed upon maximum number of participants identified herein and/or each additional instructor-led session requested beyond the McKesson recommended number of session(s). Customer will be billed separately for additional participants attending an instructor-led session without pre-registering and/or being covered by this Order Form.
2. The Services Guide may be amended from time to time at McKesson's discretion. To obtain the most current version of the Services Guide, contact your McKesson Sales Executive, Account Manager or download from Customer Hub.
3. Customer acknowledges that Services will be provided only for the Facility licensed under the MA.
4. Training includes all applicable self paced trainings.
5. All applicable self paced trainings should be completed prior to any ILT and/or VILT session(s).

EXHIBIT E-1

PRODUCTS AND ASP SERVICES

1. As of the OF Effective Date, Customer is granted a license to the Products and ASP Services set forth on the following page.

2. On the following page, any Product for which the "No. of Copies" is blank is either available online or included in another Product.

3. Customer acknowledges and agrees that it will maintain the associated licenses, hardware and software set forth in the Required Environments Guide / Technical Configurations, for the Software and ASP Services, as applicable.

4. The InterQual Interrater Reliability Software, set forth on the following page is part of the ASP Services.

5. THIRD PARTY TERMS.

As indicated on the following page, Customer agrees to the applicable Third Party Terms, as set forth at http://customerportal.mckesson.com, which Customer may access using the following confidential login information:

User ID: contractprovisions@mckesson.com
Password (case sensitive): Portal!Access

For the avoidance of doubt, if there are no Third Party Terms for the Third Party Products listed on the McKesson Customer Portal, then no Third Party Terms apply. In the event that a Third Party Vendor raises its licensing fees of such Third Party Products, McKesson may increase its annual license fees upon the next anniversary of this Order Form.

Facility
Exclusive Care
1111 Spruce Street
P.O. Box 1508
Riverside, CA 92507

Attn: Eric Quon, HR Analyst II
Tel: +1 (951) 955 9909
E-Mail: equon@RC-HR.com

	Size / Type	Users	No. of Copies
InterQual® Clinical Content			
InterQual® Clinical Evidence Summaries	12,000 / CL	0	
InterQual® Procedures Criteria	12,000 / CL	0	
Software			
CareEnhance® Review Manager Enterprise (Access)	12,000 / CL	0	
CareEnhance® Review Manager Enterprise (SQL)	12,000 / CL	0	
InterQual Learning Basics	12,000 / CL	0	
InterQual® View (Access)	12,000 / CL	0	
InterQual® View (SQL)	12,000 / CL	0	
Interrater Reliability Standard Tests	12,000 / CL	0	
3rd Party			
AMA CPT Codes IQ	12,000 / CL	0	
Business Objects Crystal Reports	12,000 / CL	0	

WHEN DOCUMENT IS FULLY EXECUTED RETURN
CLERK'S COPY
to Riverside County Clerk of the Board, Stop 1010
Post Office Box 1147, Riverside, Ca 92502-1147
Thank you.

McKESSON

MCKESSON HEALTH SOLUTIONS MASTER AGREEMENT

MCKESSON HEALTH SOLUTIONS MASTER AGREEMENT (**"MA"**) binding as of the latest date in the signature block below (the **"Effective Date"**), between McKesson Health Solutions LLC (**"McKesson"**), and the customer identified below (**"Customer"**), consisting of the MA Terms and Conditions Order Forms, and Exhibits. This MA governs all Products and Services supplied by McKesson to Customer in the U.S. during the Term.

The term of this MA (**"Term"**) commences on the Effective Date and continues until termination or expiration of each Order Form executed hereunder, unless earlier terminated as set forth herein.

This MA is executed by an authorized representative of each party.

ATTEST: KECIA HARPER-IHEM, Clerk
By: DEPUTY

EXCLUSIVE CARE

By: Jeff Stone
Name: JEFF STONE
Title: CHAIRMAN, BOARD OF SUPERVISORS
Date: JUL 29 2014

Customer Address:
Po Box 1508
Riverside, CA 92502

FORM APPROVED COUNTY COUNSEL
BY: NEAL R. KIPNIS DATE 7/2/14

MCKESSON HEALTH SOLUTIONS LLC

By: Susan VanDorsten
Name: Susan VanDorsten
Title: Sr. Sales Executive
Date: 8-5-14

McKesson Health Solutions LLC
5995 Windward Parkway
Alpharetta, Georgia 30005
Attn: General Counsel

With a copy to:
McKesson Health Solutions
275 Grove Street
Suite 1-210
Newton, MA 02466
Attn: Vice President of Product Operations

Customer Number	**EXC504**
Contract Number	**16159**

CUSTOMER – For Execution:
McKesson no longer requires the exchanging and signing of hard copy contracts. Please fax or email (scanned document) the signed agreement to your sales executive or account manager.

JUL 29 2014 3-32

MA TERMS AND CONDITIONS

SECTION 1: DEFINITIONS

1.1 Defined Terms. Capitalized terms in this MA or an Order Form have the meanings set forth below or in Exhibit A.

SECTION 2: ORDERING PROCESS

2.1 Order Forms. Order Forms will be used to process Customer's license and purchase Products and Services.

SECTION 3: PRODUCTS AND SERVICES

3.1 Software and Clinical Content.

3.1.1 Software License. Subject to the terms of this MA, McKesson grants to Customer, and Customer accepts, a limited, nonexclusive, nontransferable, non-sublicensable license to use the Software and Clinical Content identified on an Order Form for Customer's internal purposes for the license term specified in the Order Form (the **"Term"**). The Term will renew automatically as set forth in the Order Form unless otherwise set forth herein or in the Order Form and the license fee payable during any such renewal period will be at the Prevailing Rate. The license grant is expressly subject to the following conditions: (i) the Software may be installed only on equipment located at the Facility(ies) or Data Center(s) or on Portable Device(s), (ii) the Software and Clinical Content may be accessed or used only by Permitted Users in the U.S., (iii) use of the Software and Clinical Content may be limited by Facility(ies), Data Center(s) or by any usage-based variable(s) specified in an Order Form, (iv) the Software and Clinical Content may be used to provide service bureau or other similar services only if expressly permitted in an Order Form, and (v) the Third Party Software is subject to any additional terms set forth in an Order Form. Customer may copy the Software and Clinical Content as reasonably necessary to exercise its license rights under this Section 3.1, including a reasonable number of copies for testing and backup purposes.

3.1.2 ASP Software License. For any Software identified on an Order Form as "ASP Software, subject to the terms of this MA, McKesson grants to Customer, and Customer accepts, a limited, non-exclusive, non-transferable, non-sublicensable license to use the object code version of the ASP Software in accordance with the Documentation herein for the ASP Term and any Renewal ASP Term (as defined below) solely for the benefit of Permitted Users. Subject to the terms of this MA, McKesson grants to Customer, and Customer accepts, a limited, non-exclusive, non-transferable, non-sublicensable, license to install, operate and use the object code version of the Site Software, if any, solely in order to enable Customer to receive and use the ASP Services, on Customer's equipment that meets the minimum requirements identified by McKesson. The initial term of (and any renewal term) the ASP Services will be for the number of years set forth in the Order Form (the **"Initial ASP Term")**. Following the expiration of the Initial ASP Term, subject to Customer's continued payment of applicable fees, McKesson will continue to provide Customer with ASP Services for successive, automatically renewable one year periods (each a **"Renewal ASP Term")**, unless either party provides the other party with written notice of termination no less than six months prior to the end of the Initial ASP Term or a Renewal ASP Term.

