

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



ITEM
3.89
(ID # 5066)

MEETING DATE:

Tuesday, August 29, 2017

FROM : RIVERSIDE UNIVERSITY HEALTH SYSTEM (RUHS):

SUBJECT: RIVERSIDE UNIVERSITY HEALTH SYSTEM (RUHS): Approval of the Professional Services Agreement with Strata Decision Technology, LLC to provide a cost accounting and performance measurement software system without seeking competitive bids effective August 29, 2017; 5 years; [All Districts]; [\$2,491,960]; Hospital Enterprise Fund

RECOMMENDED MOTION: That the Board of Supervisors:

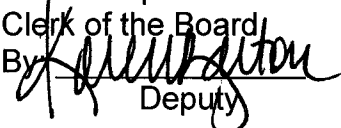
1. Approve and execute the Professional Services Agreement with Strata Decision Technology, L.L.C. to provide a Cost Accounting and Performance Measurement Software System without seeking competitive bids effective August 29, 2017 through June 30, 2022 in the amount of \$2,491,960, which includes contingency fees of \$71,060 and.
2. Authorize the Purchasing Agent, in accordance with Ordinance No. 459, based on the availability of fiscal funding and as approved by County Counsel to: sign amendments that do not change the substantive terms of the agreement and sign amendments to the compensation provisions that do not exceed ten (10) percent of the aggregate amount.

ACTION:

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Ashley, seconded by Supervisor Perez and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Washington, Perez and Ashley
Nays: None
Absent: Tavaglione
Date: August 29, 2017
xc: RUHS, Purchasing

Kecia Harper-Ihem
Clerk of the Board
By: 
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
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FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$1,322,659	\$ 339,086	\$ 2,491,960	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: Hospital Enterprise Fund - 40050			Budget Adjustment:	No
			For Fiscal Year:	17/18-21/22

C.E.O. RECOMMENDATION: [CEO use]

BACKGROUND:

Summary

The requested Board action will allow the medical center to purchase a cost accounting and performance measurement system that will provide an efficient method of collecting and reporting cost accounting, performance measurements, and financial forecasting which will aide in identifying opportunities for potential savings and improved patient outcomes.

Riverside University Health System (RUHS) – Medical Center is in need of software that will analyze costs across physicians, payors and product lines. Strata will allow the user to evaluate cost margins and formulate custom design reports. Strata will provide the following functions:

- Financial Planning and modeling
- Provide best practice reporting
- House actual payment information and calculate expected payment in an effort to monitor correct payment and payment variances
- The ability to drill down further on data extracted from service lines, payors, and physicians to quantify and report on margins.
- Continuous Improvement tracking; ability to track cost savings by monitoring progress of projects
- Provide a platform that will allow finance, operations and physicians to collaborate by streamlining processes and eliminate inefficiencies in hospital and expand on process improvement.
- Ability to provide preview physician costs variances
- Capital Planning and Tracking; Desktop tool that allows for constructing, forecasting and reviewing the capital budget. System capabilities also allow for customized forms and tools used for processing and managing the release of capital funds.
- Asset Management / Equipment Replacement; Tracks aging equipment expenses and forecasts replacement timeline by priority
- Desk Top Operations Budget that enables Managers and Executive level personnel to produce, preview and forecast budget changes within the hospital.
- Tracks Productivity Management and allows for detailed reports and charts by department to measure labor productivity

Strata Decision Technology, L.L.C. is unique in the feature of tracking continuous improvements. The software has pre-built algorithms that target key areas. This feature reduces

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STATE OF CALIFORNIA**

the time and resources it would take to drill down to specific data. Strata is the leading cloud-based Software As A Service (SaaS) financial analytics and performance platform in healthcare. They are an enterprise-wide solution that addresses the financial planning, decision support and continuous cost improvement of healthcare providers

Impact on Residents and Businesses

The Hospital, patients of the hospital and members in the community would benefit from the implementation of the Strata software because it would allow the hospital to improve on the quality of care administered daily. Strata will drill down on operational inefficiencies and allow the hospital staff to develop and implement plans for process of improvement which will improve on quality as well as access to care

Contract History and Price Reasonableness

Kern County has a similar contract with Strata. As a County entity, Strata offered Riverside University Health System comparable contract.

The rates and terms in the contract before the Board today are consistent with the Strata agreement. Additional expenses, including travel, are estimated and included in the fiscal year pricing. These additional expenses are included in the amount before the Board for approval. These costs will remain consistent with and not exceed the county's travel policy limits.



Douglas Cady, Principal Management Analyst

8/22/2017



Teresa Summers, Assistant Director of Purchasing

8/21/2017



Gregory V. Priaplos, Director County Counsel

8/21/2017

Date:

From: Zareh Sarrafian, Assistant CEO – Health Systems

To: Board of Supervisors/Purchasing Agent

Via:

Subject: Sole Source Procurement; **Request for Cost Accounting / Decision Support Software System**

The below information is provided in support of my Department requesting approval for a sole source.

1. **Supplier being requested:** Strata Decision Technology, L.L.C.
2. **Vendor ID:** TBA
3. **Supply/Service being requested:** To acquire a cost accounting/decision support system for the medical center and clinics (including FQHC's).
4. **Alternative suppliers that can or might be able to provide supply/service and extent of market search conducted:** There are other vendors that can provide cost accounting but Strata is the only provider of both cost accounting and tracking of performance improvement. In addition to capital and operating budget preparation and financial reporting it is an all in one integrated application, which is a requirement for accurate budget reporting for a hospital.
5. **Unique features of the supply/service being requested from this supplier, which no alternative supplier can provide:**
Strata Decision Technology, L.L.C. is unique in that it provides the ability for tracking continuous improvement of hospital-defined initiatives. The software has pre-built algorithms that target key areas. This feature reduces the time and resources it would otherwise take to drill down to specific performance results. Strata is also a more robust product in that it contains budgeting, financial analysis, performance monitoring, cost accounting and reporting modules that are integrated within one software platform. The alternative would be the purchase of several separate applications, and would require more resources to develop interfaces between each of them.

Strata is an enterprise-wide solution that addresses the financial planning, decision support and continuous cost improvement of healthcare providers. It is the leading cloud-based Software As A Service (SaaS) financial analytics and performance platform in healthcare as measured by KLAS, a global research organization evaluating healthcare software. In 2017, Strata was rated Best in KLAS for Business Decision Support systems.

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

Riverside University Health System (RUHS) – Medical Center is in need of a software too that will allow management to quickly and accurately analyze costs across physicians, payors and product lines. Strata will allow the user to evaluate cost margins and formulate custom designed analyses and reports. Strata will provide the following functions:

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- The ability to drill down on data extracted from service lines, payors, and physicians to quantify and report on margins.
- Continuous Improvement tracking; ability to track cost savings by monitoring progress of projects
- Provide a platform that will allow finance, operations and physicians to collaborate by streamlining processes and eliminate inefficiencies in the hospital and expand on process improvement.
- Ability to provide cost variance tracking by physician
- Capital Planning and Tracking: a tool that allows for constructing, forecasting and reviewing the capital budget. System capabilities also allow for customized forms and tools used for processing and managing the release of capital funds.
- Asset Management / Equipment Replacement: tracks aging equipment expenses and forecasts replacement timelines by priority
- Operations Budget tool that enables Managers and Executive level personnel to produce, preview and forecast budget changes within the hospital.
- Tracks Productivity Management and allows for detailed reports and charts by department to measure labor productivity

7. **Period of Performance:** 8/29/2017-8/31/2021 for a 5 year agreement with the option to renew for two additional years, upon mutual agreement.

Is this an annually renewable contract? Yes.

Is this a fixed-term agreement? Yes: 5 Year agreement.

8. **Identify all costs for this requested purchase. If approval is for multiple years, ongoing costs must be identified below. If annual increases apply to ongoing costs such as CPI or other contract increases, provide the estimated annual cost for each consecutive year. If the annual increase may exceed the Purchasing Agent's authority, Board approval must be obtained.**

Description	2017	2018	2019	2020	2021	TOTAL
StrataJazz Implementation Fee	\$838,200	\$0	\$0	\$0	\$0	\$838,200
StrataJazz Subscription Fees	\$477,161	\$477,161	\$477,161	\$477,161	\$477,161	\$2,385,805
Discount	(\$276,805)	(\$151,075)	(\$151,075)	(\$151,075)	(\$151,075)	(\$881,105)
*Travel Expenses – Billed as incurred and not to exceed annual amount.	\$40,000	\$20,000	\$6,000	\$6,000	\$6,000	\$78,000
Total	\$1,078,556	\$346,086	\$332,086	\$332,086	\$332,086	\$2,420,900

*Contingency fees outlined in this agreement are not included in the fee summary above. Contingency fees billed; Not to exceed \$71,060, through the term of this agreement.

9. **Price Reasonableness:** On a per licensed user basis, the contracted rate for RUHS (a large facility with over 100 users) is \$3,200 lower than the rate negotiated between Strata and Kern Hospital Authority (a smaller facility with 65 end users) for similar services. The maximum amount shall not exceed \$2,569,960, including a 10% contingency. RUHS performed a Value Analysis through the ECRI Institute for a price analysis and identified an additional 31% potential savings in which RUHS negotiated the rates even lower. Therefore, allowing the rates offered to be nationally competitive for this industry and price reasonableness.

10. **Projected Board of Supervisor Date (if applicable): August 29, 2017**

Department Head Signature

Print Name

Date

Purchasing Department Comments:

Approve

Approve with Condition/s

Disapprove

Not to exceed: \$ _____

One time

Annual Amount through _____
(Date)

Purchasing Agent

Date

Approval Number

(Reference on Purchasing Documents)

List Attachments: Contract Agreement



**Riverside
University
HEALTH SYSTEM**

Date:

From: Zareh Sarrafian, Assistant CEO – Health Systems

To: Board of Supervisors/Purchasing Agent

Via:

Subject: Sole Source Procurement; Request for Cost Accounting / Decision Support Software System

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6/30/21
 7. **Period of Performance:** 8/29/2017-8/31/2021 for a 5 year agreement with the option to renew for two additional years, upon mutual agreement. - **MUST GO TO BOS FOR APPROVAL AFTER YEAR 5**
 Is this an annually renewable contract? Yes.
 Is this a fixed-term agreement? Yes: 5 Year agreement.

