

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

202



**FROM:** Riverside County Regional Medical Center

**SUBMITTAL DATE:**  
May 6, 2015

**SUBJECT:** Ratify the Professional Services Agreement with ARC Pharmacy Consulting LLC, without securing competitive bids effective June 1, 2014 [All District; \$60,000; Hospital Enterprise Funds]

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Ratify and authorize the Chairman to execute the Professional Service Agreement with ARC Pharmacy Consulting LLC, without securing competitive bids, in accordance with Ordinance 459.4, effective June 1, 2014 through May 31, 2015 with the option to renew for one additional year, for an amount not to exceed \$30,000 annually; and
2. Authorize the Purchasing Agent, in accordance with Ordinance No. 459, to exercise annual renewal options, based on the availability of fiscal funding, to sign amendments that do not change the substantive terms of the agreement and authorize the Purchasing Agent to increase the compensation amount not more than ten percent.

Zareh H. Sarrafian, Hospital CEO

FORM APPROVED COUNTY COUNSEL  
BY: GREGORY P. PRIAMOS DATE: 5/22/15  
PURCHASING & FLEET SERVICES  
Lisa Brandl, Director  
Departmental Concurrence

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 30,000	\$ 30,000	\$ 60,000	\$ 0	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	
<b>SOURCE OF FUNDS:</b> Hospital Enterprise Fund 40050				<b>Budget Adjustment:</b> No	
				For Fiscal Year: 14/15 -15/16	

**C.E.O. RECOMMENDATION:** APPROVE  
BY: Christopher M. Hans  
County Executive Office Signature

**MINUTES OF THE BOARD OF SUPERVISORS**

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

Ayes: Jeffries, Tavaglione, Washington, Benoit and Ashley  
Nays: None  
Absent: None  
Date: June 16, 2015  
xc: RCRMC, Purchasing

Kecia Harper-Ihem  
Clerk of the Board  
By: [Signature]  
Deputy

Prev. Agn. Ref.: \_\_\_\_\_ District: ALL Agenda Number: \_\_\_\_\_

**3-45**

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

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

**FORM 11: Ratify the Professional Services Agreement with ARC Pharmacy Consulting LLC, without securing competitive bids effective June 1, 2014 [All District; \$60,000; Hospital Enterprise Funds]**

**DATE: May 6, 2015**

**PAGE: Page 2 of 2**

**BACKGROUND:**

**Summary**

ARC Pharmacy Consulting LLC is committed to Riverside County Regional Medical Center's (RCRMC's) long term success by providing consulting services through best practices and applicable policies and procedures for the Pharmacy department. ARC Pharmacy will develop a plan to increase net margin from increased outpatient pharmacy activities by: i) leveraging the use of the hospital's 340B priced drugs by implementing discharge prescription services, ii) increasing the use of the prescription assistance program, iii) enhancing the 340B program by using 340B contract pharmacies and improving compliance with the 340B rules and regulations, iv) increasing retail prescription business, v) developing a prescription refill authorization center and, vi) evaluating other opportunities including specialty pharmacy.

Dr. Gary Johnson shares with RCRMC his exclusive plan which he implemented at the University of Kentucky Medical Center; resulting in the outpatient pharmacy contributing as much as a third (1/3) to the medical centers net income every year. Dr. Johnson's plan is unique and has proven its success at other university health centers. Implementing his strategic plan will allow the hospital to offer a seamless service to our patients (as a one-stop shop) and utilize the hospital's access to 340B priced products. Additionally, his plan will help earn substantial revenue for the hospital thereby providing better service to our patients.

**Impact on Citizens and Businesses**

This service impacts the patients in Riverside County receiving care from Riverside County Regional Medical Center additionally, the methodologies used for this program can attribute to increased revenue for both the hospital and the County of Riverside.

**Contract History and Price Reasonableness**

The contract with ARC Pharmacy Consulting LLC by means of Dr. Gary Johnson's strategic plan will assist the hospital improve its methodologies within the Pharmacy department at Riverside County Regional Medical Center. The cost for consulting services is \$2,500 per month. Dr. Johnson's rates are very favorable with what other consultants may charge. The cost for this service shall not exceed \$30,000 annually. It is anticipated the hospital will earn nearly \$12 million in revenue through cases received for outpatient services.

