



**SUBMITTAL TO THE RIVERSIDE UNIVERSITY HEALTH SYSTEM MEDICAL CENTER GOVERNING BOARD
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM: 15.2
(ID # 20971)

MEETING DATE:

Tuesday, March 28, 2023

FROM : RUHS-MEDICAL CENTER:

SUBJECT: Vizient Clinical Data Base (CDB) Agreement RIVERSIDE UNIVERSITY HEALTH SYSTEM-MEDICAL CENTER: Ratification and Approval of a Professional Service Agreement with Vizient, Inc., for Clinical Data Base Services without seeking competitive bids effective January 1, 2023, through December 31, 2025, with two one-year renewal options through December 31, 2027; All Districts. [Total Cost 1,324,932; up to \$132,493 in additional compensation] – 100% Hospital Enterprise Fund 40050.

RECOMMENDED MOTION: That the Governing Board:

1. Ratification and Approval of the Professional Service Agreement with Vizient, Inc., for Clinical Data Base Services without seeking competitive bids effective January 1, 2023, through December 31, 2025, with two one-year renewal options through December 31, 2027;
2. Authorize the Purchasing Agent, in accordance with Ordinance No. 459 and based on the availability of funding and as approved as to form by County Counsel, to sign amendments that make modifications to the scope of services that say within the intent of the Agreement, that exercise the renewal options, and that make modifications to the compensation provisions that do not exceed the sum total ten percent (10%) of the total amount.

ACTION:Policy


Jennifer Crulkshank | Chief Executive Officer - Health System | 3/8/2023

MINUTES OF THE GOVERNING BOARD

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

Ayes: Jeffries, Spiegel, Washington, Perez and Gutierrez
 Nays: None
 Absent: None
 Date: March 28, 2023
 xc: RUHS-Medical Center

Kimberly A. Rector
Clerk of the Board

By: 
Deputy

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SYSTEM MEDICAL CENTER GOVERNING BOARD OF DIRECTORS
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FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$249,557	\$257,043	\$1,324,932	\$0
NET COUNTY COST	\$0	\$0	\$0	\$0
SOURCE OF FUNDS: 100% - Hospital Enterprise Fund - 40050			Budget Adjustment: No	
			For Fiscal Year: 22/23 – 27/28	

C.E.O. RECOMMENDATION: Approve.

BACKGROUND:

Summary

The requested Board action will authorize the Purchasing Agent to approve the Professional Service Agreement with Vizient, Inc. for Clinical Data Base (CDB) Services effective January 1, 2023, through December 31, 2025, with two one-year renewal options through December 31, 2027, which includes a free membership with Medisolv, Inc. for the Core Measurement Reporting Services (CMR Services).

Riverside University Health Systems-Medical Center (RUHS-MC) utilizes the Vizient Data Base and analytics software solutions to maintain, track and trend all quality and patient safety performances reported to regulatory agencies and 3rd party payors across all service lines. These services provide deeper insights to identify performance and clinical quality measures that impacts patient safety and value care that we provide as a healthcare organization. Examples of these service solutions include but not limited to the following:

1. Hospital performance on the patient safety indicators which is part of the Leapfrog Safety Grade Measures.
2. Outcome measure, affecting reimbursement, reports on hospital length of stays, mortality (deaths), and rate of readmissions.
3. Data abstraction on measures reported to CMS and The Joint Commission, these measures include our sepsis performance as well as performances on elective deliveries.
4. Performance measures on CMS Deficit Reduction Act (DRA) to improve performance on Hospital Acquired Conditions (HACs) which is part of our Leapfrog performance measures as well as CMS Star Rating measures.

The use of the CDB is independent of Vizient's status as a Group Purchasing Organization for the County, however, RUHS-MC has negotiated an option for early termination of this agreement if Vizient is not the successful bidder in the upcoming Request for Proposal (RFP) for GPO services.

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Impact on Residents and Businesses

These services are a component of RUHS's system of care aimed at improving the health and safety of its patients and the community.

Additional Fiscal Information

There are sufficient appropriations in the Department's FY22/23 budget. No additional County funds are required.

Contract History and Price Reasonableness

Vizient, Inc. (formerly UHC/Novation, LLC) is the sole Group Purchasing Organization (GPO) currently under contract with RUHS-MC. The Group Purchasing Master Agreement with Vizient, Inc. allows RUHS to access discounts on services such as those covered in the proposed Agreement.