3.1.3 Software Warranties.

(a) Warranty. McKesson warrants that (i) McKesson Software will perform in all material respects in accordance with the functional specifications set forth in the Documentation, (ii) the McKesson Software will operate together with the versions of the applicable Third Party Software specified in the Order Form, and such operation will include the integration features described in the Documentation, and (iii) McKesson has the authority to license or sublicense the Software. These warranties will not apply: (1) if Customer operates the Software on equipment other than equipment that McKesson specifies in the Documentation, (2) if anyone other than McKesson or its authorized Third Party Vendor modifies the Software, (3) if Customer uses a version of the Software other than one of the two most current releases; or (4) during any period of time Customer has discontinued Software Maintenance Services or is past due on any undisputed license, Software Maintenance Services or Implementation Services fees.

(b) Testing. Customer may test the Software or System to ensure that it performs in all material respects in accordance with the functional specifications set forth in the Documentation. Such testing will begin on the Software or System delivery date and end 30 days after the Software Installation Date or System Installation Date, as applicable (the **"Testing Period")**, unless, prior to the expiration of the Testing Period, Customer provides McKesson with a reasonably detailed written report identifying a material and reproducible nonconformity of the Software or System with its functional specifications as set forth in the Documentation. In such event, the Testing Period will continue until McKesson corrects all such nonconformities identified in the error report to the extent necessary for the Software or System to perform in all material respects in accordance with the functional specifications set forth in the Documentation.

(c) No Viruses. McKesson warrants that the Software, as delivered, does not include any viruses or malicious code.

(d) Third Party Software. Third Party Software is subject to, and Customer agrees to be bound by, the Third Party Terms. Third Party Software is licensed for use only in connection with the related McKesson Software. McKesson may substitute different Software for any Third Party Software licensed to Customer, if McKesson reasonably demonstrates the need to do so.

3.1.4 Software License Restrictions.

(a) Copying and Modification. Customer will not copy or modify the Software except as expressly permitted in this MA. Customer will not alter any trademark, copyright notice, or other proprietary notice on the Software or Documentation, and will duplicate each such trademark or notice on each copy of the Software and Documentation.

(b) Facility Limitation. The Software will be installed only at the Facility(ies) or Data Center(s), except that the Software may be installed on a temporary basis at an alternate location in the U.S. if Customer is unable to use the Software at such Facility(ies) or Data Center(s) due to equipment malfunction or Force Majeure Event. Customer will promptly notify McKesson of the alternate location if such temporary use continues for longer than 30 days.

(c) Government Customer Rights. If this MA is performed under a federal government contract, then McKesson intends that any Products or Services provided under this MA constitute "commercial item(s)" as defined in Federal Acquisition Regulation (**"FAR"**) 2.101, including any Software, Clinical Content, Site Software, Third Party Software, Documentation or technical data. Additionally, all Software, Site Software, Third Party Software, Documentation, or technical data provided by McKesson under this MA will be considered related to such "commercial item(s)". If Customer seeks

rights in Software, Site Software, Third Party Software, Documentation, or technical data provided by McKesson under this MA, then McKesson grants only those rights established under any FAR or FAR Supplement clauses which are flowed down to McKesson under this MA consistent with the delivery of "commercial item(s)". If Customer contends that any Software, Site Software, Third Party Software, Documentation, or technical data provided under this MA does not constitute "commercial item(s)" as defined in FAR 2.101, then Customer promptly will notify McKesson of the same, and identify what rights Customer contends exist in such Software, Site Software, Third Party Software, Documentation, or technical data. No rights in any such Software, Site Software, Third Party Software, Documentation, or technical data will attach other than rights related to "commercial item(s)" unless Customer provides such notice to McKesson, and McKesson expressly agrees in writing that such rights are granted under this MA.

3.1.5 Clinical Content.

(a) Copying of Clinical Content. Customer may copy the Clinical Content on an ad-hoc basis in the smallest increments or portions feasible under the circumstances or as legally required for disclosure: (a) to a Provider who has submitted a Claim to Customer for reimbursement and is questioning the rationale to support Customer's decisions and solely for use for Claim specific discussions with Customer; (b) to a Provider of health care service subject to Customer's medical necessity review and solely for use for case specific medical necessity discussions with Customer, as well as for payment determinations; (c) to a Provider in support of legislative and/or regulatory requirements for notification of material changes in payment policy and/or coding practices; (d) to a person included as one of Customer's Covered Lives under this MA or to such person's representative when the Clinical Content have been referenced in the process of denying, limiting, or discontinuing authorization of services for said person; (e) to a Provider for the sole purpose of marketing Customer's services; (f) to a public agency or independent review organization in connection with conducting an independent external review of or conducting an appeal of Customer's medical necessity and payment determination in a specific case when the Clinical Content have been referenced in the process of making said determination; (g) to a public agency to comply with a statutory or regulatory mandate requiring the Clinical Content be filed with said agency (copy to be furnished to McKesson as soon as practicable prior to any such disclosure so that McKesson may, at its option, object to or dispute same); and (h) pursuant to a judicial order or subpoena (copy to be furnished to McKesson at least ten business days notice prior to any such disclosure so that McKesson may, at its option, object to or dispute same, or, if the scheduled time for such disclosure is less than ten business days, then as soon as possible prior to such disclosure). In connection with each disclosure/distribution, all Clinical Content copies will prominently display on the cover page and/or introductory screen McKesson's trademark and copyright notices, as dictated by herein, and Customer will maintain and furnish the disclosure/distribution to McKesson upon request.

"McKesson's Statement of Disclosure: The Clinical Content you are receiving is confidential and proprietary information and is being provided to you solely as it pertains to the information requested. Under copyright law, the Clinical Content may not be copied, distributed, or otherwise reproduced. The Clinical Content may contain advanced clinical knowledge which we recommend you discuss with your physician upon disclosure to you.

The Clinical Content reflects clinical interpretations and analyses and cannot alone either (a) resolve medical ambiguities of particular situations; or (b) provide the sole basis for definitive decisions. The Clinical Content is intended solely for use as screening guidelines with respect to medical appropriateness of healthcare services and not for final clinical or payment determinations concerning the

type or level of medical care provided, or proposed to be provided, to a patient; all ultimate care decisions are strictly and solely the obligation and responsibility of your health care provider."

Should Customer only license Claims Performance Software, this paragraph shall not be applicable.

(b) Responsibility of Clinical Content. The authority and responsibility to determine whether to adopt any Clinical Content, how and when to apply Clinical Content, and the final determination with respect to such Clinical Content will rest entirely and solely with Customer.

(c) Transition of Clinical Content. The parties acknowledge and agree that McKesson currently provides the Clinical Content in a variety of formats. McKesson reserves the right to change the format and to provide such Clinical Content to Customer in a different medium at mutually agreed upon license fees.

(d) Historical Versions of Clinical Content. If Customer purchases Historical Versions of Clinical Content, Customer acknowledges and agrees that it shall (i) use the Historical Versions solely in the performance of retrospective reviews and (ii) use only the relevant Clinical Content for the applicable Clinical Content year the care was rendered. Customer further acknowledges and agrees that (i) McKesson shall have no further obligations whatsoever with regard to the Historical Versions, including, but not limited to, any obligation to deliver support services or provide maintenance or updates related to the Historical Versions, (ii) the Historical Versions are provided "as is" and any and all warranties relating to the Historical Versions have lapsed and become null and void, and (iii) any and all other obligations and/or liabilities of McKesson relating to the Historical Versions (including, without limitation, any indemnity obligations and any escrow obligations) have also lapsed and become null and void. For purposes of this Section, Historical Versions shall mean the Clinical Content that is no longer in production and is not one of the two most current versions.

3.2 Size Representation. Customer will furnish to McKesson a written report detailing the volume of Customer's usage-based variable as set forth in each applicable Order Form at least 60 days prior to each anniversary of the Order Form Effective Date, as of such date.

3.3 Services.

3.3.1 Software Maintenance Services. McKesson will provide Software Maintenance Services to Customer in accordance with the McKesson Support Manual. The fees for Software Maintenance Services are included in the license fees for the applicable Software.