ZHS:ns

Date: May 6, 2015  
From: Zareh Sarrafian, CEO Department/Agency: Riverside County Regional Medical Center  
To: Board of Supervisors/Purchasing Agent  
Via: Purchasing Agent  
Subject: Sole Source Procurement – ARC Pharmacy Consulting

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The below information is provided in support of RCRMC- Pharmacy 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:**

To develop a plan to increase net margin from increased outpatient pharmacy activity by leveraging the use of our 340b priced drugs via implementation of a discharge prescription services, increased use of prescription assistance program, optimization of 340B program via use of 340B contract pharmacies and improved compliance with the 340B rules and regulations, increase retail prescription business and margin, development of prescription refill authorization center and evaluation of other opportunities including specialty pharmacy.

**2. Supplier being requested:** ARC Pharmacy Consulting/Gary Johnson, Pharm.D, MHA, Chief Pharmacy Officer of the University of Kentucky Medical Center dba ARC Pharmacy Consulting.

**3. Alternative suppliers that can or might be able to provide supply/service:** None.

**4. Extent of market search conducted:** Internet search and conversation with colleagues at surrounding hospital and other University Health Consortium hospitals facing similar challenges.

**5. Unique features of the supply/service being requested from this supplier, which no alternative supplier can provide.**

Dr. Gary Johnson (dba ARC Pharmacy Consulting) is sharing his plan that he implemented at the University of Kentucky Medical Center resulting in the outpatient pharmacy contributing as much as a third of the total medical center net income every year. He is mentoring Riverside County Regional Medical Center (now known as Riverside University Medical Center) in implementing his plan. Upon a comprehensive search, no other consultant is able to provide this unique set of services that RCRMC requires.

Dr. Johnson's plan is to help the hospitals outpatient pharmacy business by leveraging the use of 340B priced products. His strategic plan is unique and has proven success at other UHC academic medical centers. No other supplier/vendor has accomplished what he has been able to accomplish—substantially increasing profit margins for UHC like hospitals. At University of Kentucky, the outpatient pharmacy now contributes nearly a third of the enterprises' annual margin. Dr. Johnson's plan includes: (1) implementing a pre and post claims editor to maximize the margin on present volumes; (2) adding 340B contract pharmacy business to increase margins; and (3) using some of the increased margins to hire additional pharmacists for clinics in order to reduce prescription leak and increase referrals to our 340B contract pharmacies.

Meetings and teleconferences with Dr. Johnson are held every two weeks and he provides direct mentoring on how to accomplish the same tasks achieved at University of Kentucky. He provides copies of his policies and procedures, memorandums and dashboards. Additionally, he connects with the Pharmacy department weekly via email for continued follow ups.

6. **Reasons why my department requires these unique features and what benefit will accrue to the county:**

Developing and implementing this strategic plan will allow us to offer a seamless service to our patients (one-stop shopping) and, utilizing our access to 340b priced products appropriately, earn a substantial income which will help the hospital continue to provide services to patients who cannot afford the service.

7. **Price Reasonableness including purchase price and any ongoing maintenance or ancillary costs from the supplier:**

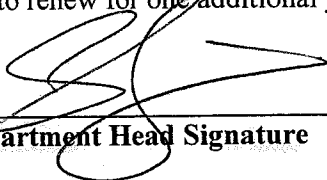
The cost for consulting services will be \$2,500 per month. The price for this service shall not exceed \$30,000 annually. Dr. Johnson's rates are very favorably with what other consultants may charge. The hospital anticipates an increase in cash received for outpatient services by nearly \$12 million over last year.

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). Yes, to further grant the purchasing agent the authority to renew this contract in 12-month increments for up to four additional years not to exceed the CPI. This contract can be cancelled by the County of Riverside at anytime with a thirty-day written notice.**

No.

9. **Period of Performance:**

The period of performance will be retroactive to June 1, 2014 through May 31, 2015, with the option to renew for one additional year (through May 31, 2016).