On September 23, 2014, Agenda item #3-59, the Board of Supervisors approved the Group Purchasing Master Agreement with University Health System Consortium/Novation (UHC/Novation), with options to renew for four additional years thereafter. The Agreement was a result of a Request for Proposal (RFP) in which UHC/Novation was found to offer the best pricing, best coverage and most comprehensive value-added programs of the GPOs then competing.

On September 17, 2019, Agenda Item #15.2, the Board of Supervisors approved a First Amendment to extend the period of performance of the Group Purchasing Master Agreement through June 30, 2021.

On February 4, 2020, the Purchasing Agent executed a Second Amendment to amend the scope of service.

On June 30, 2020, Agenda Item #12589, the Board of Supervisors approved the Professional Service Agreement for Vizient Inc. Clinical Data Base, with a period of performance from January 1, 2020, through December 31, 2022.

On April 13, 2021, Agenda Item #15.1, the Board of Supervisors approved a Third Amendment to extend the period of performance of the Group Purchasing Master Agreement through June 30, 2023.

The agreement requires Board approval as the compensation provision exceeds the Purchasing Agent's authority for professional services per Ordinance 459.6.

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ATTACHMENTS:

Attachment A: Vizient CBD 2023 Agreement
Attachment B: SSJ 23-099 Vizient Clinical Data Base



Meghan Hahn, Deputy Director of Procurement

3/6/2023



Steven Atkeson

3/17/2023



Gregg Gu, Chief Deputy County Counsel

3/7/2023

PROFESSIONAL SERVICE AGREEMENT

for

CLINICAL DATA BASE SERVICES

between

COUNTY OF RIVERSIDE

and

VIZIENT, INC.



MAR 28 2023 15.2

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This Agreement, made and entered into this 1st day of January, 2023, by and between VIZIENT, INC., a Delaware corporation, (herein referred to as "CONTRACTOR"), and the COUNTY OF RIVERSIDE (herein referred to as "COUNTY"), a political subdivision of the State of California on behalf of RIVERSIDE UNIVERSITY HEALTH SYSTEM, (herein referred to as "RUHS"). The parties agree as follows:

1. Description of Services

1.1 CONTRACTOR shall provide all services as outlined and specified in Exhibit A, Scope of Services, Attachment I - Covered Facilities, Attachment II - Medisolv Product Subscription Agreement, Appendix I – 2014 HIPAA Business Associate Agreement, and Appendix II – Example Template - Mutual Nondisclosure Agreement.

1.2 CONTRACTOR represents that it has the skills, experience, and knowledge necessary to perform under this Agreement and the COUNTY relies upon this representation. CONTRACTOR shall perform to the satisfaction of the COUNTY and in conformance to and consistent with the highest standards of firms/professionals in the same discipline in the State of California.

1.3 CONTRACTOR affirms that it is fully apprised of all of the work to be performed under this Agreement; and the CONTRACTOR agrees it can properly perform this work at the prices stated in Exhibit B. CONTRACTOR is not to perform services or provide products outside of the Agreement.

1.4 Acceptance by the COUNTY of the CONTRACTOR's performance under this Agreement does not operate as a release of CONTRACTOR's responsibility for full compliance with the terms of this Agreement.

2. Period of Performance

2.1 This Agreement will be effective as of January 1, 2023, for an "Initial Term" through December 31, 2025, unless terminated earlier as provided in this Agreement with the option of two (2) one-year renewals options through December 31, 2027. Such renewals shall be by execution of a written amendment extending the term. CONTRACTOR shall commence performance upon signature of this Agreement by both parties and shall diligently and continuously perform thereafter. The Riverside County Board of Supervisors is the only authority that may obligate the County for a non-cancelable multi-year agreement.

3. Compensation

3.1 The COUNTY shall pay the CONTRACTOR for services performed, products provided and expenses incurred in accordance with the terms of Exhibit A, Scope of Service. Maximum payments by COUNTY to CONTRACTOR shall not exceed the following schedule annually including all expenses:

- (1) two hundred forty-nine thousand five hundred fifty-seven dollars (\$249,557) for calendar year 2023,
- (2) two hundred fifty-seven thousand forty-three dollars (\$257,043) for calendar year 2024,
- (3) two hundred sixty-four thousand seven hundred fifty-five dollars (\$264,755) for calendar year 2025.