8. **Identify all costs for this requested purchase. If approval is for multiple years, ongoing costs must be identified below. If annual increases apply to ongoing costs such as CPI or other contract increases, provide the estimated annual cost for each consecutive year. If the annual increase may exceed the Purchasing Agent's authority, Board approval must be obtained.**

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10. **Projected Board of Supervisor Date (if applicable): August 29, 2017**

Department Head Signature

Zoe Saccoban
Print Name

8/15/17
Date

Purchasing Department Comments:

Approve

Approve with Condition/s

Disapprove

Not to exceed: \$ 2,491,960 ^{TOTAL CONTRACT} One time ^{NOT TO EXCEED} Annual Amount through 6/30/22
(Date)

[Signature] *8/14/17* *18-043*
Purchasing Agent Date Approval Number

(Reference on Purchasing Documents)

List Attachments: Contract Agreement



SOFTWARE USE AGREEMENT

THIS SOFTWARE USE AGREEMENT ("Agreement") is made and entered into August 29, 2017 (the "Effective Date"), by and between Strata Decision Technology LLC, an Illinois Limited Liability Company with principal offices at 200 East Randolph Street, 49th Floor, Chicago, Illinois 60601 ("Strata Decision") and the County of Riverside, a political subdivision of the State of California, on behalf of Riverside University Health System, having its principal offices at 26520 Cactus Avenue, Moreno Valley, California 92555 ("Customer").

WITNESSETH:

WHEREAS, Strata Decision desires to grant to Customer, and Customer desires to obtain from Strata Decision, a non-exclusive right to use the computer software and related materials described below, all on the terms and conditions set forth in this Agreement.

AGREEMENTS:

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Definitions. As used in this Agreement, the following definitions will apply:

"Affiliate" means, with respect to either party, any person or entity which such party controls. For purposes of the preceding sentence, the term "Control" means the ownership of more than fifty percent (50%) of an entity's voting securities;

"Authorized User" means a party granted the right to use the Program Assets at the User Sites, including and limited to only the following: (a) Customer, its Affiliates and their employees and authorized agents; (b) nurses, physicians and technicians or staff otherwise affiliated with Customer, including, without limitation, the medical staff members; (c) Third Party consultants and other independent contractors performing services for Customer; and (d) any governmental bodies lawfully requesting or requiring access. Notwithstanding the foregoing, the entities listed in Exhibit D, their respective personnel, and their respective Affiliates shall at no time be deemed to be an Authorized User;

"Contract Year" means each successive 12-month period after the Effective Date of this Agreement;

"Hospital" means a healthcare provider of inpatient and other healthcare services with a single National Provider Identifier (i.e. Medicare number) without regard for sub-provider identifiers;

"Input Data" means all data entered into the Programs by the Customer and/or its Affiliates;

"Programs" means the computer software identified in Exhibit A to this Agreement, which is hereby incorporated by reference and made a part of this Agreement, and also includes any subsequent upgrades provided by Strata Decision;

"Program Assets" means the Programs and the User Guides;

"Proprietary Assets" means the copyright, patent, trade secret and other proprietary rights of Strata Decision included in the Program Assets, including, without limitation, the Strata Decision's Confidential Information and Materials identified in Section 9.2;

"Report User" means individual user of the Programs with a specified name with a unique Windows or network logon name or ID who has read only report viewing access to the Programs;



"System User" means an individual user of the Programs with a specified name with a unique Windows or network logon name or ID who has full access to the Programs;

"User Guides" means the user manuals and user guides provided by Strata Decision to Customer pursuant to the terms of this Agreement which embody, represent, describe or specify the Programs or their uses, operations or applications;

"User Site" means the Hospitals identified in Exhibit B of this Agreement.

Other defined terms are contained in the body of this Agreement.

2. Customer Rights Under Agreement.

2.1 In accordance with the terms of this Agreement, Strata Decision grants to Customer, and Customer accepts from Strata Decision, a limited, non-transferable, non-exclusive right to use the Programs (or any version thereof provided to Customer pursuant to this Agreement) via Strata Decision's hosted application environment. Notwithstanding the foregoing, Strata Decision acknowledges that part of Customer's business may involve operating in a shared resource and/or service bureau environment, and in connection with such business, Customer will have, subject to the requirements set forth in this Agreement, the right to use the Programs for itself and the Affiliates listed as User Sites in Exhibit B, such right of use will include a right of access and direct use by Authorized Users at the User Sites.

2.2 Customer will have the right to modify the Program Assets and/or merge the same into other programs and materials to form an updated work for its own use.

2.3 A schedule listing the User Sites from which the Program Assets will be accessed (User Sites) is attached to this Agreement as Exhibit B and incorporated herein by this reference. Customer must obtain from Strata Decision advance written approval, which will not be unreasonably withheld, before any changes are made to the User Sites listed in Exhibit B. Customer recognizes the fees for the rights granted hereunder are based upon the number of System Users for the User Sites and a change may result in an increase in fees.

2.4 Customer must not access the Program Assets from any location other than the User Sites and must prevent use or access of the Program Assets by anyone other than Customer or other Authorized Users. Customer acknowledges that any use of the Program Assets in violation of this Section constitutes a material breach of the terms of this Agreement. Customer and Authorized Users are permitted to access the software from remote sites, so long as such access conforms to the Customer's policies for remote access to confidential information.

3. Term.

This Agreement will be effective on the date first written above and will be in effect through the Commitment Period outlined in Section 6.1, unless terminated pursuant to the express terms of this Agreement.

4. Delivery; Installation; Consulting Support.

4.1 In order to validate the Warranty and Support portions of this Agreement, Strata Decision will make the programs available for use by Customer (the "Installation Date") within fifteen (15) days of the Effective Date of this Agreement. If Customer does not agree that the Programs operate properly in accordance with the System Technical Requirements set forth on Exhibit C located at: <http://www.stratadecision.com/TechRequirements>, it will so advise Strata Decision in writing within thirty (30) days of the Installation Date. Strata Decision will then take corrective action to remedy the situation.



4.2 Strata Decision shall provide implementation consulting support for the Programs in accordance with a mutually agreed upon statement of work. The number of consulting support days, the corresponding fees, and the billing terms for those fees are outlined in Exhibit A to this Agreement (excluding travel which will be billed separately as incurred in accordance with the travel caps outlined in Exhibit A). These consulting days are to be used within one year from receipt of the Programs. Additional consulting services beyond the effort outlined in Exhibit A and the agreed upon statement of work or additional consulting time that may result from Customer implementation decisions contrary to Strata Decision's recommendations are not included in Strata Decision's support duties under this Agreement, but are available to Customer at Strata Decision's current rates. Customer further agrees to the following terms:

- Customer will form an executive steering committee to formulate and communicate the projects goals, objectives and expectations to the organization and will be responsible for internal-buy in and participation in the project.
- Customer will identify and assign needed staff (including IT Resources) and final decision makers prior to the project kick-off call and will provide access to the required subject matter advisors and key staff in a manner required to meet agreed upon timelines including but not limited to being accessible for kick-off meetings, working sessions, status updates, deliverable reviews, and directional decision-making as needed.
- Customer will provide requested data and other input needed to complete services provided by Strata Decision Technology in a timely manner per milestones mutually agreed-up by the Customer and Strata Decision
- Customer data reconciliation with Strata Decision will take no more than 3 iterations (i.e. data loads)
- Executive sponsors or final decision makers from Customer will review and sign-off on recommendations within 2 business days of request.
- Customer agrees to adhere to Strata's implementation recommendation including sequencing of modules.

4.3 Strata Decision shall make its resources available to Customer for a specified number of ongoing consulting support days pursuant to the details outlined in Exhibit A. The allotment of person-days for a given contract year is to be used within one year, and will not carry over from year to year. Additional consulting services beyond this allotment will not be included in Strata Decision's support duties under this Agreement, but are available to Customer at Strata Decision's then current rates for labor.

5. Charges.

5.1 Customer will pay Strata Decision the fees set forth in Exhibit A, in accordance with the Payment Schedule set forth therein. Any and all other charges due under this Agreement will be due and payable within thirty (30) days of Customer's receipt of the applicable invoice.

5.2 Customer will be responsible for the payment of all taxes levied or based on this Agreement or the Program Assets, including state and local privilege or excise taxes; provided that Customer will not be responsible for the payment of taxes based on the net income of Strata Decision.

6. Annual Fees / Automatic Renewal / Upgrades / Tech Support.

6.1 Customer has made a commitment to use the suite of Program Assets for a minimum of 5 years from the Effective Date (i.e., the "Commitment Period"). Notwithstanding a multi-year extension of this Agreement at the end of the Commitment Period as agreed by both parties, this Agreement may renew for successive one (1) year periods ("Renewal Period") by written amendment signed by both parties at least ninety (90) days prior to the end of the Commitment Period or a Renewal Period. At the end of the Commitment Period, if renewed within the required notice period, then Strata Decision may, increase the annual fees outlined in Exhibit A by not more than five percent (5%) per year for renewals of two (2) years or more or not more than ten percent (10%) per year for a



renewal of one (1) year . Such increase will be mutually agreed upon by the parties in a writing signed by both parties..

6.2 Customer must pay the annual fees outlined in Exhibit A for continued use of the suite of Program Assets beyond the first Contract Year. In the event that Customer fails to pay the annual fees outlined in Exhibit A, Customer's access to the Program Assets will be terminated, and Customer must immediately cease and desist from using the suite of Program Assets.

6.3 Payment of the annual fees outlined in Exhibit A entitles Customer to receive upgrades of the Programs in use that are of the same software platform and free Technical Support for unlimited support incidents for resolving incidents where software functionality does not perform in accordance with User Guides. Technical Support is defined to include, but not be limited to, the following: software system-related error messages, system performance issues, troubleshooting specific to system issues or error messages, software system errors. Support personnel will assist Customer in resolving issues with the use of the Program Assets and answer related general questions. For this Technical Support, Strata Decision's hours of operation are Monday through Friday, 7:00 a.m. to 7:00 p.m. United States Central Time.