Department Head Signature

5/14/15  
Date

Purchasing Department Comments:

Approve

Approve with Condition/s

Disapprove

Not to exceed: \$ 30,000.00 One time Annual Amount through May 31, 2016



5/20/15

15-538

Purchasing Agent

Date

Approval Number  
(Reference on Purchasing Documents)

# PROFESSIONAL SERVICE AGREEMENT

FOR

CONSULTING SERVICES

BETWEEN

**COUNTY OF RIVERSIDE AND ARC PHARMACY CONSULTING LLC**

THIS CONSULTING AGREEMENT is made and entered into as of June 1, 2014 by and between, County of Riverside, a political subdivision of the State of California through its medical center, Riverside County Regional Medical Center ("RCRMC"), with its principal place of business at 26520 Cactus Avenue, Moreno Valley, California, 92555 and ARC Pharmacy Consulting LLC ("Consultant") with an address at 1621 Central Avenue, Cheyenne, Wyoming 82001. The parties hereby agree as follows:

1. **Services.** Consultant agrees to perform the services set forth in the Exhibit A ("Statement of Work"). The Services may be altered from time to time upon mutual agreement by RCRMC and Consultant.
2. **Payment.** RCRMC shall pay Consultant according to the Payment Schedule set forth on Exhibit A. Maximum payments by COUNTY to Consultant shall not exceed thirty thousand dollars (\$30,000) annually including all expenses. Payment shall be made only in accordance with an invoice submitted to RCRMC and RCRMC shall pay the invoice within 30 working days from the date of receipt of the invoice. Consultant will bear all expenses associated with Consultant's performance, except as otherwise specified in Exhibit A. RCRMC shall have the right to withhold any payment to Consultant, if in its reasonable discretion; it determines that Consultant has not performed the quantity or quality of work contemplated by this Agreement. RCRMC will withhold payment until such time as, in its reasonable discretion; it determines that Consultant has corrected the quality or quantity shortfall.
3. **Termination.** This Agreement shall be in effect for the period of June 1, 2014 through May 31, 2015 with the option to renew for one additional year, unless earlier terminated by either party in accordance with the provisions herein. RCRMC may terminate this Agreement at any time without cause upon thirty (30) days advance written notice to Consultant. In the event of such termination, Consultant shall be entitled to payment for all Services performed satisfactorily through the date of termination. Upon termination, Consultant shall immediately deliver to RCRMC Consultant's work in progress as well as any other materials provided to or created by Consultant under this Agreement.
4. **Professional Standards.** Consultant hereby agrees that it shall perform the Services in accordance with the standard of care and diligence normally practiced by recognized organizations performing similar services.
5. **Confidential Information.**

**5.1 RCRMC Confidential Information.** During and after Consultants performance of Services for RCRMC, Consultant will protect and hold in strictest confidence all Confidential Information of RCRMC, its affiliates and business relations. Confidential Information includes, without limitation, Inventions (as defined below), trade secrets, plans, programs, source and object codes, specifications, drawings, diagrams, schematics, formulae, product designs and concepts, reports, studies, technical know-how, methods, customer and supplier lists, customer requirements, price lists and policies, budgets, projections, bids, costs, financial reports, financing materials, training programs and manuals, and sales and marketing programs, materials, plans, and strategies.

JUN 16 2015

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**5.2 Ownership and Use of Confidential Information.** All Confidential Information made available to the Consultant or which the Consultant conceives, creates, develops, reduces to practice, or compiles, either alone or with others, in the course of performing Services for RCRMC shall be the exclusive property of RCRMC. The Consultant shall preserve in confidence and shall not disclose, use, copy, publish, summarize or remove, either during or after the term of his employment, any Confidential Information, except as required in his Services for RCRMC or as authorized in writing by RCRMC in each instance. Consultant shall mark all items containing any of the Confidential Information with prominent confidentiality notices acceptable to RCRMC. Upon termination of the Consultant's services for RCRMC, or upon request, the Consultant shall deliver to RCRMC all forms of materials in his possession that contain or embody any Confidential Information.

**5.3 Third Party Information.** Consultant may have access to certain private and confidential individually identifiable health information from Company's customers in connection with work for RCRMC, which information may be subject to special protection under the Federal Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and be further protected through County's HIPAA Business Associate agreements. During and after Consultant's providing services for RCRMC, Consultant will not (a) use, or maintain copies of, any confidential, private and/or proprietary information of RCRMC's customers, vendors, consultants and other parties with whom RCRMC does business, including HIPAA-covered information (all "Third Party Information") for any purpose other than what is necessary to conduct business of RCMRC, or (b) disclose any Third Party Information to anyone other than RCRMC personnel who need to know the same in connection with their work for RCRMC without the prior written authorization of an officer of RCRMC.