RENEWAL OPTIONS:

- (4) two hundred seventy-two thousand six hundred ninety-eight (\$272,698) for calendar year 2026, and,
- (5) two hundred eighty thousand eight hundred seventy-nine (\$280,879) for calendar year 2027.

The County acknowledges and agrees that Services apply only to County and those Covered Facilities set forth in Attachment I - Covered Facilities. As such, any additional County facility seeking Services hereunder shall obtain CONTRACTOR's written approval and may result in additional fees.

The COUNTY is not responsible for any fees or costs incurred above or beyond the contracted amount and shall have no obligation to purchase any specified amount of services or products. Unless otherwise specifically stated in Exhibit A, COUNTY shall not be responsible for payment of any of CONTRACTOR's expenses related to this Agreement.

3.2 The COUNTY obligation for payment of this Agreement beyond the current fiscal year end is contingent upon and limited by the availability of COUNTY funding from which payment can be made, and invoices shall be rendered "monthly" in arrears. In the State of California, Government agencies are not allowed to pay excess interest and late charges, per Government Codes, Section 926.10. No legal liability on the part of the COUNTY shall arise for payment beyond June 30 of each calendar year unless funds are made available for such payment. In the event that such funds are not forthcoming for any reason, COUNTY shall immediately notify CONTRACTOR in writing; and this Agreement shall be deemed terminated, have no further force, and effect.

4. Alteration or Changes to the Agreement

4.1 The Board of Supervisors and the COUNTY Purchasing Agent and/or his designee is the only authorized COUNTY representatives who may at any time, by written order, alter this Agreement. If any such alteration causes an increase or decrease in the cost of, or the time required for the performance under this Agreement, an equitable adjustment shall be made in the Agreement price or delivery schedule, or both, and the Agreement shall be modified by written amendment accordingly.

4.2 Any claim by the CONTRACTOR for additional payment related to this Agreement shall be made in writing by the CONTRACTOR within 30 days of when the CONTRACTOR has or should have notice of any actual or claimed change in the work, which results in additional and unanticipated cost to the CONTRACTOR. If the COUNTY Purchasing Agent decides that the facts provide sufficient justification, he may authorize additional payment to the CONTRACTOR pursuant to the claim. Nothing in this section shall excuse the CONTRACTOR from proceeding with performance of the Agreement even if there has been a change.

5. Termination

5.1. In the event that COUNTY is no longer a subscribing member to CONTRACTOR'S group purchasing organization as of June 30, 2023, the parties agree that this Agreement shall remain in effect for the remainder of the term through December 31, 2025, and CONTRACTOR shall consider COUNTY still eligible to receive services as described in Exhibit A, as a "subscribing member".

5.2 COUNTY may, upon thirty (30) days written notice terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress that may endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

5.3 After receipt of the notice of termination, CONTRACTOR shall:

- (a) Stop all work under this Agreement on the date specified in the notice of termination; and
- (b) Transfer to COUNTY and deliver in the manner as directed by COUNTY any materials, reports or other products, which, if the Agreement had been completed or continued, would have been required to be furnished to COUNTY.

5.4 After termination, COUNTY shall make payment only for CONTRACTOR's performance up to the date of termination in accordance with this Agreement.

5.5 CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement. In such event, CONTRACTOR shall not be entitled to any further compensation under this Agreement.

5.6 If the Agreement is federally or State funded, CONTRACTOR cannot be debarred from the System for Award Management (SAM). CONTRACTOR must notify the COUNTY immediately of a debarment. Reference: System for Award Management (SAM) at <https://www.sam.gov> for Central Contractor Registry (CCR), Federal Agency Registration (Fedreg), Online Representations and Certifications Application, and Excluded Parties List System (EPLS)). Excluded Parties Listing System (EPLS) (<http://www.epls.gov>) (Executive Order 12549, 7 CFR Part 3017, 45 CFR Part 76, and 44 CFR Part 17). The System for Award Management (SAM) is the Official U.S. Government system that consolidated the capabilities of CCR/FedReg, ORCA, and EPLS.