6.3(a) Technical Support is available to Customer in the following way through the following communication:

- Telephone: Call 1-312-726-1227 and select the technical support option.
- E-Mail: Send messages to support@stratadecision.com
- Fax: 1-312-726-2947 (to be used only when telephone or email fails)

6.3(b) Strata Decision will enter Technical Support incident reports provided by Customer into Strata Decision's call tracking system, and prioritize requests using the following categories:

Category 1 – Program malfunction that prevent substantial numbers of Customer's users from using Programs for substantially all normal functions using normal procedures.

Category 2 – Same as Category 1, except that malfunction prevents some of Customer's users from using some normal functions using normal procedures.

Category 3 – All normal functions of the Programs are operational and can be productively used, but one or more functions are degraded as a result of a malfunction.

Category 4 – Cosmetic issues and other minor issues that do not result in degraded performance or otherwise materially affect use or functionality of the Programs.

Strata Decision will use commercially reasonable efforts to provide the following Response and Resolution times for the Categories. Response and Resolution times are measured from the time that the report is received by Strata Decision Technical Support staff:

Category	Standard Business Hours	
	Response Time	Resolution Time
1	2 business hours	1 business day
2	4 business hours	2 business days
3	8 business hours	5 business days
4	8 business hours	15 business days

Strata Decision will use commercially reasonable efforts to either fix or provide a workaround procedure for any material breach of functionality as described in the then current User Guides as long as the Program Assets are used with software and operating systems that match then-current Strata Decision technical standards. Resolution times are measured from the time a problem is reported until the time that Customer is sent notification that a solution has been tested and verified by Strata Decision staff, and does not include time required for the Customer to verify that solution. Resolution times exclude any time waiting for completion of reasonable requests from Strata Decision staff for testing, additional information, or completion of problem resolution procedures when those step must be carried out by Customer's employees or third-party product and service providers.



Strata Decision will be in material breach pursuant to Section 10.1 of this Agreement for its failure to perform the obligations identified above if the following conditions occur:

1. Customer reports a software system-related error or issue which is classified as a Category 1 and Strata Decision does not provide a fix or workaround procedure that addresses such system-related error or issues within 10 business days.

2. Customer notifies Strata Decision that such software system-related error or issue is still unresolved after 10 business days have elapsed, and Strata Decision is still unable to provide a fix or workaround procedure that addresses such system-related error or issues within 5 additional business days.

6.4 Except in instances where this Agreement is terminated as a direct result of Strata Decision's material breach, nothing in this Agreement will relieve the Customer of its obligations to pay the fees outlined in Exhibit A for the full Commitment Period. Subject to the foregoing, Customer must remit to Strata Decision the fees outlined in Exhibit A during the Commitment Period even if the Agreement terminates prior to the end of the Commitment Period. Customer further understands that all fees are distinct and separate payment obligations of the Customer under the terms of this Agreement and that no refunds will be issued for an early termination of this Agreement.

6.5 As part of the payment of the fees outlined in Exhibit A, Strata Decision will host one (1) production version of the Programs and provide access to the Programs to Customer's users for the duration of the Commitment Period. Strata Decision's Hosting Service Level Agreement is attached as Exhibit E. Hosting fees are for the user counts outlined in Exhibit A to this Agreement, and any increase in the number of users will result in an increase in the fees set forth in Exhibit A. Strata Decision reserves the right to periodically archive and/or purge all data after seven (7) years. Should Customer need to store additional data after seven (7) Seven years, they may do so in exchange for an annual fee of \$10,000 per year for each additional year of data stored.

6.6 The fees for the 3M Medicare Inpatient Grouper data feed associated with the use of StrataJazz Cost Accounting are included in the fees outlined in Exhibit A and are contingent on the number of Hospitals licensed under this Agreement, as shown in Exhibit B.

6.7 Strata Decision will provide Customer with eLearning training modules to be used for end user training on the Programs for the duration of Customer's Commitment Period in exchange for the fees outlined in Exhibit A. These fees are subject to change based on (i) increases in fees from the third party eLearning provider (the Breakaway Group) or (ii) the purchase of additional System Users by Customer for the eLearning training. Customer agrees to the Acceptable Use Policy for the eLearning training module, which is outlined in Exhibit A-1.

7. Strata Decision Warranties.

7.1 During the Commitment Period (the "Warranty Period"), Strata Decision warrants that the Programs will operate properly when used in the manner specified in the User Guides to be provided by Strata Decision. The extent of Strata Decision's obligations under the foregoing warranty will be limited to correcting or replacing defective Programs and User Guides, so as to satisfy such warranties, provided that, if Strata Decision fails to do so, at Customer's election, Customer may terminate this Agreement, and thereafter Customer will have no further obligations to make any payments under this Agreement and the parties will have no further rights or obligations under this Agreement except as set forth in Section 10.3 below. In addition, for the first six (6) months following the Effective Date, The County of Riverside Board of Supervisors or its Delegate (defined to be a person of authority at Customer's site who is authorized to sign contractual agreements) has the option to cancel this Agreement for any reason and receive a refund of any subscription fees that have previously paid, excluding travel and any other direct expenses. Notwithstanding anything to the contrary contained in this Agreement, the foregoing warranty will not apply to malfunctions not promptly reported by Customer during the Warranty Period or from: (i) unapproved alteration or modification of the Programs or any component thereof by Customer or others (any update provided by Strata Decision is considered for this section an approved alteration or modification of the Programs), or (ii) use of the Programs in conjunction with software obtained from another source not indicated by Strata Decision to be compatible with the Programs.



7.2 EXCEPT AS OTHERWISE EXPRESSLY STATED IN THIS AGREEMENT, STRATA DECISION MAKES NO EXPRESS OR IMPLIED WARRANTIES OF ANY KIND WITH RESPECT TO THE PROGRAMS, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. STRATA DECISION DOES NOT WARRANT THE RESULTS OF ANY PROGRAM OR SERVICE OR THAT ANY ERRORS IN ANY PROGRAM WILL BE CORRECTED, OR THAT THE FUNCTIONALITY CONTAINED IN THE PROGRAMS WILL MEET CUSTOMER'S REQUIREMENTS.

7.3 EXCEPT AS SET FORTH IN SECTION 8 BELOW, STRATA DECISION'S TOTAL LIABILITY, IF ANY, INCLUDING BUT NOT LIMITED TO LIABILITY ARISING OUT OF CONTRACT, TORT, BREACH OF WARRANTY, INFRINGEMENT, PERSONAL INJURY, DAMAGE TO REAL PROPERTY OR PERSONAL PROPERTY OR OTHERWISE, SHALL NOT IN ANY EVENT EXCEED THE ANNUAL SUBSCRIPTION FEES PAID BY CUSTOMER TO STRATA DECISION IN THE YEAR GIVING RISE TO THE CLAIM. STRATA DECISION WILL NOT BE LIABLE UNDER ANY CIRCUMSTANCES FOR LOSS OR INACCURACY OF DATA, LOSS OF PROFITS OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, THE COSTS OF ANY SUBSTITUTE PROCUREMENT) WHETHER OR NOT FORESEEABLE AND EVEN IF STRATA DECISION HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8. Indemnity.

8.1 Strata Decision shall indemnify, defend, and hold harmless Customer against any claim asserted against Customer alleging that the Program Assets infringe a United States patent or copyright. Strata Decision's obligation under this Paragraph is subject to Customer promptly notifying Strata Decision in writing of such claim and giving Strata Decision full and complete authority, information and assistance in the defense of such claim. Strata Decision shall have no liability or obligation to Customer with respect to any such claim if such claim is based upon: modification of the Program Assets made at the request of or according to the specifications of Customer; use by Customer of the Program Assets with non-Strata Decision software, data, or materials not indicated by Strata Decision to be compatible with the Program Assets; or for alterations to the Program Assets not approved by Strata Decision if such alleged infringement would not have occurred but for Customer's use of such non-Strata Decision software, data, or materials in conjunction with the Program Assets, or but for such alterations. In addition, Strata Decision shall not be responsible for the cost of any settlement of any such claim made without the prior written consent of Strata Decision, which shall not be unreasonably withheld. In the event that any such claim of infringement is made or threatened, or injunctive relief is granted to the third-party claimant, Strata Decision may, at its sole option, either: (a) secure the right for Customer to continue using the Program Assets, (b) substitute other software of like capability, or (c) refund to Customer an amount equal to the subscription fees paid by Customer per Exhibit A, whereupon Customer will discontinue its use of the Program Assets. Strata will also pay any and all costs of returning to Customer a full and complete copy of all Input data stored within with software. This paragraph sets forth the complete liability of Strata Decision with respect to infringement of intellectual property rights.

8.2 Customer agrees that it will defend at its expense any action brought against Strata Decision to the extent that such action is based upon a claim that the Program Assets infringe upon or misappropriate a copyright, patent, trade secret or other proprietary right of any third party if, and only if, such action is based upon use by Customer of the Program Assets with software, data, or materials not indicated by Strata Decision to be compatible with the Program Assets or for alterations to the Program Assets made by Customer and not approved by Strata Decision if such alleged infringement would not have occurred but for the use of such non-Strata Decision software, data or materials in conjunction with the Program Assets or but for such alterations, and Customer will pay any costs, damages and attorneys' fees incurred by or finally awarded against Strata Decision in such action which are attributed to such claim, provided that, Strata Decision notifies Customer promptly in writing of the claim and that Customer may fully control the defense and/or any settlement of such claim.

9. Ownership, Confidentiality and Protection of Proprietary Information.



9.1 It is agreed and understood by Customer that the Proprietary Assets are the sole property of Strata Decision; provided however that all Input Data, in all file formats, will be the sole and exclusive property of Customer.