**6. Independent Contractor and Authority.** Consultant is an independent contractor engaged in the operation of its own business and is not an employee of County or RCRMC. This Agreement shall not create the relationship of employer and employee, a partnership or a joint venture between the parties. RCRMC shall not control or direct the details and means by which Consultant performs its services. Consultant shall determine the number of days and hours of its work, as well as the number of its assistants, partners, employees or workers. Consultant shall be solely responsible for the conduct and performance, and for the wages, fringe benefits, workers' compensation insurance, work and performance schedules and work conditions, of its employees, partners or workers. Consultant shall provide its own tools, supplies and uniforms. Consultant acknowledges and agrees that RCRMC shall not take any action or provide Consultant or its assistants, partners, employees or workers with any benefits or commitments inconsistent with Consultant's independent contractor status. In particular, RCRMC shall not: (i) withhold FICA (Social Security) from Consultant's payments; (ii) make state or federal unemployment insurance contributions on behalf of Consultant; (iii) withhold state and federal income tax from payment to Consultant; (iv) make disability insurance contributions on behalf of Consultant; (v) obtain workers' compensation insurance on behalf of Consultant; or (vi) provide health, welfare or retirement benefits to Consultant or its employees, partners or workers. Consultant acknowledges and agrees that RCRMC is not obligated to take any of the foregoing actions on behalf of Consultant or its employees, partners, or workers. The parties further agree that Consultant has no general authority to enter into any contract, assume any obligations or make any warranties or representations on behalf of RCRMC. In addition, Consultant shall not hold itself out or otherwise represent itself as an employee or agent of RCRMC. Consultant acknowledges that it will not have any access to RCRMC's computer system unless such access is specifically granted in writing by RCRMC. Consultant further acknowledges that any access to RCRMC's computer system granted to it ends on the earlier of (i) the date referenced in the written authorization, (ii) the date of the termination of the contracting relationship hereunder or (ii) the date on which RCRMC revokes Consultant's access.

**8. Taxes, Permits, Etc.** Consultant shall be solely responsible for and pay all costs of conducting its business, including but not limited to, the expense and responsibility for any and all applicable insurance, city, county, state and federal licenses, permits, taxes and assessments of any and all regulatory agencies, boards or municipalities. Consultant shall also be solely responsible for the payment of any and all self-employment taxes, payroll taxes, income taxes, unemployment taxes,

workers' compensation taxes, social security taxes and business and occupation taxes for itself and its personnel, and shall indemnify and hold the Company harmless from paying such taxes.

**9. Indemnification.** SUBJECT TO THE LIMITATION OF DAMAGES SET FOR IN SECTION 12 OF THIS AGREEMENT, EACH PARTY SHALL INDEMNIFY AND HOLD EACH OTHER HARMLESS AGAINST ALL COSTS (INCLUDING ATTORNEY FEES) AND LIABILITIES ARISING SOLELY FROM ITS (OR ITS EMPLOYEES OR AGENTS) NEGLIGENT OR INTENDED ACTS. FURTHERMORE, CONSULTANT SHALL FULLY INDEMNIFY AND HOLD HARMLESS COUNTY FOR ANY COSTS (INCLUDING ATTORNEY FEES), CLAIMS AND LIABILITIES THAT MIGHT EVER ARISE ALEDGING ANY SORT OF CONFLICT OF INTEREST THAT THIS CONSUTLING AGREEMENT MIGHT ALEDGEDELY GENERATE BETWEEN CONSULTANT AND ANY OTHER EMPLOYER, CLIENT, OR ANY OTHER PARTY.

**10. Insurance.** Without limiting or diminishing the Consultant's obligation to indemnify or hold the County harmless, Consultant shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of the Agreement. As respects to the insurance section only, the County herein refers to the county of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds.

Professional Liability: Consultant shall maintain Professional Liability Insurance providing coverage for the Consultant's performance of work included within this Agreement, with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. If Consultant's Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of this Agreement and Consultant shall purchase at his sole expense either 1) an Extended Reporting Endorsement (also, known as Tail Coverage); or 2) Prior Dates Coverage from new insurer with a retroactive date back to the date of, or prior to, the inception of this Agreement; or 3) demonstrate through Certificates of Insurance that CONTRACTOR has Maintained continuous coverage with the same or original insurer. Coverage provided under items; 1), 2), or 3) will continue as long as the law allows.

**11. Assignment.** Unless consistent with a general counsel's management of legal issues and resources, Consultant's rights and duties cannot be assigned to others.

**12. Governing Law and Venue.** This contract shall be governed by the Laws of the State of California without regard to its conflicts of laws rules. The parties hereby agree that the exclusive venue for all matters and actions arising under this Agreement shall be and remain in the state and federal courts sitting in Riverside, California, and all parties hereby consent to the personal jurisdiction of such courts. The prevailing party in any action to enforce this Agreement shall be reimbursed or paid by the other party for its reasonable attorneys' fees and all costs incurred in connection with such enforcement.