5.7 The rights and remedies of COUNTY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

6. Ownership/Use of Contract Reports

The CONTRACTOR agrees that all reports in any form, including electronic, created by CONTRACTOR for which CONTRACTOR has been compensated by COUNTY pursuant to this Agreement shall be the sole property of the COUNTY. The reports may be used by the COUNTY for any purpose that the COUNTY deems to be appropriate, including, but not limited to, duplication and/or distribution within the COUNTY or to third parties. CONTRACTOR agrees not to release or circulate in whole or part such reports without prior written authorization of the COUNTY.

7. Conduct of Contractor

7.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subcontractor having any such interest shall be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

7.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.

7.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.

8. Inspection of Service; Quality Control/Assurance

8.1 All performance (which includes services, workmanship, materials, supplies and equipment furnished or utilized in the performance of this Agreement) shall be subject to inspection and test by the COUNTY or other regulatory agencies at all times. The CONTRACTOR shall provide adequate cooperation to any inspector or other COUNTY representative to permit him/her to determine the CONTRACTOR's conformity with the terms of this Agreement. If any services performed or products provided by CONTRACTOR are not in conformance with the terms of this Agreement, the COUNTY shall have the right to require the CONTRACTOR to perform the services or provide the products in conformance with the terms of the Agreement at no additional cost to the COUNTY. When the services to be performed or the products to be provided are of such nature that the difference cannot be corrected; the COUNTY shall have the right to: (1) require the CONTRACTOR immediately to take all necessary steps to ensure future performance in conformity with the terms of the Agreement; and/or (2) reduce the Agreement price to reflect the reduced value of the services performed or products provided upon mutual agreement. The COUNTY may also terminate this Agreement for default and agrees to accept as liquidated damages a pro-rated refund of Service Fees because of the CONTRACTOR's failure to perform.

8.2 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement.

9. Independent Contractor/Employment Eligibility

9.1 The CONTRACTOR is, for purposes relating to this Agreement, an independent contractor and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents, and subcontractors) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.

9.2 CONTRACTOR warrants that it shall make its best effort to fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees performing work under this Agreement meet the citizenship or alien status requirement set forth in federal

statutes and regulations. CONTRACTOR shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all covered employees, for the period prescribed by the law.

9.3 Ineligible Person shall be any individual or entity who: Is currently excluded, suspended, debarred or otherwise ineligible to participate in the federal health care programs; or has been convicted of a criminal offense related to the provision of health care items or services and has not been reinstated in the federal health care programs after a period of exclusion, suspension, debarment, or ineligibility.

9.4 CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement. CONTRACTOR shall not hire or engage any Ineligible Person to provide services directly relative to this Agreement. CONTRACTOR shall screen all current Covered Individuals within sixty (60) days of execution of this Agreement to ensure that they have not become Ineligible Persons unless CONTRACTOR has performed such screening on same Covered Individuals under a separate agreement with COUNTY within the past six (6) months. Covered Individuals shall be required to disclose to CONTRACTOR immediately any debarment, exclusion or other event that makes the Covered Individual an Ineligible Person. CONTRACTOR shall notify COUNTY within five (5) business days after it becomes aware if a Covered Individual providing services directly relative to this Agreement becomes debarred, excluded or otherwise becomes an Ineligible Person.

9.5 CONTRACTOR acknowledges that Ineligible Persons are precluded from providing federal and state funded health care services by contract with COUNTY in the event that they are currently sanctioned or excluded by a federal or state law enforcement regulatory or licensing agency. If CONTRACTOR becomes aware that a Covered Individual has become an Ineligible Person, CONTRACTOR shall remove such individual from responsibility for, or involvement with, COUNTY business operations related to this Agreement.

9.6 CONTRACTOR shall notify COUNTY within five (5) business days if a Covered Individual or entity is currently excluded, suspended or debarred, or is identified as such after being sanction screened. Such individual or entity shall be promptly removed from participating in any activity associated with this Agreement.

10. Subcontract for Work or Services

No contract shall be made by the CONTRACTOR with any other party for furnishing any of the work or services under this Agreement without the prior written approval of the COUNTY; but this provision shall not require the approval of contracts of employment between the CONTRACTOR and personnel assigned under this Agreement, or for parties named in the proposal and agreed to under this Agreement.

11. Disputes

11.1 The parties shall attempt to resolve any disputes amicably at the working level. If that is not successful, the dispute shall be referred to the senior management of the parties. The CONTRACTOR shall proceed diligently with the performance of this Agreement pending the resolution of a dispute.