3.3.2 Implementation Services. Implementation Services, if any, will be identified on the applicable Order Form, and are further described in, and will be performed by McKesson in accordance with, the McKesson Implementation Services and Training Guide. Customer acknowledges and agrees that Customer is responsible for, and the Implementation Services are conditioned upon, Customer's provision of the required Customer resources and performance of the Customer responsibilities as described in the McKesson Implementation Services and Training Guide. McKesson may change the Implementation Services and associated fees to reflect additional costs to McKesson caused by Customer's delay in complying with the foregoing implementation obligations or an incorrect implementation assumption set forth in an Order Form. Unless otherwise expressly set forth in an Order Form, Implementation Services associated with a specific Software product must be used within 18 months after the Order Form Effective Date. After such 18-month period, any unused Implementation Services will be deemed forfeited, and no refunds or credits will be due to Customer for any such forfeited Implementation Services. If Customer does not purchase Implementation Services for the relevant Products, Services and Facilities identified in an Order Form, then McKesson will have no obligation to

implement such Products or Services at such Facility(ies) or Data Centers. McKesson will not grant any credits, refunds, or rights of exchange for Software or Services related to any Products or Services that are not implemented.

3.3.3 Professional Services. Any Professional Services to be provided by McKesson will be described on statements of work attached to an Order Form. Nothing will preclude or limit McKesson from providing Professional Services or developing software or materials for itself or other customers, irrespective of the possible similarity of screen formats, structure, organization and sequence to materials which may be delivered to Customer.

3.3.4 Scope Change. All changes in the scope of Services will be made in accordance with the Change Control Process. The **"Change Control Process"** is as follows: McKesson will prepare a written proposal for change(s) to the scope of any Services. If Customer agrees to such proposal, then the parties will execute a written amendment to the Order Form documenting such change(s). If Customer does not agree to such proposal, or the parties otherwise fail to execute the amendment, then such change(s) will not take effect.

3.3.5 Services Warranty. McKesson warrants that all Services will be performed in a professional manner consistent with industry standards by trained and skilled personnel.

3.3.6 Excluded Provider Warranty. McKesson warrants that neither it nor any of its employees assigned to perform material Services under this MA have been convicted of a criminal offense related to health care or been listed as debarred, excluded, or otherwise ineligible for participation in a federal health care program. McKesson will notify Customer if McKesson becomes aware that it or any of its employees assigned to perform material Services under this MA have been excluded or is otherwise ineligible for participation in a federal health care program.

3.3.7 Suspension of Services. McKesson reserves the right to suspend provision of any Services (a) 20 days after notice to Customer of nonpayment of undisputed sums owed to McKesson that are 30 days or more past due, where such breach remains uncured or (b) such suspension is necessary to comply with any applicable law or order of any governmental authority.

3.4 Customer Responsibilities. McKesson's provision of Services is dependent on Customer fully performing any Customer responsibilities identified in an Order Form to the MA, including but not limited to, providing mutually agreed-upon access to servers.

3.5 Customer Information. McKesson will configure the Products and provide the Implementation Services according to the information provided by Customer so that the Products included in the Order Form are sufficient for such included Software to perform in all material respects in accordance with the functional specifications set forth in the Documentation. If the information provided by Customer is incorrect, then Customer may need to purchase additional Products and Implementation Services to achieve full Software functionality.

3.6 Use of Products and Services. Customer will use all Products and Services in accordance with the Documentation and in compliance with applicable laws, ordinances, rules and regulations. This MA is subject to governmental laws, orders, and other restrictions regarding the export, import, re-export, or use (**"Control Laws"**) of the Products and Documentation, including technical data and related information (**"Regulated Materials"**). Customer agrees to comply with all Control Laws pertaining to the Regulated Materials in effect in, or which may be imposed from time to time by, the U.S. or any country into which any Regulated Materials are shipped, transferred, or released. Customer may permit use of the Products

or Services by any outsourcing or facility management service provider only with McKesson's prior written consent.

3.7 Interface/Integration. Customer may not install any interface and/or integration to the Software without the prior written consent of McKesson, which consent shall not be unreasonably withheld.

3.8 Disclaimer; Exclusive Remedy. THE WARRANTIES IN THIS MA ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHICH WARRANTIES ARE HEREBY SPECIFICALLY DISCLAIMED. MCKESSON DOES NOT WARRANT THAT THE PRODUCTS OR SERVICES WILL YIELD ANY PARTICULAR BUSINESS OR FINANCIAL RESULT OR THAT THE SERVICES WILL BE PERFORMED WITHOUT ERROR OR INTERRUPTION. CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR MCKESSON'S BREACH OF ANY WARRANTY WILL BE THE REPAIR, REPLACEMENT, OR RE-PERFORMANCE BY MCKESSON OF THE NONCONFORMING PRODUCT OR SERVICE. IF MCKESSON FAILS TO DELIVER THIS REMEDY, THEN CUSTOMER MAY PURSUE ANY OTHER REMEDY THAT IS OTHERWISE PERMITTED UNDER THIS MA.

3.9 Clinical Content Disclaimer. THE CLINICAL CONTENT (WITHOUT REGARD TO THE MEDIA IN WHICH IT IS EMBODIED OR EXPRESSED), IS PROVIDED ON AN **"AS-IS"** BASIS. With respect to a claim that the Clinical Content has proved materially defective in material or workmanship, Customer shall provide McKesson with prompt written notice of the claim and an explanation of the circumstances of any such claim. CUSTOMER'S SOLE AND EXCLUSIVE REMEDY IN THE EVENT OF A MATERIAL DEFECT IN THE CLINICAL CONTENT IS EXPRESSLY LIMITED TO THE CORRECTION OF SUCH BY MCKESSON AT MCKESSON'S SOLE EXPENSE.

SECTION 4: PAYMENT

4.1 Invoicing Terms. Customer will pay all fees and other charges in U.S. dollars within 35 days after invoice date.

4.2 Expenses. Prices do not include packing, delivery, and insurance charges. Such expenses will be separately invoiced and paid by Customer. Customer will reimburse McKesson for all other reasonable out-of-pocket expenses incurred in the course of providing Services, including travel and living expenses.

4.3 Taxes. All amounts payable under this MA are exclusive of sales, use, value-added, withholding, and other taxes and duties (except for taxes payable on McKesson's net income). Customer will promptly pay, and indemnify McKesson against, all such taxes and duties, unless Customer provides McKesson satisfactory evidence of an applicable tax exemption prior to the Order Form Effective Date.

4.4 Late Payments. McKesson may charge Customer interest on any undisputed overdue fees, charges, or expenses at a rate equal to the lesser of 1.5% per month or the highest rate permitted by law. Customer will reimburse McKesson for all reasonable costs and expenses incurred (including reasonable attorneys' fees) in collecting any undisputed overdue amounts. If Customer does not pay undisputed fees, charges, or expenses when due, then McKesson may require reasonable advance payments as a condition to providing Products and Services.

4.5 Audit. Upon reasonable advance notice and no more than twice per year, McKesson may conduct an audit to ensure that Customer is in compliance with this MA. Such audit will be conducted during regular business hours, and Customer will provide McKesson with reasonable access to all relevant equipment and records. If an audit reveals that Customer's use of any Product or Service during

the period being audited exceeds the number of Facility(ies), Data Center(s) transactions, or usage-based variables described in the Order Form, then McKesson may invoice Customer for all such excess use based on McKesson's Prevailing Rate(s) in effect at the time the audit is completed, and Customer will pay any such invoice. If such excess use exceeds five percent of the licensed use, then Customer will also pay McKesson's reasonable costs of conducting the audit.