**13. Entire Agreement.** This agreement, including all Exhibits, constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior agreements or representations, oral or written, regarding such subject matter. This Agreement may not be modified except in writing signed by an authorized representative of both parties.

**14. Notices.** All notices, payments and other communications permitted or required pursuant to this Agreement shall be in writing, addressed to the Party at the address set forth below or to such other address as the Party may designate in writing from time to time.

**If to ARC:**

ARC Pharmacy Consulting, LLC  
Attention: Gary Johnson  
1067 North Main Street, Suite 235  
Nicholasville, KY 40356

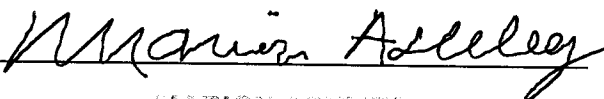
**If to RCRMC**

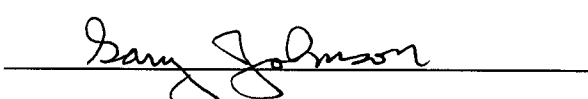
Riverside County Regional Medical Center  
Attention: Greg Prouty  
Department of Pharmacy  
26520 Cactus Avenue  
Moreno Valley, CA 92555-3927

Executed and acknowledged by authorized signers as of the date written above.

Riverside County Regional Medical Center:

ARC Pharmacy Consulting LLC:





By: **MARION ASHLEY**

By: Gary Johnson

Its: **CHAIRMAN, BOARD OF SUPERVISORS**

Its: President

Date: **JUN 16 2015**

Date: 5/27/15

FORM APPROVED COUNTY COUNSEL

BY:  DATE

ATTEST:

KECIA HARPER-IHEM, Clerk

By:  DEPUTY



## EXHIBIT A

**Length of Contract: June 1, 2014 through May 31, 2015, with the option to renew for one additional year.**

### **Consultant Fee:**

Consultant will be paid **\$2,500.00 per month** for services rendered to RCRMC. Consultant must submit an invoice on a monthly basis to RCRMC for payment. Maximum payments by COUNTY to Consultant shall not exceed thirty thousand dollars (\$30,000) annually including all expenses.

### **Services:**

#### **Medication Reconciliation and Discharge Prescription Services**

- create job descriptions, a pro-forma, a 5 Year business plan and mobile solutions for payment capture
- create pharmacy led medication reconciliation process; whereby, Inpatient and Outpatient pharmacy staff partner to administer discharge prescription service.

#### **Prescription Co-Payment Development**

- facilitate partnerships with manufacturer sponsored foundations that offer co-payment support, particularly for Medicare patients with high deductibles.
- develop an internal foundation to provide co-payment support when manufacturer programs are not available

#### **340B Optimization**

- evaluate physician practices, including provider based and non-provider based clinics to provide optimal 340B savings, including an assessment of registered child sites with OPA (Office of Pharmacy Affairs)
- identify solutions for lowering WAC purchases, which may include 3 way split billing software
- assess Contract Pharmacy opportunities, including various practice environments and provide a contract template that satisfies the 12 essential elements, as required by HRSA
- develop a comprehensive 340B policy and procedure manual, which govern any HRSA audit
- develop a 340B steering committee with senior leadership, including the associated charter
- assess opportunities to optimize 340B split billing software, including a WAC accumulator to process non 340B eligible prescriptions
- develop tools to emulate a HRSA audit, as well as internal auditing tools
- assess contract pharmacy opportunities with Specialty Pharmacy vendors

#### **Retail Pharmacy Services**

- evaluate the opportunity for a micro-pharmacy, which includes the placement of compact automation into high volume clinics where pharmacists toggle from clinical/patient care tasks to retail dispensing and counseling tasks
- assess additional retail pharmacy location that service the following patient populations: employee, discharge, clinic, ED, and same day surgery
- assess opportunities to implement software that includes pre and post editing functionality designed to optimize margins associated with adjudicated prescriptions
- explore opportunities to leverage PBA functionality to manage self-pay and indigent patient populations by leveraging a RCRMC created formulary
- assess automated options to improve the A/R process

#### **Infusion Related Services**

- explore opportunities for pharmacy to assume responsibility for securing pre-authorizations related to clinic administered infusions in order to increase charge capture