11.2 Prior to the filing of any legal action related to this Agreement, the parties shall be obligated to attend a mediation session in Riverside County before a neutral third party mediator. A second mediation session shall be required if the first session is not successful. The parties shall share the cost of the mediations.

12. Licensing and Permits

CONTRACTOR shall comply with all State or other licensing requirements, including but not limited to the provisions of Chapter 9 of Division 3 of the Business and Professions Code. All licensing requirements shall be met at the time proposals are submitted to the COUNTY. CONTRACTOR warrants that it has all necessary permits, approvals, certificates, waivers and exemptions necessary for performance of this Agreement as required by the laws and regulations of the United States, the State of California, the County of Riverside and all other governmental agencies with jurisdiction, and shall maintain these throughout the term of this Agreement.

13. Use By Other Political Entities

The CONTRACTOR agrees to extend the same pricing, terms, and conditions as stated in this Agreement to each and every political entity, special district, and related non-profit entity in Riverside County. It is understood that other entities shall make purchases in their own name, make direct payment, and be liable directly to the CONTRACTOR; and COUNTY shall in no way be responsible to CONTRACTOR for other entities' purchases.

14. Non-Discrimination

CONTRACTOR shall not be discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply

with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

15. Records and Documents

CONTRACTOR shall make available, upon written request by any duly authorized Federal, State, or COUNTY agency, a copy of this Agreement and such books, documents and records as are necessary to certify the nature and extent of the CONTRACTOR's costs related to this Agreement. All such books, documents and records shall be maintained by CONTRACTOR for at least five years following termination of this Agreement and be available for audit by the COUNTY. CONTRACTOR shall provide to the COUNTY reports and information related to this Agreement as requested by COUNTY.

16. Confidentiality

16.1 The CONTRACTOR and COUNTY shall not use for personal gain or make other improper use of privileged or confidential information which is acquired in connection with this Agreement. The term "privileged or confidential information" includes but is not limited to: unpublished or sensitive technological or scientific information; medical, personnel, or security records; anticipated material requirements or pricing/purchasing actions; COUNTY and CONTRACTOR information or data which is not subject to public disclosure; COUNTY and CONTRACTOR operational procedures; and knowledge of selection of contractors, subcontractors or suppliers in advance of official announcement.

16.2 The CONTRACTOR shall protect from unauthorized disclosure names and other identifying information concerning persons receiving services pursuant to this Agreement, except for general statistical information not identifying any person. The CONTRACTOR shall not use such information for any purpose other than carrying out the CONTRACTOR's obligations under this Agreement. The CONTRACTOR shall promptly transmit to the COUNTY all third party requests for disclosure of such information. The CONTRACTOR shall not disclose, except as otherwise specifically permitted by this Agreement or authorized in advance in writing by the COUNTY, any such information to anyone other than the COUNTY. For purposes of this paragraph, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particulars assigned to the individual, such as finger or voice print or a photograph. This obligation of confidentiality shall not apply to information that: (a) is published by the disclosing party or otherwise becomes available to the public other than by a breach of this Agreement, (b) is rightfully received by the recipient from a third party not under an obligation of confidentiality, (c) is known by or independently developed by the recipient prior to disclosure by the disclosing party, or (d) is required to be disclosed pursuant

to law a lawful subpoena from a court of competent jurisdiction or in response to a valid request by a governmental agency. In the event of any required disclosure under 16.2(d), the party requesting to disclose the Confidential Information shall provide reasonable advance written notice to the other party to provide the other party an opportunity to assert whatever exclusions or exemptions may be available to it under such law or regulation and object or respond to the subpoena or governmental agency to protect against the disclosure of the Confidential Information.

16.3 The CONTRACTOR is subject to and shall operate in compliance with all relevant requirements contained in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, enacted August 21, 1996, and the related laws and regulations promulgated subsequent thereto. Please refer to Attachment 1 of this agreement.

16.4 Except as expressly stated in this Agreement, (i) this Agreement does not confer any right, license, interest or title in, to or under the Confidential Information, and (ii) no license is granted to the receiving party, by estoppels or otherwise under any patent, trademark, copyright, trade secret or other proprietary rights

16.5 Each party acknowledges that monetary damages will not be a sufficient remedy for any breach of the confidentiality provisions of this Agreement. The non-breaching party may seek specific performance or injunctive relief, in addition to any other remedies available at law or in equity, upon the breach or threatened breach of this Section of the Agreement without posting bond and without proof of actual damages.