9.2 During the course of this Agreement, each party and its Authorized Users will have access to the other party's "Confidential Information," which includes, without limitation, the User Guides, information pertaining to customer lists, services, methods, processes, profits, operating procedures, and any other information disclosed in confidence. Each party will, to the extent and in accordance with its policies used to protect its own Confidential Information, use commercially reasonable efforts to refrain from and prevent the use or disclosure of any such Confidential Information disclosed or obtained by it while performing its obligations under this Agreement, except where such use or disclosure is for internal purposes, is required pursuant to the governmental authority listed in Exhibit A, or by any other governmental authority. Such commercially reasonable efforts will include, at a minimum: (a) preventing the removal of any Confidential Information from such party's premises without the other party's prior written approval; (b) prohibiting the copying or distribution of any Confidential Information without the other party's prior written consent; and (c) prohibiting use of any Confidential Information for any purpose other than those contemplated by this Agreement. Notwithstanding the foregoing, each party's obligations to protect the confidentiality of any such Confidential Information will terminate if the same falls into the public domain without breach by such party of its obligations under this Agreement and such materials, but only such materials, will thereupon cease being Confidential Information. In addition, the foregoing obligations of the parties will not apply to information which is disclosed to a party by a third party with the right to do so. Strata Decision is aware that Customer is a government entity and is subject to the California Public Records Act, *Cal.Govt.Code §6250 et seq.*, the Brown Act, *Cal.Govt.Code §54950 et seq.*, and other laws pertaining to government entities. Information required by law to be disclosed will not be considered Proprietary and Confidential by the Parties and will be disclosed only to the extent required to comply with that legal obligation.

10. Termination and Remedies.

10.1 If either party materially breaches any provision of this Agreement and fails to cure the same within forty-five (45) calendar days of its receipt of written notice of such breach from the non-breaching party, then the non-breaching party may at its sole discretion declare this Agreement to be in default and all rights of both parties under this Agreement to be terminated.

10.2 Immediately following the termination of this Agreement pursuant to Section 10.1 above, Customer will cease to use the suite of Program Assets in the conduct of its business except to make an archival copy of data previously processed using the suite of Program Assets and to convert such data so that it may be processed by the software used to replace the Programs. Unless this Agreement otherwise provides, within thirty (30) calendar days of the termination of this Agreement, Customer will return to Strata Decision all physical embodiments of the suite of Program Assets and will continue to maintain the confidentiality thereof.

10.3 Non-appropriation. Customer, as a government entity, reserves the right to terminate this Agreement in the event insufficient funds are appropriated for this Agreement in any fiscal year under the provisions of California Constitution Article 16 section 18a. Customer's fiscal year is July 1 to June 30 of each calendar year. Upon such termination, Customer will be released from any further financial obligation to Strata Decision except for services performed prior to the date of termination or any liability due to any default existing at the time this clause is exercised. Strata Decision will be given 30 days' prior written notice in the event that Customer requires such an action.

10.4 The provisions of Sections 6.4, 7.2, 7.3, 8, 9, and 10.2 will survive the termination of this Agreement.

11. Data Security.



11.1 "Customer Data" means any data and information, that is stored in Strata Decision's system or software, provided by Customer and its users to Strata Decision, or otherwise obtained by Strata Decision from Customer and its users in connection with this Agreement.

11.2 Strata Decision shall not gather or pull any Customer Data or utilize Customer Data for any purpose, other than as expressly authorized by this Agreement or in writing by an authorized official of Customer.

11.3 With respect to system security as it pertains to Customer and Customer Data, Strata Decision agrees to:

- (a) segment Customer Data away from Strata Decision's internal users, so that only authorized employees of Strata Decision with a need to know such information can access it;
- (b) encrypt all back-up media, laptops, mobile devices, jump/USB or similar portable drives, and similar devices that interact with and/or store Customer Data ("Devices"), and keep audit logs of such Devices to verify, in the event of the loss of a Device, that such Device was encrypted;
- (c) put into place all other external controls on Customer Data necessary to prevent such data from being obtained, viewed, altered, or otherwise accessed by unauthorized users, and to prevent its systems from being compromised or breached (i.e., electronic defenses, Access Control Lists (ACLs) on routers, firewalls, etc.);
- (d) not use or permit generic account logins for multiple persons or generic root access to its information systems; i.e., all of Strata Decision's system administrators of information systems must have their own logins so they can be tracked and audited individually;
- (e) have adequate physical security controls in place at its data center and in all other areas or locations (physical or virtual) where Customer Data is stored or processed (voice, video, data, logs, etc.);
- (f) have company security policies documented and all of those policies implemented, and provide a copy of such policies to Customer for its review upon request, and require that any subcontractors of Strata Decision adhere to such security policies;
- (g) use adequate logical security controls to separate Customer Data from other customers' data;
- (h) encrypt data transmissions between Strata Decision and Customer using HTTPS, VPN, Secure FTP or other mutually approved method of encryption;
- (i) permit any and all off-site storage or backups of Customer Data only in a secure storage facility pre-approved by Customer.
- (j) ensure that its agents, subcontractors, third party providers, and users who have access to Customer Data are bound at least as stringent as those applicable to Strata Decision under this Agreement, with respect to data security and protection and non-use of Customer Data; and

11.4 Destruction of Data Standards. Upon termination of this Agreement, Strata Decision will destroy all Customer Data, including for purposes of this Section 11.4 any data that is created by Strata Decision using Customer Data or other Confidential Information of Customer, and neither Strata Decision nor any of Strata Decision's agents or subcontractors will retain any such Customer Data in any form. The methods used for destruction of such data will meet or exceed the standards set forth in NIST Special Publication 800-88, Guidelines for Media Sanitization.

12. Data Submission.



12.1 Customer agrees to forward all data files to Strata Decision using secure file transfer protocol (SFTP) to Strata Decision's SFTP server. A unique SFTP account will be provided to the customer. Strata Decision shall assume no responsibility for any data file until receipt and unless sufficient security is maintained to protect the confidentiality and integrity of all data while it is being transferred to Strata.

12.2 The parties will execute a mutually acceptable Business Associate Agreement (BAA) that complies with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). Both parties agree that no work on StrataJazz Cost Accounting Implementation can begin until this BAA is executed by both parties.

13. General Provisions.

13.1 Except as specifically provided in this Agreement, neither this Agreement nor Customer's rights or duties under this Agreement may be assigned or delegated by Customer without Strata Decision's prior written consent; provided that, Customer may, upon written notice to Strata Decision, assign the rights granted under Section 2 to any Affiliate of Customer or to any entity which acquires all or substantially all of the assets of Customer if, in each instance, the party to whom Customer's rights under this Agreement are assigned agrees in writing to assume Customer's obligations under this Agreement.

13.2 Customer specifically recognizes that (i) Strata Decision owns the Proprietary Assets, (ii) the Proprietary Assets are of value to Strata Decision, and (iii) any unauthorized disclosure or use of the Program Assets will cause irreparable injury to Strata Decision and that actual damages may be difficult to ascertain, and in any event, may be inadequate. Accordingly, Customer agrees that in the event of any such unauthorized disclosure or use, Strata Decision may be entitled to injunctive relief, without bond, in addition to such other legal and equitable remedies that may be available.

13.3 This Agreement and the exhibits attached hereto constitute the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, whether written or oral, and may only be modified by a written instrument signed by both parties hereto.

13.4 [INTENTIONALLY OMITTED.]

13.5 This Agreement will be binding upon and inure to the benefit of the parties and their permitted successors and assigns.

13.6 If any provision of this Agreement is not enforceable in whole or in part, the remaining provisions of this Agreement shall not be affected. No failure or delay in exercising any right, power or privilege under this Agreement shall operate as a waiver of it, nor shall any single or partial exercise of such right, power or privilege preclude any other or further exercise of it or the exercise of any other right, power or privilege under this Agreement.

13.7 Customer agrees that Strata Decision may issue a press release announcing the Agreement between the parties. This press release will be drafted by Strata Decision and must be approved by Customer before being published.

13.8 Any litigation based on or arising out of this Agreement may be brought and maintained in any Federal or State court of competent jurisdiction located in the City of Chicago, Illinois, or Riverside County, California.

13.9 The parties acknowledge and agree that nothing in this Agreement can be construed to create an employer/employee, agency or joint venture relationship between the parties.



13.10 Customer agrees to have at least one (1) Customer employee complete the following online surveys related to their experience with Strata Decision: (i) one post-implementation survey and (ii) semi-annual customer satisfaction surveys throughout the length of the Commitment Period.

13.11 The prices in this Agreement reflect discounts. To the extent required by 42 C.F.R. § 1001.952(h) (the Anti-Kickback Statute discount safe harbor regulations) or other applicable laws and regulations, Customer must fully and accurately reflect in cost reports or other submissions to federal healthcare programs all such discounts and, upon request by the Secretary of the U.S. Department of Health and Human Services or a state agency, must make available information provided to Customer by Strata Decision concerning the discounts.

13.12 Strata Decision shall abide by the requirements of 41 CFR §§ 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.

13.13 Customer understands that Strata Decision is subject to the U.S. Foreign Corrupt Practices Act of 1977 (as amended) (the "FCPA") and therefore risks serious civil and criminal penalties if Strata Decision becomes involved in making payments in cash or in kind to foreign government officials, political candidates or political parties to obtain and maintain business. Customer acknowledges that it has reviewed and understands the FCPA as it relates to the Programs. Accordingly, Customer shall not offer, promise, or pay any money, gift or any other thing of value to any person for the purpose of influencing official governmental actions or decisions in obtaining or retaining business for Strata Decision or take any other action which would violate the FCPA. If Customer becomes aware of any violation of the FCPA related to the Programs, Customer hereby covenants and agrees to promptly report the details of such violation to Strata Decision.

13.14 Insurance

Without limiting or diminishing Strata Decision's obligation to indemnify or hold the Customer harmless, Strata Decision shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Agreement. As respects to the insurance section only, Customer 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.

A. Workers' Compensation:

If Strata Decision has employees as defined by the State of California, Strata Decision shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of The County of Riverside.

B. Commercial General Liability:

Commercial General Liability insurance coverage covering claims which may arise from or out of Strata Decision's performance of its obligations hereunder. Policy shall include the Customer as Additional Insured. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

C. Professional Liability: Strata Decision shall maintain Professional Liability Insurance providing coverage for the Strata Decision'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 Strata Decision'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 Strata Decision 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 Strata Decision 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.

D. General Insurance Provisions - All lines:

1) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

2) The Strata Decision must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceeds \$500,000 per occurrence each such retention shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the Customer, and at the election of the Country's Risk Manager, Strata Decision's carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the Customer, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

3) Strata Decision shall cause Strata Decision's insurance carrier(s) to furnish, upon request from Customer, the County of Riverside with a Certificate(s) of Insurance sent by an officer of Strata Decision effecting coverage as required herein. Further, Strata Decision agrees to provide thirty (30) days written notice to Customer prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another Certificate of Insurance and endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. Strata Decision shall not commence operations until the Customer has been furnished a Certificate (s) of Insurance and copies of endorsements of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier shall sign the endorsements for each policy and the Certificate of Insurance.