**Prescription Refill Authorization Center**

- develop a pharmacy technician led program that processes refill requests for high volume clinics and directs these refilled prescriptions into the RCRMC retail pharmacy network

**Specialty Pharmacy**

- assess specialty pharmacy opportunities, including:
- contract pharmacy opportunities, which include heat maps
- potential for URAC accreditation
- pro-forma and 5 Year business plan development
- space options for building specialty pharmacy
- creation of job descriptions for clinic based pharmacists

**Contract Pricing Optimization**

- access WAC purchases
- identify/implement methods to minimize WAC spend and maximize 340B and GPO savings
- implement spend metrics

**Strategic Plan**

- assist with development of departmental 5 year strategic plan
- identification of opportunities and future trends that we need to be prepared for
- development of metrics to monitor performance against strategic plan

HIPAA Business Associate Agreement  
Addendum to Contract  
Between the County of Riverside and ARC Pharmacy Consulting

This HIPAA Business Associate Agreement (the "Addendum") supplements, and is made part of the Pharmacy Consulting Services (the "Underlying Agreement") between the County of Riverside ("County") and ARC Pharmacy Consulting ("Contractor") and shall be effective as of the date the Underlying Agreement is approved by both Parties (the "Effective Date").

RECITALS

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

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

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

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

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

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

WHEREAS, the parties intend to enter into this Addendum to address the requirements and obligations set forth in the Privacy Rule, Security Rule, HITECH and HIPAA as they apply to Contractor as a business associate of County, including the establishment of permitted and required uses and disclosures of PHI and/or ePHI created or received by Contractor during the course of performing functions, services and activities on behalf of County, and appropriate limitations and conditions on such uses and disclosures;

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

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

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

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

- (a) The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
- (b) The unauthorized person who used the PHI or to whom the disclosure was made;
- (c) Whether the PHI was actually acquired or viewed; and
- (d) The extent to which the risk to the PHI has been mitigated.

(2) Breach excludes:

- (a) Any unintentional acquisition, access or use of PHI by a workforce member or person acting under the authority of a covered entity or business associate, if such acquisition, access or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under subpart E of the Privacy Rule.
  - (b) Any inadvertent disclosure by a person who is authorized to access PHI at a covered entity or business associate to another person authorized to access PHI at the same covered entity, business associate, or organized health care arrangement in which County participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted by subpart E of the Privacy Rule.
  - (c) A disclosure of PHI where a covered entity or business associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.
- B. "Business associate" has the meaning given such term in 45 CFR §164.501, including but not limited to a subcontractor that creates, receives, maintains, transmits or accesses PHI on behalf of the business associate.
- C. "Data aggregation" has the meaning given such term in 45 CFR §164.501.
- D. "Designated record set" as defined in 45 CFR §164.501 means a group of records maintained by or for a covered entity that may include: the medical records and billing records about individuals maintained by or for a covered health care provider; the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or, used, in whole or in part, by or for the covered entity to make decisions about individuals.
- E. "Electronic protected health information" ("ePHI") as defined in 45 CFR §160.103 means protected health information transmitted by or maintained in electronic media.
- F. "Electronic health record" means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff, and shall have the meaning given such term in 42 USC §17921(5).
- G. "Health care operations" has the meaning given such term in 45 CFR §164.501.
- H. "Individual" as defined in 45 CFR §160.103 means the person who is the subject of protected health information.
- I. "Person" as defined in 45 CFR §160.103 means a natural person, trust or estate, partnership, corporation, professional association or corporation, or other entity, public or private.
- J. "Privacy Rule" means the HIPAA regulations codified at 45 CFR Parts 160 and 164, Subparts A and E.
- K. "Protected health information" ("PHI") has the meaning given such term in 45 CFR §160.103, which includes ePHI.

- L. "Required by law" has the meaning given such term in 45 CFR §164.103.
- M. "Secretary" means the Secretary of the U.S. Department of Health and Human Services ("HHS").
- N. "Security incident" as defined in 45 CFR §164.304 means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.
- O. "Security Rule" means the HIPAA Regulations codified at 45 CFR Parts 160 and 164, Subparts A and C.
- P. "Subcontractor" as defined in 45 CFR §160.103 means a person to whom a business associate delegates a function, activity, or service, other than in the capacity of a member of the workforce of such business associate.
- Q. "Unsecured protected health information" and "unsecured PHI" as defined in 45 CFR §164.402 means PHI not rendered unusable, unreadable, or indecipherable to unauthorized persons through use of a technology or methodology specified by the Secretary in the guidance issued under 42 USC §17932(h)(2).