17. Administration/Contract Liaison

The COUNTY Purchasing Agent, or designee, shall administer this Agreement on behalf of the COUNTY. The Purchasing Department is to serve as the liaison with CONTRACTOR in connection with this Agreement.

18. Notices

All correspondence and notices required or contemplated by this Agreement shall be delivered to the respective parties at the addresses set forth below and are deemed submitted two days after their deposit in the United States mail, postage prepaid:

COUNTY OF RIVERSIDE

Riverside University Health System
Attn: Quality Management Dept.
26520 Cactus Avenue
Moreno Valley, CA 92555

CONTRACTOR

Vizient, Inc.
290 E. John Carpenter Freeway
Irving, TX 75062

19. Force Majeure

If either party is unable to comply with any provision of this Agreement due to causes beyond its reasonable control, and which could not have been reasonably anticipated, such as acts of God, acts of war, civil disorders, or other similar acts, such party shall not be held liable for such failure to comply.

20. EDD Reporting Requirements

In order to comply with child support enforcement requirements of the State of California, the COUNTY may be required to submit a Report of Independent Contractor(s) form **DE 542** to the Employment Development Department. The CONTRACTOR agrees to furnish the required data and certifications to the COUNTY within 10 days of notification of award of Agreement when required by the EDD. This data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders. Failure of the CONTRACTOR to timely submit the data and/or certificates required may result in the contract being awarded to another contractor. In the event a contract has been issued, failure of the CONTRACTOR to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignments Orders and Notices of Assignment shall constitute a material breach of Agreement. If CONTRACTOR has any questions concerning this reporting requirement, please call (916) 657-0529. CONTRACTOR should also contact its local Employment Tax Customer Service Office listed in the telephone directory in the State Government section under "Employment Development Department" or access their Internet site at www.edd.ca.gov.

21. Hold Harmless/Indemnification

21.1 To the extent permitted by law, CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any third party liability, action, claim or damage 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 Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature but only to the extent such Claims are based upon the act or omission of CONTRACTOR. 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, the Indemnitees in any claim or action based upon such alleged acts or omissions. Neither party is responsible for losses incurred by reason of the other party's willful misconduct.

21.2 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 own choice 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 Indemnitees as set forth herein.

21.3 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.

21.4 The specified insurance limits required in this Agreement shall in no way limit or circumscribe CONTRACTOR'S obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

21.5 NOTWITHSTANDING CONTRACTOR'S OBLIGATION TO HOLD COUNTY HARMLESS AND INDEMNIFY, IN NO EVENT WILL CONTRACTOR BE LIABLE, WHETHER IN CONTRACT OR IN TORT OR UNDER ANY OTHER LEGAL THEORY (INCLUDING STRICT LIABILITY AND NEGLIGENCE), FOR LOST PROFITS OR REVENUES, LOSS OR INTERRUPTION OF USE, OR FOR ANY INDIRECT, EXEMPLARY, SPECIAL, INCIDENTAL, CONSEQUENTIAL DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; FOR AN AMOUNT GREATER THAN THREE (3) TIMES THE SERVICE FEES AND REIMBURSABLE EXPENSES OF THIS AGREEMENT. THIS LIMITATION OF LIABILITY IS FUNDAMENTAL TO THIS AGREEMENT. THE PARTIES REVIEWED AND BARGAINED FOR THESE TERMS AND NEITHER PARTY WOULD BE WILLING TO ENTER INTO THIS AGREEMENT WITHOUT THIS LIMITATION.

22. Insurance

22.1 Without limiting or diminishing the CONTRACTOR'S obligation to indemnify or hold the COUNTY harmless, CONTRACTOR 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, the COUNTY herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents, or representatives as Additional Insureds.

A. Workers' Compensation:

If the CONTRACTOR has employees as defined by the State of California, the CONTRACTOR 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, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of CONTRACTOR'S performance of its obligations hereunder. Policy shall name the COUNTY as Additional Insured. Policy's limit of liability shall not be less than \$2,000,000 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. Vehicle Liability:

If vehicles or mobile equipment is used in the performance of the obligations under this Agreement, then CONTRACTOR shall maintain liability insurance for all owned, non-owned, or hired vehicles so used in an amount not 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. Policy shall name the COUNTY as Additional Insureds.