4) It is understood and agreed to by the parties hereto that the Strata Decision's insurance shall be construed as primary insurance, and the Customer's insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

5) If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work; or, the term of this Agreement, including any extensions thereof, exceeds five (5) years; the Customer reserves the right to adjust the types of insurance and the monetary limits of liability required under this Agreement, if in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the Strata Decision has become inadequate.

6) Strata Decision shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.

7) The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the Customer.

8) Strata Decision agrees to notify Customer of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

9) Insurance Requirements for IT Contractor Services

Strata Decision shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees. Contractor shall procure and maintain for the duration of the contract insurance claims arising out of their services and including, but not limited to loss, damage, theft or other misuse of data, infringement of intellectual property, invasion of privacy and breach of data.

Cyber Liability Insurance, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate.



Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

If Strata Decision maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Customer.

13.15 Should Customer wish to purchase additional services, additional products, or require additional travel expenses above what is contemplated in Exhibit A from Strata Decision, then the parties must execute an addendum to this Agreement which outlines the terms and conditions for the purchase of these programs or services.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

STRATA DECISION TECHNOLOGY, LLC:

By: [Signature]
Name: Don Michelson
Title: CEO
Date: 8.9.2017

CUSTOMER:
COUNTY OF RIVERSIDE

By: [Signature]
Name: JERIN PAVAGLIONE
Title: CHAIRMAN, BOARD OF SUPERVISORS
Date: AUG 29 2017

APPROVED AS TO FORM:

Gregory Priamos
County Counsel
By: [Signature]

Martha Knutson,
Deputy County Counsel

ATTEST:
KECIA HARPER, IHEM, Clerk
BY: [Signature]
DEPUTY



EXHIBIT A

Programs:

- StrataJazz Operating Budgeting for 100 System Users
- StrataJazz Management Reporting for 100 System Users
- StrataJazz Capital Budgeting & Tracking for 100 System Users
- StrataJazz Equipment Replacement for 10 System Users
- StrataJazz Long Range Financial Planning & Rolling Forecasting for 50 System Users
- StrataJazz Cost Accounting (Hospitals) for 50 System Users and 50 Report Users
- StrataJazz Contract Analytics (Hospitals) for 50 System Users
- StrataJazz Continuous Improvement for 50 System Users
- StrataJazz eLearning for 100 System Users

Fee Summary:

Description	Billed 8/29/2017	Due 8/29/2018	Due 8/29/2019	Due 8/29/2020	Due 8/29/2021
StrataJazz Implementation Fee	\$838,200	\$0	\$0	\$0	\$0
StrataJazz Subscription Fees	\$477,161	\$477,161	\$477,161	\$477,161	\$477,161
Discount	(\$276,805)	(\$151,075)	(\$151,075)	(\$151,075)	(\$151,075)
Total	\$1,038,556	\$326,086	\$326,086	\$326,086	\$326,086
<i>*Travel Expenses – Billed as incurred and not to exceed annual amount.</i>	\$40,000	\$20,000	\$6,000	\$6,000	\$6,000

*Contingency fees outlined in this agreement are not included in the fee summary above. Contingency Fees billed; Not to exceed \$71,060, through the term of this agreement.

Expenses which, may include mileage, lodging meal, parking and other out of pocket expenses, are not included in the annual total rate above but will not exceed the following amounts annually:

- Year 1: \$40,000
- Year 2: \$20,000
- Year 3: \$6,000
- Year 4: \$6,000
- Year 5: \$6,000

These travel expenses will remain consistent with and not to exceed the County travel policy limits.

Implementation Fees:

The Implementation Fee outlined in Exhibit A above corresponds to the following breakdown of consulting days by Program and Customer understands that such Implementation Fees are "pre-scoped" fees. Such consulting days will be used for the activities described in the statement of work, which is attached as Exhibit A-2 to this Addendum. Customer agrees to have a scoping discussion with Strata Decision within fifteen (15) days of the Addendum Effective Date to finalize the scope. In the event that the scope of work changes from what is outlined in the statement of work and additional consulting days are required, then Customer must purchase such additional consulting days from Strata Decision. Should Customer need additional consulting days from what is outlined below for implementation work that is included in the statement of work, but are due to a delay in the



implementation caused by Customer, Strata Decision reserves the right to bill Customer for the extra consulting days without prior approval from Customer up to the amount of days shown in the column labeled "Contingency Fees" at a rate of \$1,870 per day. Strata Decision must seek written approval for any purchase of days beyond the total of the Number of Days and Pre-Approved Extra Days of each Added Program set forth below.

<u>Description</u>	<u>Number of Days</u>	<u>Contingency Fees</u>
Operating Budgeting	33 Days	\$5,610 (3 Days)
Management Reporting	19 Days	\$3,740 (2 Days)
Capital Budgeting & Tracking	33 Days	\$5,610 (3 Days)
Equipment Replacement	15 Days	\$3,740 (2 Days)
Long Range Financial Planning & Rolling Forecasting	30 Days	\$5,610 (3 Days)
Cost Accounting (Hospitals)	60 Days	\$11,220 (6 Days)
Contract Analytics (Hospitals)	23 Days	\$3,740 (2 Days)
Continuous Improvement	48 Days	\$9,350 (5 Days)
Project Management	60 Days	\$11,220 (6 Days)
Data Integration	60 Days	\$11,220 (6 Days)

Annual Consulting Support Days:

Customer is entitled to the following consulting days on an annual basis by Program:

<u>Description</u>	<u>Number of Days</u>
Operating Budgeting	3 Days
Management Reporting	1 Day
Capital Budgeting & Tracking	2 Days
Equipment Replacement	1 Day
Long Range Financial Planning & Rolling Forecasting	1 Day
Cost Accounting (Hospitals)	4 Days
Contract Analytics (Hospitals)	2 Days
Continuous Improvement	2 Days

Billing Information:

Invoices over thirty (30) days past due will be assessed a monthly interest charge based on a rate of three percent (3%) per annum; provided, however, that Customer will not be assessed such monthly interest charge until forty-five (45) days after the payment due date.

Implementation and Subscription Fees will be due and payable on the dates shown in the table above.

*Charges for travel and other direct expenses will be invoiced as they are incurred, terms net thirty (30) days. Customer shall reimburse Strata Decision for all necessary and reasonable actual costs or travel expenses. Travel or related expenses incurred by Strata while performing functions on behalf of the County at the request of County may be reimbursed in accordance with the procedures and standards set out in Riverside County Board Policy D-1. The Board Policy D-1 can be found for public access on <http://www.rivcocob.org/boardpolicies/policy-d/POLICY-D01.pdf>

Access to Books and Records:

Notwithstanding any other terms of this Agreement, Customer and Strata Decision will make available to the Secretary, U.S. Department of Health and Human Services, the U.S. Comptroller General, and their representatives, this Agreement and all books, documents, and records necessary to certify the nature and extent of the costs of the services rendered hereunder to the full extent required by the Centers for Medicare and Medicaid Services implementing Section 952 of the Omnibus Reconciliation Act of 1980 at 42 U.S.C. Section 1395 (x)(v)(1)(I). If Strata



Decision carries out its duties under this Agreement through a subcontract worth \$10,000 or more over a 12-month period with a related organization, the subcontract will also contain an access clause to permit access by the Secretary, Comptroller General, and their representatives to the related organizations books and records.

If any service under this Agreement is in furtherance of a U.S. Government contract or subcontract or is otherwise subject to the provisions of the Equal Opportunity Clause as promulgated by Section 202 of Executive Order 11246, dated September 24, 1965, or to 41 C.F.R. 60-250 (requiring affirmative action to employ certain handicapped veterans), or to 41 C.F.R. 60-741 (requiring affirmative action to employ certain handicapped individuals) or to any other federal law, rule or regulation applicable to Customer or its Affiliates as U.S. Government contractors or subcontractors (including but not limited to any applicable Section of 48 C.F.R. Chapter 1), the contract provisions required therein are hereby incorporated by reference. Strata Decision also agrees to comply with all applicable local, state and federal laws and executive orders and regulations that are applicable to Customer and Affiliates as U.S. Government contractors or subcontractors.



EXHIBIT A-1
ACCEPTABLE USE POLICY FOR E-LEARNING

This Acceptable Use Policy ("AUP") describes prohibited uses of the eLearning Services (referenced as "Services") provided by the Breakaway Group ("Breakaway").

If Customer violates the AUP or authorizes or helps others to do so, Breakaway may suspend or terminate Customer's use of the Services. Any Strata Decision organization, individual or customer using the Breakaway Systems and/or Services is defined as a "Customer."

The following list represents direct violations by Customer of this AUP and will be subject to immediate action by Breakaway.

1. **Illegal Use:** Any use of Services in a manner which is defined or deemed to be statutorily illegal. This includes, but is not limited to: death threats, terroristic threats, threats of harm, multi-level marketing schemes, "Ponzi schemes," invasion of privacy, credit card fraud, racketeering, and other common illegal activities.
2. **Copyright and Trademark Infringement:** Any use of the Services in a manner that directly infringes a copyright (as defined and noted under Title 17, Section 512 of the United States Code) or trademark.
3. **Unsolicited Email:** Any use of the Services for sending or receiving of mass unsolicited email (SPAM). This includes the direct sending and receiving of such messages, support of such messages via web page, splash page or other related sites, or the advertisement of such services.
4. **Email Bombing:** Any use of the Services for the sending, return, bouncing or forwarding of email to specified user(s) in an attempt to interfere with or over flow email services is a direct violation of this AUP.
5. **Proxy Email (SPAM):** The use of Services to proxy email unsolicited users. Proxy email is defined as the use of dedicated services to act in concert with other services located inside and outside the network to achieve mass unsolicited email (SPAM) to unrelated third parties.
6. **UseNet SPAM:** The use of Services to send, receive, forward, or post UseNet unsolicited email or posts. This includes UseNet services located within the Breakaway network or unrelated third party networks.
7. **Child/Illegal Pornography:** Any use of the Services for the hosting of child/illegal pornography or related sites or contact information.
8. **Pornography:** Any use of Services to host or promote pornography of any kind.
9. **Threats & Harassment:** Any use of the Services to make threats to or harass individuals, organizations or businesses.
10. **Unlawful Internet Gambling Enforcement Act of 2006 (UIGE Act):** Any use of the Services for any activity in violation of the UIGE Act or promotion of any activities that would violate the UIGE Act.
11. **Fraudulent Activities:** Any use of the Services for fraudulent activities.
12. **No High Risk Use:** Any use of the Services in any situation where failure or fault of the Services could lead to death or serious bodily injury of any person, or to physical or environmental damage.
13. **Denial of Service:** Any use of Services for the origination or control of denial of service attacks or distributed denial of service attacks.
14. **Terrorist Websites:** Any use of the Services for the hosting of terrorist-related web sites. This includes sites advocating human violence and hate crimes based upon religion, ethnicity, or country of origin.
15. **Distribution of Malware:** Any use of the Services for the storage, distribution, fabrication, or use of malware, including without limitation, virus software, root kits, password crackers, adware, key stroke capture programs and other programs normally used in malicious activity. Programs used in the normal ordinary course of business are deemed acceptable.
16. **Phishing:** Any use of the Services for any activity associated with Phishing or systems designed to collect personal information (such as name, date of birth, account numbers, usernames, passwords, etc.) under false pretense, including phishing forms, email distribution, proxy email, splash pages or any relation to phishing activities.