SECTION 5: GENERAL TERMS

5.1 Confidentiality and Proprietary Rights.

5.1.1 Use and Disclosure of Confidential Information. Each party may disclose to the other party Confidential Information. Except as expressly permitted by this MA, neither party will: (a) disclose the other party's Confidential Information except (i) to its employees or contractors who have a need to know and are bound by confidentiality terms no less restrictive than those contained in this Section 5.1; or (ii) to the extent required by law following prompt notice of such obligation to the other party; or (b) use the other party's Confidential Information for any purpose other than performing its obligations under this MA or in evaluating new McKesson products and new McKesson product development. Each party will use all reasonable care in handling and securing the other party's Confidential Information and will employ all security measures used for its own proprietary information of similar nature. Following the termination of this MA, each party will, upon written request, return or destroy all of the other party's tangible Confidential Information in its possession and will promptly certify in writing to the other party that it has done so. This provision limits how and to whom the parties may disclose Confidential Information, and what the parties must do with the Confidential Information once the MA has been terminated.

5.1.2 Period of Confidentiality. The restrictions on use, disclosure and reproduction of Confidential Information set forth in this Section will, with respect to Confidential Information that constitutes a "trade secret" (as that term is defined under applicable law), be perpetual, and will, with respect to other Confidential Information, remain in full force and effect during the term of this MA and for three years following the termination of this MA.

5.1.3 Injunctive Relief. The parties agree that the breach, or threatened breach, of any provision of this Section 5.1 may cause irreparable harm without adequate remedy at law. Upon any such breach or threatened breach, a party will be entitled to injunctive relief to prevent the other party from commencing or continuing any action constituting such breach, without having to post a bond or other security and without having to prove the inadequacy of other available remedies. Nothing in this paragraph will limit any other remedy available to either party.

5.1.4 Retained Rights. Customer's rights in the Products and Services will be limited to those expressly granted in this MA. McKesson and its Third Party Vendors reserve all intellectual property rights not expressly granted to Customer. All changes, modifications, improvements or new modules made or developed with regard to the Products or Services, whether or not (a) made or developed at Customer's request, (b) made or developed in cooperation with Customer, or (c) made or developed by Customer, will be solely owned by McKesson or its Third Party Vendors. Customer acknowledges that the Products contain trade secrets of McKesson or its Third Party Vendors, and Customer agrees not to take any step to derive a source code equivalent of the Software (e.g., disassemble, decompile, or reverse engineer the Software) or to permit any third party to do so. McKesson retains title to all material, originated or prepared for the Customer under this MA. Customer is granted a license to use such materials in accordance with this MA.

5.1.5 Security of Software or Clinical Content. Customer agrees to use commercially reasonable security measures to prevent unauthorized access to the Software and/or Clinical Content. Customer agrees to be responsible for any breach of the MA or any other unauthorized dissemination of the Software and/or Clinical Content or the content contained therein by any user accessing the Software and/or Clinical Content via Customer's Website.

5.2 Intellectual Property Infringement.

5.2.1 Duty to Defend. McKesson will defend, indemnify, and hold Customer harmless from any action or other proceeding brought against Customer to the extent that it is based on a claim that (a) the use of any McKesson Software (other than Third Party Software) delivered under this MA infringes any U.S. copyright or U.S. patent or (b) the McKesson Software (other than Third Party Software) incorporates any misappropriated trade secrets. McKesson will pay costs and damages finally awarded against Customer as a result thereof; provided, that Customer (i) notifies McKesson of the claim within ten business days, (ii) provides McKesson with all reasonably requested cooperation, information and assistance, and (iii) gives McKesson sole authority to defend and settle the claim.

5.2.2 Exclusions. McKesson will have no obligations under Section 5.2.1 with respect to claims arising from: (a) McKesson Software modifications that were not performed by McKesson or authorized by McKesson in writing; (b) custom interfaces, file conversions, or other programming for which McKesson does not exclusively develop the specifications or instructions; (c) use of any McKesson Software in combination with products or services not provided by McKesson, if use of the McKesson Software alone would not result in liability under Section 5.2.1; or (d) any use of the McKesson Software not authorized by this MA or the Documentation.

5.2.3 Infringement Remedies. If a claim of infringement or misappropriation for which Customer is entitled to be indemnified under Section 5.2.1 arises, McKesson may, at its sole option and expense: (a) obtain for Customer the right to continue using such McKesson Software; (b) replace or modify such McKesson Software to avoid such a claim, provided that the replaced or modified McKesson Software is substantially equivalent in function to the affected McKesson Software; or (c) take possession of the affected McKesson Software and terminate Customer's rights and McKesson's obligations under this MA with respect to such McKesson Software. Upon any such termination, McKesson will refund to Customer a prorated portion of the fees paid for that McKesson Software based upon a period of depreciation equal to the license period, with depreciation deemed to have commenced on the corresponding Software Installation Date, if any, or the corresponding date of delivery.

5.2.4 Exclusive Remedy. THE FOREGOING ARE MCKESSON'S SOLE AND EXCLUSIVE OBLIGATIONS, AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES, WITH RESPECT TO INTELLECTUAL PROPERTY INFRINGEMENT OR TRADE SECRET MISAPPROPRIATION.

5.3 Limitation of Liability.

5.3.1 Total Damages. MCKESSON'S TOTAL CUMULATIVE LIABILITY UNDER, IN CONNECTION WITH, OR RELATED TO THIS MA WILL BE LIMITED TO (A) WITH RESPECT TO ANY PRODUCT, THE TOTAL FEES PAID (LESS ANY REFUNDS OR CREDITS) BY CUSTOMER TO MCKESSON UNDER THE APPLICABLE ORDER FORM FOR THE PRODUCT GIVING RISE TO THE CLAIM OR (B) WITH RESPECT TO ANY SERVICE, THE TOTAL FEES PAID (LESS ANY REFUNDS OR CREDITS) BY CUSTOMER TO MCKESSON UNDER THE APPLICABLE ORDER FORM FOR THE SERVICE GIVING RISE TO THE CLAIM DURING THE 12 MONTH PERIOD PRECEDING THE DATE

OF THE CLAIM, AS APPLICABLE, WHETHER BASED ON BREACH OF CONTRACT, WARRANTY, TORT, PRODUCT LIABILITY, OR OTHERWISE.

5.3.2 Exclusion of Damages. IN NO EVENT WILL MCKESSON BE LIABLE TO CUSTOMER UNDER, IN CONNECTION WITH, OR RELATED TO THIS MA FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR LOSS OF GOODWILL, WHETHER BASED ON BREACH OF CONTRACT, WARRANTY, TORT, PRODUCT LIABILITY, OR OTHERWISE, AND WHETHER OR NOT MCKESSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

5.3.3 Material Consideration. THE PARTIES ACKNOWLEDGE THAT THE FOREGOING LIMITATIONS ARE A MATERIAL CONDITION FOR THEIR ENTRY INTO THIS MA.

5.4 Indemnification. CUSTOMER ACKNOWLEDGES AND AGREES THAT ANY CLINICAL CONTENT FURNISHED BY MCKESSON HEREUNDER (WHETHER SEPARATELY OR INCLUDED WITHIN A PRODUCT) IS AN INFORMATION MANAGEMENT AND DIAGNOSTIC TOOL ONLY AND THAT ITS USE CONTEMPLATES AND REQUIRES THE INVOLVEMENT OF TRAINED INDIVIDUALS. CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT MCKESSON HAS NOT REPRESENTED ITS PRODUCTS AS HAVING THE ABILITY TO DIAGNOSE DISEASE, PRESCRIBE TREATMENT, OR PERFORM ANY OTHER TASKS THAT CONSTITUTE THE PRACTICE OF MEDICINE. The parties understand that all ultimate care and payment decisions are strictly and solely the obligation and responsibility of Customer and its providers and reviewers with McKesson having no right or standing to direct or control their uses of the Software and/or Clinical Content. Accordingly, Customer agrees to and hereby does indemnify, defend and hold McKesson harmless from and against all claims, suits, losses, demands, damages or expenses (including reasonable attorneys' fees, court costs and expert witness fees and expenses) arising out of Customer's use of or inability to use, the Clinical Content or the Software (or the use of or inability to use the Clinical Content or the Software by any person receiving the Clinical Content or the Software by or through Customer) provided, however, that McKesson (a) promptly notifies Customer in writing by certified mail of such claim, suit or proceeding; (b) gives Customer the right to control and direct investigation, preparation, defense and settlement of any claim, suit or proceeding; and (c) gives assistance and full cooperation for the defense of same. Customer will not be obliged to pay damages (and costs, if any) to such third party until all appeals to courts of competent jurisdiction have been exhausted or the time for making such appeals has passed without an appeal being taken. Customer will not be liable for amounts payable in connection with any settlement or compromise entered into by McKesson without Customer's prior written authorization.