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

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

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

- (1) Use PHI and/or ePHI if necessary for Contractor's proper management and administration and to carry out its legal responsibilities; and,
- (2) Disclose PHI and/or ePHI for the purpose of Contractor's proper management and administration or to carry out its legal responsibilities, only if:
  - (a) The disclosure is required by law; or,
  - (b) Contractor obtains reasonable assurances, in writing, from the person to whom Contractor will disclose such PHI and/or ePHI that the person will:
    - (i) Hold such PHI and/or ePHI in confidence and use or further disclose it only for the purpose for which Contractor disclosed it to the person, or as required by law; and,
    - (ii) Notify Contractor of any instances of which it becomes aware in which the confidentiality of the information has been breached; and,
- (3) Use PHI to provide data aggregation services relating to the health care operations of County pursuant to the Underlying Agreement or as requested by County;
- (4) De-identify all PHI and/or ePHI of County received by Contractor under this Addendum provided that the de-identification conforms to the requirements of the Privacy Rule and/or Security Rule and does not preclude timely payment and/or claims processing and receipt;
- (5) Use or disclose PHI for data analysis, data maintenance and storage; and
- (6) To the extent that Business Associate is tasked with carrying out any of Covered Entity's obligations under the Privacy Rule at Covered Entity's request, Business Associate shall comply with the requirements applicable to the obligation in the performance of any such obligations.

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

3. Prohibited Uses and Disclosures.

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

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

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

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

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

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

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

(4) Not to receive, directly or indirectly, remuneration in exchange for PHI, or engage in any act that would constitute a sale of PHI, as defined in 45 CFR §164.502(a)(5)(ii), unless permitted by the Underlying Agreement and in compliance with the requirements of a valid authorization under 45 CFR §164.508(a)(4). This prohibition shall not apply to payment by County to Contractor for services provided pursuant to the Underlying Agreement.

4. Obligations of County.

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

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

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

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

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

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

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

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

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

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

E. Report to County any use or disclosure of PHI and/or ePHI not provided for by this Addendum or otherwise in violation of HITECH, HIPAA, the Privacy Rule, and/or Security Rule of which Contractor becomes aware, including breaches of unsecured PHI as required by 45 CFR §164.410.

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

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

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

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

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

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

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

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

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

6. Access to PHI, Amendment and Disclosure Accounting. Contractor agrees to:
  - A. Access to PHI, including ePHI. Provide access to PHI, including ePHI if maintained electronically, in a designated record set to County or an individual as directed by County, within five (5) days of request from County, to satisfy the requirements of 45 CFR §164.524.
  - B. Amendment of PHI. Make PHI available for amendment and incorporate amendments to PHI in a designated record set County directs or agrees to at the request of an individual, within fifteen (15) days of receiving a written request from County, in accordance with 45 CFR §164.526.
  - C. Accounting of disclosures of PHI and electronic health record. Assist County to fulfill its obligations to provide accounting of disclosures of PHI under 45 CFR §164.528 and, where applicable, electronic health records under 42 USC §17935(c) if Contractor uses or maintains electronic health records. Contractor shall:
    - (1) Document such disclosures of PHI and/or electronic health records, and information related to such disclosures, as would be required for County to respond to a request by an individual for an accounting of disclosures of PHI and/or electronic health record in accordance with 45 CFR §164.528.
    - (2) Within fifteen (15) days of receiving a written request from County, provide to County or any individual as directed by County information collected in accordance with this section to permit County to respond to a request by an individual for an accounting of disclosures of PHI and/or electronic health record.
    - (3) Make available for County information required by this Section 6.C for six (6) years preceding the individual's request for accounting of disclosures of PHI, and for three (3) years preceding the individual's request for accounting of disclosures of electronic health record.
7. Security of ePHI. In the event County discloses ePHI to Contractor or Contractor needs to create, receive, maintain, transmit or have access to County ePHI, in accordance with 42 USC §17931 and 45 CFR §164.314(a)(2)(i), and §164.306, Contractor shall:
  - A. Comply with the applicable requirements of the Security Rule, and implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of ePHI that Contractor creates, receives, maintains, or transmits on behalf of County in accordance with 45 CFR §164.308, §164.310, and §164.312;
  - B. Comply with each of the requirements of 45 CFR §164.316 relating to the implementation of policies, procedures and documentation requirements with respect to ePHI;
  - C. Protect against any reasonably anticipated threats or hazards to the security or integrity of ePHI;
  - D. Protect against any reasonably anticipated uses or disclosures of ePHI that are not permitted or required under the Privacy Rule;
  - E. Ensure compliance with the Security Rule by Contractor's workforce;
  - F. In accordance with 45 CFR §164.308(b)(2), require that any subcontractors that create, receive, maintain, transmit, or access ePHI on behalf of Contractor agree through contract to the same restrictions and requirements contained in this Addendum and comply with the applicable requirements of the Security Rule;
  - G. Report to County any security incident of which Contractor becomes aware, including breaches of unsecured PHI as required by 45 CFR §164.410; and,
  - H. Comply with any additional security requirements that are applicable to covered entities in Title 42 (Public Health and Welfare) of the United States Code, as may be amended from time to time, including but not limited to HITECH.