17. **HYIP or Ponzi Schemes:** Any use of the Services to promote High Yield Investment Plans or Ponzi schemes with the intent to defraud Customers.
18. **Export Controls Noncompliance:** Any use of the Services to access, export, or transfer of data, software, and related output on the Breakaway Systems to unauthorized countries and individuals as controlled and sanctioned by the US Office of Foreign Assets Control (OFAC), the US Export Administration Regulations (EAR), the US International Traffic in Arms Regulations (ITAR), and other related laws and regulations. Any use of the Services in the development, production, or proliferation of weapons of mass destruction as prohibited in the aforementioned laws and regulations.

Subject to its confidentiality obligations pursuant to that certain Agreement between Strata Decision and Customer, Strata Decision will comply with and respond to jurisdictionally valid (subpoenas, warrants, and/or court orders relating to the use of such e-learning services. If allowed to by law, Strata Decision will notify Customer of and forward copies of such subpoenas, warrants, and/or orders to Customer relating to use of such e-learning services by a Customer Authorized User ; however, Strata Decision reserves the right to respond as long as it is the named party in such subpoena, warrant, and/or order.



EXHIBIT A-2
STATEMENT OF WORK

Statement of work is attached in separate Excel document and serves as the basis for implementation fees quoted, and will be incorporated here in this document in its final form.

Changes to project scope may result in changes to implementation fees.



**EXHIBIT B
USER SITES**

User Sites:

**Riverside University Health System – Medical Center
26520 Cactus Avenue
Moreno Valley, California 92555**

**Inpatient Treatment Facility (ITF) / Emergency Treatment Services (ETS)
9990 County Farm Road
Suite 4
Riverside , CA 92503**



EXHIBIT C
STRATAJAZZ TECHNICAL REQUIREMENTS

Please see: <http://www.stratadecision.com/TechRequirements> for the latest StrataJazz Technical Requirements.



EXHIBIT D
EXCLUDED ENTITIES

The following entities, their respective personnel, and their respective parents, subsidiaries, and affiliates shall at no time be deemed to be an Authorized User:

- 1) Allscripts Healthcare Solutions, Inc.
- 2) Attainia, Inc.
- 3) Change Healthcare
- 4) Cognos, Inc., a subsidiary of IBM Inc.
- 5) CostFlex Systems, Inc.
- 6) Health Catalyst, LLC
- 7) Kaufman Hall Inc./ Axiom / Kreg Information Systems
- 8) Kronos Inc.
- 9) Lawson Software Inc.
- 10) McKesson Corporation
- 11) MedAssets, Inc
- 12) MedeAnalytics
- 13) Medical Information Technology, Inc. (Meditech)
- 14) Med-Metrix, LLC
- 15) MD Buyline, Inc.
- 16) Microsoft Inc.
- 17) Oracle Corp.
- 18) Pamplona Capital Management LLP
- 19) Parallon
- 20) Premier, Inc. / Healthcare Insights, LLC
- 21) RealCost.io, Inc.
- 22) SAP AG
- 23) VFA, Inc.
- 24) Vizient, Inc.
- 25) Any person or entity that Strata Decision subsequently designates and Customer approves in writing, which approval shall not be unreasonably withheld or delayed



EXHIBIT E

Strata Decision Technology Hosting Service Level Agreement

Business Hours

Strata Decision's servers are available 24 hours a day, 7 days a week, 365 days a year excluding scheduled downtime for maintenance. The standard business week for Strata Decision is defined as Monday through Friday, 7:00 a.m. – 7:00 p.m. United States Central Time, excluding national holidays.

Scheduled Maintenance & Software Upgrades

Scheduled maintenance shall mean any maintenance in the Strata Decision data center at which the Customer's data is located (a) of which the Customer is notified at least 24 hours in advance, or (b) that is performed during the standard maintenance window of Tuesday from 8pm to 12am US Central Time (this time is subject to change with advance notice). Notice of scheduled maintenance will be provided to the Customer's account contact(s) via email, fax, or phone.

As part of the Hosting Service, Strata Decision shall install, at no additional cost, any Updates to the Software, including code changes, which are developed or published by Strata Decision and which Customer is entitled to receive under Customer's Software Use Agreement.

Network Uptime

Strata Decision's network experience over the last twelve months has been the following: network uptime has been approximately 99.8%, corresponding specifically to no more than approximately 9.66 minutes of unscheduled downtime in a given month during Strata Decision business hours excluding scheduled maintenance. Downtime is defined as a period of time or a percentage of a timespan that the hosted application is offline or not functioning as a result of failure of software, servers, or network systems controlled and maintained by the Strata Decision (such as a crash or malfunction). Downtime does not include times when the system is unavailable for Scheduled Maintenance, provided that the Strata Decision announces the scheduled maintenance period at least 24 hours in advance. Downtime does not include times when the hosted application is unavailable due to circumstances or conditions that arise on systems or networks controlled and maintained by the Customer or third parties, including widespread Internet failures.

Network uptime includes functioning of all Strata Decision network infrastructure, including routers, switches and cabling, but does not include applications or services running on Customer's servers nor does it include general Internet outages beyond Strata Decision's ISP's local points of presence. Network downtime exists when (1) the Customer's server is unable to transmit and receive data due to a problem with the Strata Decision network infrastructure; (2) Strata Decision determines in its reasonable commercial judgment that a network outage does indeed exist; and (3) the Customer has opened a support incident with Strata Decision's Customer Support. Network downtime is measured from the time a support incident is opened by the Customer to the time the network outage is resolved.

Hardware Guarantee

Strata Decision represents the operability of all hardware components and will replace at no cost to the Customer any failed components. Hardware replacement for critical failures will begin upon identification of the problem. Hardware replacement for non-critical failures may be delayed until a Scheduled Maintenance period, at Strata Decision's sole discretion.



Server Availability

Strata Decision targets that its servers will experience no more than 2 hours of downtime in a given month excluding Scheduled Maintenance.

Server downtime exists when (1) any of the applicable monitored ports on Customer's server are no longer available for the service; (2) Strata Decision determines in its reasonable commercial judgment that a server outage does indeed exist; and (3) the Customer has opened a support incident with Strata Decision Customer Support. Server downtime is measured from the time a support incident is opened by the Customer to the time the server downtime issue is resolved.

Force Majeure

Neither party shall be in default of this Agreement or be liable for any delay or failure in performance resulting directly or indirectly from any cause beyond its reasonable control; provided however, that either party who fails because of force majeure to perform its obligations hereunder shall, upon the cessation of the force majeure, take all reasonable steps within its power to resume compliance under this agreement with the least possible delay.

Server Location

Strata warrants that each and every of its servers containing Customer's data are located in the United States of America.



ATTACHMENT I

**HIPAA Business Associate Agreement
Addendum to Contract
Between the County of Riverside and [name of company]**

This HIPAA Business Associate Agreement (the "Addendum") supplements, and is made part of the [service] (the "Underlying Agreement") between the County of Riverside ("County") and [name of company] ("Contractor") and shall be effective as of the date the Underlying Agreement is approved by both Parties (the "Effective Date").

RECITALS

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

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

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

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

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

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

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

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

1. **Definitions.** Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in HITECH, HIPAA, Security Rule and/or Privacy Rule, as may be amended from time to time.
 - A. "Breach" when used in connection with PHI means the acquisition, access, use or disclosure of PHI in a manner not permitted under subpart E of the Privacy Rule which compromises the security or privacy of the PHI, and shall have the meaning given such term in 45 CFR §164.402.



- (1) Except as provided below in Paragraph (2) of this definition, acquisition, access, use, or disclosure of PHI in a manner not permitted by subpart E of the Privacy Rule is presumed to be a breach unless Contractor demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following four factors:
 - (a) The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
 - (b) The unauthorized person who used the PHI or to whom the disclosure was made;
 - (c) Whether the PHI was actually acquired or viewed; and
 - (d) The extent to which the risk to the PHI has been mitigated.
 - (2) Breach excludes:
 - (a) Any unintentional acquisition, access or use of PHI by a workforce member or person acting under the authority of a covered entity or business associate, if such acquisition, access or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under subpart E of the Privacy Rule.
 - (b) Any inadvertent disclosure by a person who is authorized to access PHI at a covered entity or business associate to another person authorized to access PHI at the same covered entity, business associate, or organized health care arrangement in which County participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted by subpart E of the Privacy Rule.
 - (c) A disclosure of PHI where a covered entity or business associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.
- B. "Business associate" has the meaning given such term in 45 CFR §164.501, including but not limited to a subcontractor that creates, receives, maintains, transmits or accesses PHI on behalf of the business associate.
 - C. "Data aggregation" has the meaning given such term in 45 CFR §164.501.
 - D. "Designated record set" as defined in 45 CFR §164.501 means a group of records maintained by or for a covered entity that may include: the medical records and billing records about individuals maintained by or for a covered health care provider; the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or, used, in whole or in part, by or for the covered entity to make decisions about individuals.
 - E. "Electronic protected health information" ("ePHI") as defined in 45 CFR §160.103 means protected health information transmitted by or maintained in electronic media.
 - F. "Electronic health record" means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff, and shall have the meaning given such term in 42 USC §17921(5).
 - G. "Health care operations" has the meaning given such term in 45 CFR §164.501.
 - H. "Individual" as defined in 45 CFR §160.103 means the person who is the subject of protected health information.