5.5 Internet Disclaimer. CERTAIN PRODUCTS AND SERVICES PROVIDED BY MCKESSON UTILIZE THE INTERNET. MCKESSON DOES NOT WARRANT THAT SUCH SERVICES WILL BE UNINTERRUPTED, ERROR-FREE OR COMPLETELY SECURE. MCKESSON DOES NOT AND CANNOT CONTROL THE FLOW OF DATA TO OR FROM MCKESSON'S OR CUSTOMER'S NETWORK AND OTHER PORTIONS OF THE INTERNET. SUCH FLOW DEPENDS IN LARGE PART ON THE INTERNET SERVICES PROVIDED OR CONTROLLED BY THIRD PARTIES. ACTIONS OR INACTIONS OF SUCH THIRD PARTIES CAN IMPAIR OR DISRUPT CUSTOMER'S CONNECTIONS TO THE INTERNET (OR PORTIONS THEREOF). ACCORDINGLY, MCKESSON DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO THE ABOVE EVENTS.

5.6 Termination.

5.6.1 Termination. A party may terminate the MA or any Order Form issued under this MA immediately upon notice to the other party if the other party: (a) materially breaches the MA or such Order

Form and fails to remedy, or fails to commence reasonable efforts to remedy, such breach within 60 days after receiving notice of the breach from the terminating party; (b) infringes the terminating party's intellectual property rights and fails to remedy, or fails to commence reasonable efforts to remedy, such breach within ten days after receiving notice of the breach from the terminating party; (c) materially breaches the MA or such Order Form in a manner that cannot be remedied; or (d) commences dissolution proceedings or ceases to operate in the ordinary course of business. Termination of the MA or any Order Form will not affect the parties' rights and obligations under any other Order Forms executed by the parties prior to such termination or expiration, and all such other Order Forms will remain in full force and effect, unless and until terminated in accordance with these terms.

5.6.2 Obligations upon Termination or Expiration. Upon the termination or expiration of this MA or an Order Form, Customer will promptly (a) cease using all Software and Clinical Content, (b) purge all Software and Clinical Content from all computer systems (including servers and personal computers), (c) return to McKesson or destroy all copies (including partial copies) of the Software and Clinical Content, and (d) deliver to McKesson written certification of an officer of Customer that Customer has complied with its obligations under this Section. Notwithstanding the above, one hardcopy of the InterQual Clinical Content may be retained in Customer's compliance office for archiving purposes only, provided that the MA or Order Form has not been terminated for Customer's default.

5.6.3 Survival of Provisions. Those provisions of this MA that, by their nature, are intended to survive termination or expiration of this MA will remain in full force and effect, including, without limitation, the following Sections of this MA: 4 (Payment), 5.1 (Confidentiality and Proprietary Rights), 5.2 (Intellectual Property Infringement), 5.3 (Limitation of Liability), 5.6.2 (Obligations upon Termination), 5.6.3 (Survival of Provisions), 5.7 (Books and Records), 5.9 (Discount Reporting) and 5.11 - 5.25 (Governing Law – Entire Agreement).

5.7 Books and Records. If required by Section 952 of the Omnibus Reconciliation Act of 1980, 42 U.S.C. Section 1395x(I)(i)(ii), for a period of four years after the Services are furnished, the parties agree to make available, upon the written request of the Secretary of Health and Human Services, the Comptroller General, or their representatives, this MA and such books, documents, and records as may be necessary to verify the nature and extent of the Services with a value or cost of $10,000 or more over a 12 month period.

5.8 Business Associate. The parties agree to the obligations set forth on Exhibit B.

5.9 Discount Reporting. The transaction covered by an Order Form may involve a discount, rebate or other price reduction on the items covered by the Order Form. Customer may have an obligation to report such price reduction or the net costs in its cost reports or in another appropriate manner in order to meet the requirements of applicable federal and state anti-kickback laws, including 42 U.S.C. Sec. 1320a-7b (b) (3) (A) and the regulations found at 42 C.F.R. Sec. 1001.952(h). Customer will be responsible for reporting, disclosing, and maintaining appropriate records with respect to such price reduction or net cost and making those records available under Medicare, Medicaid or other applicable government health care programs.

5.10 Disposition of Existing Agreements. Any and all existing agreements between Customer and McKesson (**"Existing Agreements"**) will continue in full force and effect in accordance with their terms. The Existing Agreements will not apply to any Products or Services acquired by Customer on or after the Effective Date, all of which will be governed by this MA, except as otherwise agreed by the parties.

5.11 Governing Law. This MA is governed by and will be construed in accordance with the laws of the State of California, exclusive of its rules governing choice of law and conflict of laws and any version of the Uniform Commercial Code. Each party agrees that exclusive venue for all actions, relating in any manner to this MA will be in a federal or state court of competent jurisdiction located in Riverside County, California. Any action relating to this MA, other than collection of outstanding payments, must be commenced within one year after the date upon which the cause of action accrued.

5.12 Assignment and Subcontracts. Customer will not assign this MA without the prior written consent of McKesson, which will not be unreasonably withheld. McKesson may, upon notice to Customer, assign this MA to any affiliate or to any entity resulting from the transfer of all or substantially all of McKesson's assets or capital stock or from any other corporate reorganization. McKesson may subcontract its obligations under this MA.

5.13 Severability. If any part of a provision of this MA is found illegal or unenforceable, it will be enforced to the maximum extent permissible, and the legality and enforceability of the remainder of that provision and all other provisions of this MA will not be affected.

5.14 Notices. All notices relating to the parties' legal rights and remedies under this MA will be provided in writing and will reference this MA. Such notices will be deemed given if sent by: (a) postage prepaid registered or certified U.S. Post mail, then five working days after sending; or (b) commercial courier, then at the time of receipt confirmed by the recipient to the courier on delivery. All notices to a party will be sent to its address set forth on the cover page hereto, or to such other address as may be designated by that party by notice to the sending party.

5.15 Waiver. Failure to exercise or enforce any right under this MA will not act as a waiver of such right.

5.16 Force Majeure. Except for the obligation to pay money, a party will not be liable to the other party for any failure or delay caused by a Force Majeure Event, whether or not such matters were foreseeable, and such failure or delay will not constitute a material breach of this MA.

5.17 Amendment. This MA may be modified, or any rights under it waived, only by a written document executed by the authorized representatives of both parties. For avoidance of doubt, this MA may not be amended via electronic mail or other electronic messaging service.

5.18 No Third Party Beneficiaries. Except as specifically set forth in an Order Form, nothing in this MA will confer any right, remedy, or obligation upon anyone other than Customer and McKesson.

5.19 Relationship of Parties. Each party is an independent contractor of the other party. This MA will not be construed as constituting a relationship of employment, agency, partnership, joint venture or any other form of legal association. Neither party has any power to bind the other party or to assume or to create any obligation or responsibility on behalf of the other party or in the other party's name.