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 CONTRACTOR 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 COUNTY, and at the election of the County's Risk Manager, CONTRACTOR'S carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

3) CONTRACTOR shall cause CONTRACTOR'S insurance carrier(s) to furnish the County of Riverside with a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein. Further, said Certificate(s) shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of Riverside 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 properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. CONTRACTOR shall not commence operations until the COUNTY has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier shall sign the original endorsements for each policy and the Certificate of Insurance.

4) It is understood and agreed to by the parties hereto that the CONTRACTOR'S insurance shall be construed as primary insurance, and the COUNTY'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 COUNTY 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 CONTRACTOR has become inadequate.

6) CONTRACTOR 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 COUNTY.

8) CONTRACTOR agrees to notify COUNTY 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.

23. General

23.1 CONTRACTOR shall not delegate or assign any interest in this Agreement, whether by operation of law or otherwise, without the prior written consent of COUNTY. Such consent may not be unreasonably withheld, delayed, or conditioned. Any attempt to delegate or assign any interest herein shall be deemed void and of no force or effect.

23.2 Any waiver by COUNTY of any breach of any one or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term of this Agreement. Failure on the part of COUNTY to require exact, full, and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms or preventing COUNTY from enforcement of the terms of this Agreement.

23.3 In the event the CONTRACTOR receives payment under this Agreement, which is later disallowed by COUNTY for nonconformance with the terms of the Agreement, the CONTRACTOR shall promptly refund the disallowed amount to the COUNTY on request; or at its option the COUNTY may offset the amount disallowed from any payment due to the CONTRACTOR unless such amounts are in dispute by the parties.

23.4 CONTRACTOR shall not provide partial delivery or shipment of services or products unless specifically stated in the Agreement.

23.5 CONTRACTOR shall not provide any services or products subject to any chattel mortgage or under a conditional sales contract or other agreement by which an interest is retained by a third party. The CONTRACTOR warrants that it has good title to all materials or products used by CONTRACTOR or provided to COUNTY pursuant to this Agreement, free from all liens, claims, or encumbrances.

23.6 Nothing in this Agreement shall prohibit the COUNTY from acquiring the same type or equivalent equipment, products, materials or services from other sources, when deemed by the COUNTY to be in its best interest so long as such products or services do not unreasonably interfere with CONTRACTOR'S ability to perform its obligations under this Agreement. The COUNTY reserves the right to purchase more or less than the quantities specified in this Agreement.

23.7 The COUNTY agrees to cooperate with the CONTRACTOR in the CONTRACTOR's performance under this Agreement, including, if stated in the Agreement, providing the CONTRACTOR with reasonable facilities and timely access to COUNTY data, information, and personnel.

23.8 CONTRACTOR shall comply with all applicable Federal, State and local laws and regulations. CONTRACTOR will comply with all applicable COUNTY policies and procedures. In the event that there is

a conflict between the various laws or regulations that may apply, the CONTRACTOR shall comply with the more restrictive law or regulation.

23.9 CONTRACTOR shall comply with all air pollution control, water pollution, safety and health ordinances, statutes, or regulations, which apply to performance under this Agreement.

23.10 CONTRACTOR shall comply with all requirements of the Occupational Safety and Health Administration (OSHA) standards and codes as set forth by the U.S. Department of Labor and the State of California (Cal/OSHA).

23.11 This Agreement shall be governed by the laws of the State of California. Any legal action related to the performance or interpretation of this Agreement shall be filed only in the Superior Court of the State of California located in Riverside, California, and the parties waive any provision of law providing for a change of venue to another location. In the event any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

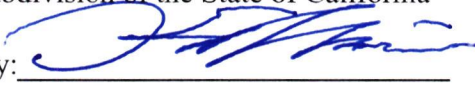
23.12 This Agreement, including any attachments or exhibits, constitutes the entire Agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.

23.13 This Agreement may be executed simultaneously in two or more counterparts, each of which shall be an original, but all of which together shall constitute one and the same Agreement. Each party to this Agreement may agree to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act (“CUETA”) Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this Agreement. The parties further agree that the electronic signatures of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to the CUETA as amended from time to time. The CUETA authorizes use of an electronic signature for transactions and contracts among parties in California, including a government agency. Digital signature means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the parties. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (i) of Section 1633.2 of the Civil Code.