- I. "Person" as defined in 45 CFR §160.103 means a natural person, trust or estate, partnership, corporation, professional association or corporation, or other entity, public or private.
 - J. "Privacy Rule" means the HIPAA regulations codified at 45 CFR Parts 160 and 164, Subparts A and E.
 - K. "Protected health information" ("PHI") has the meaning given such term in 45 CFR §160.103, which includes ePHI.
 - L. "Required by law" has the meaning given such term in 45 CFR §164.103.
 - M. "Secretary" means the Secretary of the U.S. Department of Health and Human Services ("HHS").
 - N. "Security incident" as defined in 45 CFR §164.304 means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.
 - O. "Security Rule" means the HIPAA Regulations codified at 45 CFR Parts 160 and 164, Subparts A and C.
 - P. "Subcontractor" as defined in 45 CFR §160.103 means a person to whom a business associate delegates a function, activity, or service, other than in the capacity of a member of the workforce of such business associate.
 - Q. "Unsecured protected health information" and "unsecured PHI" as defined in 45 CFR §164.402 means PHI not rendered unusable, unreadable, or indecipherable to unauthorized persons through use of a technology or methodology specified by the Secretary in the guidance issued under 42 USC §17932(h)(2).
2. **Scope of Use and Disclosure by Contractor of County's PHI and/or ePHI.**
- A. Except as otherwise provided in this Addendum, Contractor may use, disclose, or access PHI and/or ePHI as necessary to perform any and all obligations of Contractor under the Underlying Agreement or to perform functions, activities or services for, or on behalf of, County as specified in this Addendum, if such use or disclosure does not violate HIPAA, HITECH, the Privacy Rule and/or Security Rule.
 - B. Unless otherwise limited herein, in addition to any other uses and/or disclosures permitted or authorized by this Addendum or required by law, in accordance with 45 CFR §164.504(e)(2), Contractor may:
 - 1) Use PHI and/or ePHI if necessary for Contractor's proper management and administration and to carry out its legal responsibilities; and,
 - 2) Disclose PHI and/or ePHI for the purpose of Contractor's proper management and administration or to carry out its legal responsibilities, only if:
 - a) The disclosure is required by law; or,
 - b) Contractor obtains reasonable assurances, in writing, from the person to whom Contractor will disclose such PHI and/or ePHI that the person will:
 - i. Hold such PHI and/or ePHI in confidence and use or further disclose it only for the purpose for which Contractor disclosed it to the person, or as required by law; and,
 - ii. Notify Contractor of any instances of which it becomes aware in which the confidentiality of the information has been breached; and,



- 3) Use PHI to provide data aggregation services relating to the health care operations of County pursuant to the Underlying Agreement or as requested by County; and,
 - 4) De-identify all PHI and/or ePHI of County received by Contractor under this Addendum provided that the de-identification conforms to the requirements of the Privacy Rule and/or Security Rule and does not preclude timely payment and/or claims processing and receipt.
- C. Notwithstanding the foregoing, in any instance where applicable state and/or federal laws and/or regulations are more stringent in their requirements than the provisions of HIPAA, including, but not limited to, prohibiting disclosure of mental health and/or substance abuse records, the applicable state and/or federal laws and/or regulations shall control the disclosure of records.

3. **Prohibited Uses and Disclosures.**

- A. Contractor may neither use, disclose, nor access PHI and/or ePHI in a manner not authorized by the Underlying Agreement or this Addendum without patient authorization or de-identification of the PHI and/or ePHI and as authorized in writing from County.
- B. Contractor may neither use, disclose, nor access PHI and/or ePHI it receives from County or from another business associate of County, except as permitted or required by this Addendum, or as required by law.
- C. Contractor agrees not to make any disclosure of PHI and/or ePHI that County would be prohibited from making.
- D. Contractor shall not use or disclose PHI for any purpose prohibited by the Privacy Rule, Security Rule, HIPAA and/or HITECH, including, but not limited to 42 USC §17935 and §17936. Contractor agrees:
 - 1) Not to use or disclose PHI for fundraising, unless pursuant to the Underlying Agreement and only if permitted by and in compliance with the requirements of 45 CFR §164.514(f) or 45 CFR §164.508;
 - 2) Not to use or disclose PHI for marketing, as defined in 45 CFR §164.501, unless pursuant to the Underlying Agreement and only if permitted by and in compliance with the requirements of 45 CFR §164.508(a)(3);
 - 3) Not to disclose PHI, except as otherwise required by law, to a health plan for purposes of carrying out payment or health care operations, if the individual has requested this restriction pursuant to 42 USC §17935(a) and 45 CFR §164.522, and has paid out of pocket in full for the health care item or service to which the PHI solely relates; and,
 - 4) Not to receive, directly or indirectly, remuneration in exchange for PHI, or engage in any act that would constitute a sale of PHI, as defined in 45 CFR §164.502(a)(5)(ii), unless permitted by the Underlying Agreement and in compliance with the requirements of a valid authorization under 45 CFR §164.508(a)(4). This prohibition shall not apply to payment by County to Contractor for services provided pursuant to the Underlying Agreement.

4. **Obligations of County.**

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



- B. County agrees to make its best efforts to promptly notify Contractor in writing of any changes in, or revocation of, permission by any individual to use or disclose PHI and/or ePHI, if such changes or revocation may affect Contractor's ability to perform its obligations under the Underlying Agreement, or this Addendum.
 - C. County agrees to make its best efforts to promptly notify Contractor in writing of any known limitation(s) in its notice of privacy practices to the extent that such limitation may affect Contractor's use or disclosure of PHI and/or ePHI.
 - D. County agrees not to request Contractor to use or disclose PHI and/or ePHI in any manner that would not be permissible under HITECH, HIPAA, the Privacy Rule, and/or Security Rule.
 - E. County agrees to obtain any authorizations necessary for the use or disclosure of PHI and/or ePHI, so that Contractor can perform its obligations under this Addendum and/or Underlying Agreement.
5. **Obligations of Contractor.** In connection with the use or disclosure of PHI and/or ePHI, Contractor agrees to:
- A. Use or disclose PHI only if such use or disclosure complies with each applicable requirement of 45 CFR §164.504(e). Contractor shall also comply with the additional privacy requirements that are applicable to covered entities in HITECH, as may be amended from time to time.
 - B. Not use or further disclose PHI and/or ePHI other than as permitted or required by this Addendum or as required by law. Contractor shall promptly notify County if Contractor is required by law to disclose PHI and/or ePHI.
 - C. Use appropriate safeguards and comply, where applicable, with the Security Rule with respect to ePHI, to prevent use or disclosure of PHI and/or ePHI other than as provided for by this Addendum.
 - D. Mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PHI and/or ePHI by Contractor in violation of this Addendum.
 - E. Report to County any use or disclosure of PHI and/or ePHI not provided for by this Addendum or otherwise in violation of HITECH, HIPAA, the Privacy Rule, and/or Security Rule of which Contractor becomes aware, including breaches of unsecured PHI as required by 45 CFR §164.410.
 - F. In accordance with 45 CFR §164.502(e)(1)(ii), require that any subcontractors that create, receive, maintain, transmit or access PHI on behalf of the Contractor agree through contract to the same restrictions and conditions that apply to Contractor with respect to such PHI and/or ePHI, including the restrictions and conditions pursuant to this Addendum.
 - G. Make available to County or the Secretary, in the time and manner designated by County or Secretary, Contractor's internal practices, books and records relating to the use, disclosure and privacy protection of PHI received from County, or created or received by Contractor on behalf of County, for purposes of determining, investigating or auditing Contractor's and/or County's compliance with the Privacy Rule.
 - H. Request, use or disclose only the minimum amount of PHI necessary to accomplish the intended purpose of the request, use or disclosure in accordance with 42 USC §17935(b) and 45 CFR §164.502(b)(1).
 - I. Comply with requirements of satisfactory assurances under 45 CFR §164.512 relating to notice or qualified protective order in response to a third party's subpoena, discovery request, or other lawful



process for the disclosure of PHI, which Contractor shall promptly notify County upon Contractor's receipt of such request from a third party.

- J. Not require an individual to provide patient authorization for use or disclosure of PHI as a condition for treatment, payment, enrollment in any health plan (including the health plan administered by County), or eligibility of benefits, unless otherwise excepted under 45 CFR §164.508(b)(4) and authorized in writing by County.
 - K. Use appropriate administrative, technical and physical safeguards to prevent inappropriate use, disclosure, or access of PHI and/or ePHI.
 - L. Obtain and maintain knowledge of applicable laws and regulations related to HIPAA and HITECH, as may be amended from time to time.
 - M. Comply with the requirements of the Privacy Rule that apply to the County to the extent Contractor is to carry out County's obligations under the Privacy Rule.
 - N. Take reasonable steps to cure or end any pattern of activity or practice of its subcontractor of which Contractor becomes aware that constitute a material breach or violation of the subcontractor's obligations under the business associate contract with Contractor, and if such steps are unsuccessful, Contractor agrees to terminate its contract with the subcontractor if feasible.
6. **Access to PHI, Amendment and Disclosure Accounting.** Contractor agrees to:
- A. **Access to PHI, including ePHI.** Provide access to PHI, including ePHI if maintained electronically, in a designated record set to County or an individual as directed by County, within five (5) days of request from County, to satisfy the requirements of 45 CFR §164.524.
 - B. **Amendment of PHI.** Make PHI available for amendment and incorporate amendments to PHI in a designated record set County directs or agrees to at the request of an individual, within fifteen (15) days of receiving a written request from County, in accordance with 45 CFR §164.526.
 - C. **Accounting of disclosures of PHI and electronic health record.** Assist County to fulfill its obligations to provide accounting of disclosures of PHI under 45 CFR §164.528 and, where applicable, electronic health records under 42 USC §17935(c) if Contractor uses or maintains electronic health records. Contractor shall:
 - 1) Document such disclosures of PHI and/or electronic health records, and information related to such disclosures, as would be required for County to respond to a request by an individual for an accounting of disclosures of PHI and/or electronic health record in accordance with 45 CFR §164.528.
 - 2) Within fifteen (15) days of receiving a written request from County, provide to County or any individual as directed by County information collected in accordance with this section to permit County to respond to a request by an individual for an accounting of disclosures of PHI and/or electronic health record.
 - 3) Make available for County information required by this Section 6.C for six (6) years preceding the individual's request for accounting of disclosures of PHI, and for three (3) years preceding the individual's request for accounting of disclosures of electronic health record.