5.20 Non-solicitation of Employees. Neither party will directly or indirectly solicit for employment any employee of the other party during the term of the applicable Order Form and for a period of one year thereafter without the written consent of the other party. This prohibition will not apply if an employee answers a party's notice of a job listing or opening, advertisement or similar general publication of a job search or availability for employment.

5.21 Publicity. The parties may publicly announce that they have entered into this MA and describe their relationship in general terms, excluding financial terms. Neither party will make any other public

announcement or press release regarding this MA or any activities performed hereunder without the prior written consent of the other party.

5.22 Acquisitions. If Customer acquires a health plan or health care facility (**"Acquired Entity"**) that entered into a license for Software, Clinical Content, or ASP Services (**"Pre-Existing Contract"**) prior to such acquisition, that Pre-Existing Contract will remain in effect until its termination. Upon the termination of the Pre-Existing Contract, or upon Customer's acquisition of an Acquired Entity that does not have a Pre-Existing Contract, Customer will pay McKesson for any additional usage-based variables specified in the applicable Order Form, including, but not limited to Covered Lives, Beds, Users, Seats, etc. (**"Usage-Based Variables"**), regardless of location, resulting from the acquisition of the Acquired Entity in accordance with this Order Form. Customer will disclose to McKesson the increase in the Usage-Based Variables it gained through the Acquired Entity within 30 days after such acquisition. If the Acquired Entity will not use the Software, Clinical Content, and ASP Services, no additional license fees will be due.

5.23 Construction of Agreement. This MA will not be presumptively construed for or against either party. Section titles are for convenience only. As used in this MA, "will" means "shall," and "include" means "includes without limitation." The parties may execute this MA and each Order Form in one or more counterparts, each of which will be deemed an original and one and the same instrument.

5.24 Conflict Between Agreement and Order Form. In the event of any conflict or inconsistency in the interpretation of this MA (including all Order Forms executed hereunder), such conflict or inconsistency will be resolved by giving precedence according to the following order: (a) the Order Form; (b) the MA Terms and Conditions and Exhibits; (c) documents incorporated by reference.

5.25 Entire Agreement. This MA, including Exhibits and Order Forms, is the complete and exclusive agreement between the parties with respect to the subject matter hereof, superseding and replacing all prior agreements, communications, and understandings (written and oral) regarding its subject matter. Terms and conditions on or attached to Customer purchase orders will be of no force or effect, even if acknowledged or accepted by McKesson.

EXHIBITS

The following Exhibits are incorporated into the terms of the MA:

Exhibit A	Definitions
Exhibit B	Business Associate Addendum

EXHIBIT A

DEFINITIONS

"ASP" means Application Service Provider.

"ASP Services" means the ASP Software and related McKesson hardware, Software Maintenance Services and Implementation Services.

"ASP Software" means any Software licensed to Customer for use remotely or via the internet by accessing the Software located on the McKesson or Third Party Vendor hardware, as indicated on the Order Form.

"Beds" means the number of hospital beds regularly maintained (set up and staffed for use) for inpatients by Customer or a Facility.

"Claim" means a request for payment or a reported encounter received by Customer from a Provider, or from a Covered Life seeking reimbursement for such services, comprised of any number of lines.

"Clinical Content" means medical or clinical information such as terminology, vocabularies, decision support rules, alerts, drug interaction knowledge, care pathway knowledge, standard ranges of normal or expected result values, and any other clinical content or rules provided to Customer under an Order Form, together with any related Documentation and Upgrades. Depending on the intended usage, Clinical Content may be provided in either paper or electronic formats. Examples of Clinical Content include the InterQual Clinical Decision Support Criteria, Clinical Evidence Summaries, InterQual SmartSheets, KnowledgePacks, McKesson Analytics Advisor™, and Medical Necessity Content. Clinical Content may be either (i) owned by McKesson, or (ii) Third Party Clinical Content.

"Concurrent User" means a Permitted User identified by a unique user ID issued by Customer that is one user out of a maximum number of users permitted to access the Software simultaneously.

"Confidential Information" means non-public information, whether related to currently licensed Products or other product offerings, including technical, marketing, future product development, roadmap, new features and functionality, product pricing, participation in customer focus groups, financial, personnel, planning, and other information that is marked confidential or which the receiving party should reasonably know to be confidential, and will also include the terms of this MA. Confidential Information will not include: (a) information lawfully obtained or created by the receiving party independently of the disclosing party's Confidential Information without breach of any obligation of confidence, (b) information that enters the public domain without breach of any obligation of confidence or (c) Protected Health Information or PHI (as defined in Exhibit B), the protection of which will be governed by Exhibit B.

"Covered Lives" means a primary member, subscriber or eligible dependent covered under a health plan or member who is included under a delegated risk arrangement under an agreement with Customer.

"Customer's Website" means Customer's secured website, to which access is limited to Providers who present a unique identifier and a password that corroborates the binding between the Provider and the unique identifier.

"Data Center" means a data center facility located in the U.S. and operated by Customer, McKesson or an approved third party so identified in an Order Form.

"Documentation" means user guides or operating manuals, containing the functional specifications for the Products that McKesson provides to Customer, as may be reasonably modified from time to time by McKesson.

"Enhancements" means enhancements or new releases of the Software, Documentation, Clinical Content, or Services providing new or different functionality that are separately priced and marketed by McKesson.

"Exhibits" means any exhibit or attachment to this MA or an Order Form.

"Facility" means a healthcare facility or health plan located in the U.S. and operated by Customer that is identified in an Order Form. Customer acknowledges and agrees that notwithstanding Customer's Provider Identification Number or Tax Identification Number, each physical location shall constitute a separate Facility.

"Force Majeure Event" means any cause beyond the reasonable control of a party that could not, by reasonable diligence, be avoided, including acts of God, acts of war, terrorism, riots, embargoes, acts of civil or military authorities, denial of or delays in processing of export license applications, fire, floods, earthquakes, accidents or strikes.

"Generally Available" means available as a non-development product, licensed by McKesson in the general commercial marketplace.

"Implementation Services" means the implementation services, training and education listed in an Order Form to be performed by McKesson for Customer in accordance with the McKesson Implementation Services and Training Guide, which may include, but are not limited to, software loading, data conversion, software interface services, software testing assistance, , and services set-up.

"Live Date" means Software Installation Date.

"McKesson Implementation Services and Training Guide" means McKesson's written Implementation Services and training procedures for the applicable Product or Service as contained in the applicable implementation and training guide, incorporated herein by reference, as may be reasonably modified from time to time.

"McKesson Support Manual" means McKesson's written Software Maintenance Services procedures for the applicable Product or Service as contained in the applicable support manual, incorporated herein by reference, as may be reasonably modified from time to time.

"McKesson Software" means any McKesson-owned Software licensed to Customer under an Order Form.

"Medical Necessity Content" means McKesson-created decision support rules, including diagnosis and procedure code pairs developed by the Centers for Medicare and Medicaid Services and Medicare Administrative Contractors, related to Medicare payment eligibility for medical services, treatment procedures, and medical technologies, including medical necessity determination.

"Order Form" means McKesson's form addendum to this MA, duly executed by both parties, pursuant to which Customer may order specific Products or Services.

"Order Form Effective Date" means the effective date of an Order Form, as set forth therein.

"Portable Devices" means, with respect to Software that is licensed on a per device basis, the number of laptops, PDAs, handhelds or other similar portable devices for which the applicable Software is licensed, as indicated on an Order Form.