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

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

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

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

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

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

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

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

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

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

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

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

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

E. Payment of costs. With respect to any breach of unsecured PHI caused solely by the Contractor's failure to comply with one or more of its obligations under this Addendum and/or the provisions of HITECH, HIPAA, the Privacy Rule or the Security Rule, Contractor agrees to pay any and all costs associated with providing all legally required notifications to individuals, media outlets, and the Secretary.

F. Documentation. Pursuant to 45 CFR §164.414(b), in the event Contractor's use or disclosure of PHI and/or ePHI violates the Privacy Rule, Contractor shall maintain documentation sufficient to demonstrate that all notifications were made by Contractor as required by 45 CFR Part 164, Subpart D, or that such use or disclosure did not constitute a breach, including Contractor's completed risk assessment and investigation documentation.

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

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

(2) Contractor agrees to report to County any unlawful or unauthorized access, use, or disclosure of patient's medical information without unreasonable delay and no later than five (5) business days after Contractor detects such incident. Contractor further agrees such report shall be made in writing, and shall include substantially the same types of information listed above in Section 8.A.2 (Content of Notification) as applicable to the unlawful or unauthorized access, use, or disclosure as defined above in this section, understanding and acknowledging that the term "breach" as used in Section 8.A.2 does not apply to California Health & Safety Code §1280.15.

9. Hold Harmless/Indemnification.

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

B. With respect to any action or claim subject to indemnification herein by Contractor, Contractor shall, at their sole cost, have the right to use counsel of their choice, subject to the approval of County, which shall not be unreasonably withheld, and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of County; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes Contractor's indemnification to County as set forth herein. Contractor's obligation to defend, indemnify and hold harmless County shall be subject to County having given Contractor written notice within a reasonable period of time of the claim or of the commencement of the related action, as the case may be, and information and reasonable assistance, at Contractor's expense, for the defense or settlement thereof. Contractor's obligation hereunder shall be satisfied when Contractor has provided to County the appropriate form of dismissal relieving County from any liability for the action or claim involved.

C. Notwithstanding Sections A and B, in the event either party is negligent, that negligent party will be responsible for paying their proportionate share of damages

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

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

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

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

11. Termination.

A. Termination for Breach of Contract. A breach of any provision of this Addendum by either party shall constitute a material breach of the Underlying Agreement and will provide grounds for terminating this Addendum and the Underlying Agreement. However, Contractor shall be allowed the opportunity to cure the breach. Either party, upon written notice to the other party describing the breach, may take any of the following actions:

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

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

B. Effect of Termination.

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

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

12. General Provisions.

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

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

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

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

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

F. Interpretation of Addendum.

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

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

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

County HIPAA Privacy Officer: HIPAA Privacy Manager  
County HIPAA Privacy Officer Address: P.O. Box 1569 Riverside, CA 92502  
County HIPAA Privacy Officer Fax Number: (951) 955-HIPAA or (951) 955-4472

----- TO BE COMPLETED BY COUNTY PERSONNEL ONLY -----

County Departmental Officer: \_\_\_\_\_  
County Departmental Officer Title: \_\_\_\_\_  
County Department Address: \_\_\_\_\_  
County Department Fax Number: \_\_\_\_\_

IN WITNESS WHEREOF, authorized representatives of the Parties have executed this Addendum.

ARC Pharmacy Consulting

County of Riverside

BY: Gary Johnson  
NAME: Gary Johnson  
TITLE: Resident  
DATE: 5/7/15

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_