7. **Security of ePHI.** In the event County discloses ePHI to Contractor or Contractor needs to create, receive, maintain, transmit or have access to County ePHI, in accordance with 42 USC §17931 and 45 CFR §164.314(a)(2)(i), and §164.306, Contractor shall:
1. 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;
 2. 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;
 3. Protect against any reasonably anticipated threats or hazards to the security or integrity of ePHI;
 4. Protect against any reasonably anticipated uses or disclosures of ePHI that are not permitted or required under the Privacy Rule;
 5. Ensure compliance with the Security Rule by Contractor's workforce;
 6. 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;
 7. Report to County any security incident of which Contractor becomes aware, including breaches of unsecured PHI as required by 45 CFR §164.410; Notwithstanding the foregoing, this Agreement serves as Contractor's notice to County that attempted but unsuccessful Security Incidents, such as pings and other broadcast attacks on Contractor's firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, regularly occur and that no further notice will be made by Contractor unless there has been a successful Security Incident. and,
 8. Comply with any additional security requirements that are applicable to covered entities in Title 42 (Public Health and Welfare) of the United States Code, as may be amended from time to time, including but not limited to HITECH.
 8. **Breach of Unsecured PHI.** In the case of breach of unsecured PHI, Contractor shall comply with the applicable provisions of 42 USC §17932 and 45 CFR Part 164, Subpart D, including but not limited to 45 CFR §164.410.
 - A. **Discovery and notification.** Following the discovery of a breach of unsecured PHI, Contractor shall notify County in writing of such breach without unreasonable delay and in no case later than 60 calendar days after discovery of a breach, except as provided in 45 CFR §164.412.
 - 1) **Breaches treated as discovered.** A breach is treated as discovered by Contractor as of the first day on which such breach is known to Contractor or, by exercising reasonable diligence, would have been known to Contractor, which includes any person, other than the person committing the breach, who is an employee, officer, or other agent of Contractor (determined in accordance with the federal common law of agency).
 - 2) **Content of notification.** The written notification to County relating to breach of unsecured PHI shall include, to the extent possible, the following information if known (or can be reasonably obtained) by Contractor:



- a) The identification of each individual whose unsecured PHI has been, or is reasonably believed by Contractor to have been accessed, acquired, used or disclosed during the breach;
 - b) A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known;
 - c) A description of the types of unsecured PHI involved in the breach, such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved;
 - d) Any steps individuals should take to protect themselves from potential harm resulting from the breach;
 - e) A brief description of what Contractor is doing to investigate the breach, to mitigate harm to individuals, and to protect against any further breaches; and,
 - f) Contact procedures for individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.
- B. Cooperation.** With respect to any breach of unsecured PHI reported by Contractor, Contractor shall cooperate with County and shall provide County with any information requested by County to enable County to fulfill in a timely manner its own reporting and notification obligations, including but not limited to providing notice to individuals, prominent media outlets and the Secretary in accordance with 42 USC §17932 and 45 CFR §164.404, §164.406 and §164.408.
- C. Breach log.** To the extent breach of unsecured PHI involves less than 500 individuals, Contractor shall maintain a log or other documentation of such breaches and provide such log or other documentation on an annual basis to County not later than fifteen (15) days after the end of each calendar year for submission to the Secretary.
- D. Delay of notification authorized by law enforcement.** If Contractor delays notification of breach of unsecured PHI pursuant to a law enforcement official's statement that required notification, notice or posting would impede a criminal investigation or cause damage to national security, Contractor shall maintain documentation sufficient to demonstrate its compliance with the requirements of 45 CFR §164.412.
- E. Payment of costs.** With respect to any breach of unsecured PHI caused solely by the Contractor's failure to comply with one or more of its obligations under this Addendum and/or the provisions of HITECH, HIPAA, the Privacy Rule or the Security Rule, Contractor agrees to pay any and all costs associated with providing all legally required notifications to individuals, media outlets, and the Secretary. This provision shall not be construed to limit or diminish Contractor's obligations to indemnify, defend and hold harmless County under Section 9 of this Addendum.
- F. Documentation.** Pursuant to 45 CFR §164.414(b), in the event Contractor's use or disclosure of PHI and/or ePHI violates the Privacy Rule, Contractor shall maintain documentation sufficient to demonstrate that all notifications were made by Contractor as required by 45 CFR Part 164, Subpart D, or that such use or disclosure did not constitute a breach, including Contractor's completed risk assessment and investigation documentation.
- G. Additional State Reporting Requirements.** The parties agree that this Section 8.G applies only if and/or when County, in its capacity as a licensed clinic, health facility, home health agency, or hospice, is required to report unlawful or unauthorized access, use, or disclosure of medical information under the more stringent requirements of California Health & Safety Code §1280.15.



For purposes of this Section 8.G, "unauthorized" has the meaning given such term in California Health & Safety Code §1280.15(j)(2).

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

9. **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. The specified insurance limits required in the Underlying Agreement of this Addendum shall in no way limit or circumscribe Contractor's obligations to indemnify and hold harmless County herein from third party claims arising from issues of this Addendum.
- D. In the event there is conflict between this clause and California Civil Code §2782, this clause shall be interpreted to comply with Civil Code §2782. Such interpretation shall not relieve the Contractor from indemnifying County to the fullest extent allowed by law.
- E. In the event there is a conflict between this indemnification clause and an indemnification clause contained in the Underlying Agreement of this Addendum, this indemnification shall only apply to the subject issues included within this Addendum.



10. **Term.** This Addendum shall commence upon the Effective Date and shall terminate when all PHI and/or ePHI provided by County to Contractor, or created or received by Contractor on behalf of County, is destroyed or returned to County, or, if it is infeasible to return or destroy PHI and/ePHI, protections are extended to such information, in accordance with section 11.B of this Addendum.
11. **Termination.**
- A. **Termination for Breach of Contract.** A breach of any provision of this Addendum by either party shall constitute a material breach of the Underlying Agreement and will provide grounds for terminating this Addendum and the Underlying Agreement with or without an opportunity to cure the breach, notwithstanding any provision in the Underlying Agreement to the contrary. Either party, upon written notice to the other party describing the breach, may take any of the following actions:
- 1) Terminate the Underlying Agreement and this Addendum, effective immediately, if the other party breaches a material provision of this Addendum.
 - 2) Provide the other party with an opportunity to cure the alleged material breach and in the event the other party fails to cure the breach to the satisfaction of the non-breaching party in a timely manner, the non-breaching party has the right to immediately terminate the Underlying Agreement and this Addendum.
 - 3) If termination of the Underlying Agreement is not feasible, the breaching party, upon the request of the non-breaching party, shall implement, at its own expense, a plan to cure the breach and report regularly on its compliance with such plan to the non-breaching party.
- B. **Effect of Termination.**
- 1) Upon termination of this Addendum, for any reason, Contractor shall return or, if agreed to in writing by County, destroy all PHI and/or ePHI received from County, or created or received by the Contractor on behalf of County, and, in the event of destruction, Contractor shall certify such destruction, in writing, to County. This provision shall apply to all PHI and/or ePHI which are in the possession of subcontractors or agents of Contractor. Contractor shall retain no copies of PHI and/or ePHI, except as provided below in paragraph (2) of this section.
 - 2) In the event that Contractor determines that returning or destroying the PHI and/or ePHI is not feasible, Contractor shall provide written notification to County of the conditions that make such return or destruction not feasible. Upon determination by Contractor that return or destruction of PHI and/or ePHI is not feasible, Contractor shall extend the protections of this Addendum to such PHI and/or ePHI and limit further uses and disclosures of such PHI and/or ePHI to those purposes which make the return or destruction not feasible, for so long as Contractor maintains such PHI and/or ePHI.
12. **General Provisions.**
- A. **Retention Period.** Whenever Contractor is required to document or maintain documentation pursuant to the terms of this Addendum, Contractor shall retain such documentation for 6 years from the date of its creation or as otherwise prescribed by law, whichever is later.
- B. **Amendment.** The parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for County to comply with HITECH, the Privacy Rule, Security Rule, and HIPAA generally.
- C. **Survival.** The obligations of Contractor under Sections 3, 5, 6, 7, 8, 9, 11.B and 12.A of this Addendum shall survive the termination or expiration of this Addendum.
- D. **Regulatory and Statutory References.** A reference in this Addendum to a section in HITECH, HIPAA, the Privacy Rule and/or Security Rule means the section(s) as in effect or as amended.



- E. **Conflicts.** The provisions of this Addendum shall prevail over any provisions in the Underlying Agreement that conflict or appear inconsistent with any provision in this Addendum.
- F. **Interpretation of Addendum.**
- 1) This Addendum shall be construed to be part of the Underlying Agreement as one document. The purpose is to supplement the Underlying Agreement to include the requirements of the Privacy Rule, Security Rule, HIPAA and HITECH.
 - 2) Any ambiguity between this Addendum and the Underlying Agreement shall be resolved to permit County to comply with the Privacy Rule, Security Rule, HIPAA and HITECH generally.
- G. **Notices to County.** All notifications required to be given by Contractor to County pursuant to the terms of this Addendum shall be made in writing and delivered to the County both by fax and to both of the addresses listed below by either registered or certified mail return receipt requested or guaranteed overnight mail with tracing capability, or at such other address as County may hereafter designate. All notices to County provided by Contractor pursuant to this Section shall be deemed given or made when received by County.

County HIPAA Privacy Officer:	HIPAA Privacy Manager
County HIPAA Privacy Officer Address:	26520 Cactus Avenue, Moreno Valley, CA 92555
County HIPAA Privacy Officer Phone Number:	(951) 486-6471
County HIPAA Privacy Fax:	(951) 486-4475