"Permitted User" or "User" means any individual, whether on-site or at a Facility or from a remote location, (a) Customer employee, (b) consultant or independent contractor who has need to use the Products or Services based upon a contractual relationship with Customer, so long as (i) such consultant or independent contractor is not a McKesson competitor, (ii) Customer remains responsible for use of the Products or Services by such consultant or independent contractor, and (iii) such consultant or independent contractor is subject to confidentiality and use restrictions at least as strict as those contained in this MA, (c) physician with admitting privileges at a Facility, (d) employee of such physician, and (e) medical professional authorized to perform services at a Facility.

"Prevailing Rate" means the McKesson standard fee(s) in effect for the applicable Software, Clinical Content, or Services, on the date that the Software, Clinical Content, or Services are to be provided.

"Productive Use" means the date in which the Software is available to process live data for purposes of other than testing or evaluation.

"Products" means Software, Clinical Content and any other products that McKesson provides to Customer pursuant to an Order Form.

"Professional Services" means any consulting, programming or other professional services that McKesson provides to Customer pursuant to an Order Form.

"Provider" means (a) a healthcare professional who provides services to Customer's members, and (b) such authorized employees of such Provider who are acting on behalf of the Provider. For purposes of the McKesson's Transparency, Clear Orders™ and Clear Coverage™ only, the definition of Provider will not include hospitals, health centers or other treatment facilities. For purposes of Clear Orders™ only, the definition of Provider will include free-standing labs that conduct Exams, but will not include labs within hospitals, health centers or other treatment facilities. For purposes of McKesson's Network Performance Management, the definition of Provider will also include any institution that provides a medical or medical-related service (e.g., group practice, hospital, laboratory, etc.).

"Release" means an updated version of the Software which contains Software changes and/or configuration change(s), as applicable.

"Reviews" means each individual determination of clinical appropriateness performance for a patient.

"Seat" means a unique physical device such as a personal computer, work station, or terminal utilized to access the Software, either directly or at the physical device on which the Software is located or the location of the entity that has a license to use the Clinical Content.

"Services" means Software Maintenance Services, Implementation Services, Professional Services, ASP Services, and any other services that McKesson provides to Customer under an Order Form.

"Site Preparation Guide" means McKesson's applicable written guide or written instructions as to the preparation of Customer's Facility or Data Center prior to installation and the maintenance of Customer's Facility or Data Center following installation.

"Site Software" means, the client portion of the Software (e.g., set-up executable) provided by McKesson to Customer, if any, for installation at Customer's site and required for Customer to access the ASP Services.

"Software" means software in object code form only (and related Documentation) identified in an Order Form or otherwise provided by McKesson to Customer, including any Upgrades that McKesson provides to Customer.

"Software Installation Date" means the earlier of (a) the date when the Software is first available for Productive Use, or (b) the date specified in the applicable implementation plan when the Software, is intended to be available for Productive Use, except that such date will be extended for each day that the Product or Service is not available for Productive Use due to direct fault of McKesson.

"Software Maintenance Services" means support services for only the two most current releases of the Software and Clinical Content consisting of telephone support, problem resolution, and Upgrades delivered by McKesson, all in accordance with the McKesson Support Manual. Software Maintenance Services do not include: (a) development of custom code or customizations for any Software, (b) support of Software modifications generated by anyone other than McKesson, (c) services to implement Upgrades (d) services to correct improper installation or integration of the Software that was not performed by McKesson-authorized personnel, (e) system administrator functions, (f) help desk services, and (g) Enhancements. Software Maintenance Services do not include services required as a result of (i) improper use, abuse, accident or neglect, including Customer's failure to maintain appropriate environmental conditions for the Products, or (ii) modifications or additions to the Products.

"Third Party Clinical Content" means any Clinical Content that is owned by a third party and sublicensed to Customer under an Order Form.

"Third Party Product" means any Product identified in an Order Form as **"Third Party Product,"** which may contain Third Party Clinical Content and Third Party Software.

"Third Party Software" means any software that is owned by a third party and sublicensed to Customer under an Order Form.

"Third Party Terms" means any additional terms and conditions that are applicable to Third Party Software, including those referenced in or attached to an Order Form.

"Third Party Vendor" means a vendor other than McKesson from whom McKesson or Customer (with prior written consent from McKesson) obtains Third Party Product, Third Party Clinical Content or Third Party Software.

"Upgrades" means corrections, modifications, improvements, updates or releases of the Software, Documentation, Clinical Content, or Services designated by McKesson as **"Upgrades,"** which are Generally Available and generally provided to customers as part of Software Maintenance Services. Upgrades do not include Enhancements.

EXHIBIT B

HIPAA Business Associate Addendum

Addendum to Contract

Between the County of Riverside and McKesson Health Solutions, a division of McKesson Technologies Inc.

This HIPAA Business Associate Addendum (the "Addendum") supplements, and is made part of the **[name of contract]** (the "Underlying Agreement") between the County of Riverside ("County") and McKesson Health Solutions, a division of McKesson Technologies Inc. ("Contractor") and shall be effective as of the date the Underlying Agreement is executed 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") (defined below) and/or certain Electronic Protected Health Information ("ePHI") (defined below) 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, Subtitle D of the Health Information Technology for Economic and Clinical Health Act ("HITECH Act") also known as Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 enacted February 17, 2009, and regulations promulgated thereunder by the U.S. Department of Health and Human Services, including the HIPAA Omnibus Final Rule, which amended the Privacy Rule and the Security Rule (as those terms are defined below) and implemented a number of provisions of the HITECH Act (the "HIPAA Final Rule"), extending certain HIPAA obligations to business associates and their subcontractors, are applicable to the protection of the privacy and security of PHI disclosed to Contractor pursuant to the Underlying Agreement; and,

WHEREAS, County is a covered entity, as defined in the 45 CFR § 160.103; and,

WHEREAS, pursuant to the Underlying Agreement, to the extent County discloses PHI to Contractor or Contractor creates, receives, maintains, or transmits PHI of County, Contractor is a business associate, as defined in 45 CFR § 160.103; and,

WHEREAS, the parties intend to enter into this Addendum to satisfy the requirements and obligations set forth in the Privacy Rule, the Security Rule, the HITECH Act 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 created or received by Contractor during the course of performing functions, services and activities on behalf of County as specified in the Underlying Agreement;

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 the Security Rule and/or Privacy Rule and the HIPAA Final 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 the covered entity 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 §160.103.

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") will have the same meaning as defined in 45 CFR §160.103 and generally means Protected Health Information transmitted by or maintained in electronic media, as applied to the information that Contractor creates, receives, maintains or transmits from or on behalf of County.

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 and will include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

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

J. "Protected health information" ("PHI") has the meaning given such term in 45 CFR §160.103, as applied to the information created, received, maintained or transmitted by Contractor from or on behalf of County.

K. "Required by Law" has the meaning given such term in 45 CFR §164.103.

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

M. "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.

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

O. "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.

P. "Unsecured Protected Health Information" or "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.**

A. Except as otherwise provided in this Addendum, Contractor may use or disclose PHI as necessary to perform any and all obligations of Contractor under the Underlying Agreement, if such use or disclosure does not violate the Privacy Rule if done by County.

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 if necessary for Contractor's proper management and administration and to carry out its legal responsibilities; and,

(2) Disclose PHI 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 from the person to whom Contractor will disclose such PHI that the person will:

(i) Hold such PHI 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 as permitted by 45 CFR § 164.504(e)(2)(i)(B); and,

(4) De-identify all PHI of County received by Contractor under this Addendum provided that the de-identification conforms to the requirements set forth in 45 CFR § 164.514(b) and may use or disclose such de-identified data unless prohibited by applicable law; and, .

(5) Disclose PHI to report violations of law to appropriate federal and state authorities, consistent with 45 CFR § 164.502(j)(1).

3. **Prohibited Uses and Disclosures.**

A. Contractor may not use or disclose PHI in a manner not authorized by the Underlying Agreement or this Addendum or as Required by Law.

B. 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);

(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 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, provided County has agreed to such restriction in accordance with 45 CFR § 164.522 and provided Contractor with notice of such restriction in accordance with Section 4.A. of this Addendum; 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 notify Contractor promptly in writing of any restrictions on the use or disclosure of PHI agreed to by County in accordance with 45 CFR § 164.522 to that extent that such restriction may affect Contractor's use or disclosure of PHI. If Contractor reasonably believes that any restriction agreed to by County pursuant to this Section may materially impair Contractor's ability to perform its obligations under the Underlying Agreement or this Addendum, the parties will mutually agree upon any necessary modification of Contractor's obligations under such agreements.

B. County agrees to promptly notify Contractor in writing of any changes in, or revocation of, permission by any Individual to use or disclose PHI, if such changes or revocation may affect Contractor's use or disclosure of PHI.

C. County agrees to promptly notify Contractor in writing of any known limitation(s) in its notice of privacy practices in accordance with 45 CFR § 164.520 to the extent that such limitation may affect Contractor's use or disclosure of PHI.

D. County agrees not to request Contractor to use or disclose PHI in any manner that would not be permissible under HITECH, HIPAA, the Privacy Rule, and/or Security Rule, except as permitted pursuant to the provisions of Section 2.B. of this Addendum.

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

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

A. Contractor acknowledges that enactment of the HITECH Act, as implemented by the HIPAA Final Rule, amended certain provisions of HIPAA in ways that now directly regulate, or will on future dates directly regulate, Contractor under the Privacy Rule and the Security Rule. Contractor agrees, as of the compliance date of the HIPAA Final Rule, to comply with applicable requirements imposed under the HIPAA Final Rule, including any amendments thereto..

B. To the extent allowed by law, Contractor shall promptly notify County if Contractor is Required by Law to disclose PHI.

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 by Contractor in violation of this Addendum.

E. Report to County any use or disclosure of PHI not provided for by this Addendum of which Contractor becomes aware.

F. In accordance with 45 CFR §164.502(e)(1)(ii), require that any agents or subcontractors that create, receive, maintain, or transmit PHI on behalf of the Contractor for services provided to County agree through a written contract to the same or substantially similar restrictions and conditions that apply through this Addendum to Contractor with respect to such PHI.

G. Make available to the Secretary, in the time and manner designated by the Secretary, Contractor's internal practices, books and records relating to the use and disclosure of PHI received from County, or created or received by Contractor on behalf of County, for purposes of the Secretary determining County's compliance with the Privacy Rule and the Security 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 45 CFR §164.502(b)(1) and 45 CFR § 164.514(d).

I. Comply with the requirements of the Privacy Rule that apply to the County to the extent Contractor is to carry out any of County's obligations under the Privacy Rule as expressly provided in the Underlying Agreement or this Addendum.

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

A. **Access to PHI.** Provide access to PHI if maintained in a Designated Record Set to County, within ten (10) business days of receipt of a written request from County, to satisfy the requirements of 45 CFR §164.524.

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

C. **Accounting of disclosures of PHI.** Contractor shall:

(1) Document such disclosures of PHI, 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 in accordance with 45 CFR §164.528.

(2) Within fifteen (15) business days of receiving a written request from County, provide to 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 in accordance with 45 CFR §164.528.

7. **Security of ePHI.** In the event County discloses ePHI to Contractor, in accordance with 45 CFR §164.314(a)(2)(i), Contractor shall:

A. Comply with the applicable requirements of the Security Rule, and implement appropriate 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 the applicable requirements of 45 CFR §164.308, §164.310, and §164.312;

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

C. In accordance with 45 CFR §164.308(b)(2), require that any subcontractors that create, receive, maintain, or transmit ePHI on behalf of Contractor for services provided to County agree through contract to the same or substantially similar restrictions and requirements contained in this Addendum that apply to Contractor with respect to such ePHI;

D. Report to County any Security Incident of which Contractor becomes aware; provided, however, that the parties acknowledge and agree that this Section constitutes notice by Contractor to County of the ongoing existence and occurrence of attempted but

Unsuccessful Security Incidents (as defined below). "Unsuccessful Security Incidents" will include, but not be limited to, pings and other broadcast attacks on Contractor's firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of PHI.

8. **Breach of Unsecured PHI.** In the case of a breach of Unsecured PHI, Contractor shall comply with the applicable provisions of 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 a Breach of Unsecured PHI shall include, to the extent possible, the following information if known 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

related to the Breach requested by County as such information is required to enable County to fulfill in a timely manner its own reporting and notification obligations to Individuals, the media and the Secretary to the extent required by 45 CFR §164.404, §164.406 and §164.408, as applicable.

C. **Delay of notification authorized by law enforcement.** If Contractor delays notification of a 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.

D. **Payment of Notification Costs.** In the event of a Breach caused solely by Contractor and the HIPAA Regulations require notice to Individuals pursuant to 45 CFR §§ 164.404 and 164.406 for such Breach, Contractor will negotiate in good faith with County the reimbursement for its reasonable and substantiated costs related to providing such notifications, as applicable or whether Contractor will send or cause notifications to be sent directly to affected Individuals. If the parties agree that Contractor will send or cause notifications to be sent directly to affected Individuals, Contractor will comply with the requirements pursuant to 45 CFR § 164.404. Contractor will provide County with an advance copy of the proposed letter for review and approval prior to sending to the affected Individuals.

9. **Term.** This Addendum shall commence upon the Effective Date and shall terminate when all of the PHI 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 , protections are extended to such information, in accordance with section 10.B of this Addendum.

10. **Termination.**

A. **Termination for Breach of Contract.** Upon either party's knowledge of a material breach of this Addendum by the other party, such party, upon written notice to the other party describing the breach, may take any of the following actions:

(1) Terminate this Addendum, effective immediately, if the other party breaches a material provision of this Addendum and cure is not possible.

(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 reasonable satisfaction of the non-breaching party in a timely manner, the non-breaching party has the right to immediately terminate this Addendum.

B. **Effect of Termination.**

(1) Upon termination of this Addendum, for any reason, Contractor shall return or destroy all PHI received from County, or created or received by the Contractor on behalf of County, at County's expense and, in the event of destruction, at County's request, Contractor shall certify such destruction, in writing, to County. This

provision shall apply to PHI in the possession of subcontractors or agents of Contractor. Contractor shall retain no copies of PHI, except as provided below in paragraph (2) of this Section.

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

11. **General Provisions.**

A. **Amendment.** The parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for County and Contractor to comply with the HITECH Act, the Privacy Rule, the Security Rule, and HIPAA generally. If any relevant provision of the Privacy Rule, the Security Rule or the HIPAA Final Rule is amended in a manner that changes the obligations of Contractor or County that are embodied in terms of this Addendum, then the parties agree to negotiate in good faith appropriate non-financial terms or amendments to this Addendum to give effect to such revised obligations. This Addendum may be modified, or any rights under it waived, only by a written document executed by the authorized representatives of both parties.

B. **Survival.** The obligations of Contractor under Sections 10.B of this Addendum shall survive the termination or expiration of this Addendum.

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

D. **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. In the event that a court or regulatory agency with authority over Contractor or County interprets the mandatory provisions of the Privacy Rule, the Security Rule or the HIPAA Final Rule, in a way that is inconsistent with the provisions of this Addendum, such interpretation will control. Where provisions of this Addendum are different from those mandated in the Privacy Rule, the Security Rule, or the HIPAA Final Rule, but are nonetheless permitted by such rules as interpreted by courts or agencies, the provisions of this Addendum will control.

E. **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 the HITECH Act.

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

F. **Notices to County.** All notifications required to be given to a party by the other party pursuant to the terms of this Addendum shall be made in writing and delivered to such party both by fax and to 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 a party may hereafter designate. All notices to a party provided by the other party pursuant to this Section shall be deemed given or made when received by the party.