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this Agreement.

COUNTY OF RIVERSIDE, a political subdivision of the State of California

VIZIENT, INC., a Delaware corporation

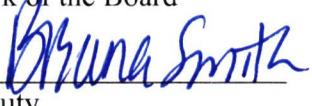
By: 
Kevin Jeffries, Chair
Board of Supervisors



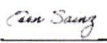
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By: Marshall Leslie
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Marshall Leslie
Group SVP, Operations & Quality
Dated: 2/21/2023 | 1:47:36 PM PST

Dated: 3/20/23

ATTEST: **KIMBERLY A. RECTOR**
Clerk of the Board

By: 
Deputy

APPROVED AS TO FORM:
Minh C. Tran
County Counsel

By: 
Esen Sainz
Deputy County Counsel
Feb 14, 2023

MAR 28 2023 15.2

Scope of Services

Clinical Data Base Services Statement of Work

Vizient, Inc., a Delaware corporation, (herein referred to as "Vizient" or "Contractor") will provide the services detailed in this **Clinical Data Base Services Statement of Work** (this "SOW") to **County of Riverside**, a political subdivision of the State of California, (herein referred to as "County" or "Member") on behalf of **Riverside University Health System** (herein referred to as "RUHS") and its covered facilities set forth in **Attachment I** ("Covered Facilities"), for the Service Fees indicated hereunder. Vizient and Member are sometimes referred to herein individually as a "Party" and collectively as the "Parties." Any reference to, or description of any right or obligation of, "Member" in this SOW will also include Covered Facilities unless specifically delineated.

1. **Services.** Vizient will provide a subscription to Vizient's Clinical Data Base ("CDB") which allows subscribing members to compare and analyze comprehensive clinical, supply spend, and resource utilization data across service lines and expedite data collection to fulfill agency reporting requirements. Specifically, CDB leverages patient charge detail, supply spend, and resource utilization data for transparent and comprehensive comparative analysis so members can compare internal trends and performance with other member peer organizations and identify clinical practice variation, assess resource need, optimize utilization to reduce costs, and identify opportunities for clinical, operational, and financial improvement. Member will have access to clinical benchmarking tools such as dashboards, simulation calculators, and templated and customizable reports, which allow members to generate customized analytical reports to evaluate performance across Member's organization and for specific categories for in depth review of Member's supply spend and utilization performance for high-cost categories such as pharmaceuticals, imaging, and medical-surgical supplies (collectively, the "Services"). Services also include:
 - 1.1 **Support Services.** Ongoing remote support services to assist Member with data submission and other technical support needs. Access to training (self-service and web-based training) and educational resources. Requests for on-site training may result in additional Service Fees as mutually agreed to by the Parties in an amendment to this SOW.
 - 1.2 **Core Measures Reporting Optional Services.** In addition to the Services, Vizient will provide Member access to optional core measure reporting services ("CM Services") delivered by a third party vendor, Medisolv, Inc. ("Medisolv"), for no additional fee. In order to subscribe to optional CM Services, Member and Medisolv must execute a mutually agreeable: i) Medisolv Product Subscription Agreement attached hereto as Attachment II, including the Data Authorization Form; and ii) Business Associate Agreement ("collectively, the "Medisolv Agreements"). Continued participation in CM Services is contingent on the continued effectiveness of the Medisolv Agreements. CM Services will be discontinued upon the expiration or termination of any of the Medisolv Agreements, this SOW, or upon 90 days' notice from either Party to the other Party. Member acknowledges and agrees that the CM Services are provided subject solely to the terms, conditions, and obligations set forth in the Medisolv Agreements and Vizient disclaims any liability with respect to the CM Services or the Medisolv Agreements.
 - 1.3 **Protected Health Information.** Services include the use of Protected Health Information ("PHI") and thus, any PHI disclosed hereunder, will be subject to the Parties' Business Associate Agreement ("BAA") dated April 8, 2014 hereto as Appendix I.
 - 1.4 **Optional Services.** In addition to the Services described herein, Vizient may from time to time provide Member access to optional components under this SOW for no additional fee; provided, however, access to an optional component may be conditioned on Member's regular submission of certain data relevant to the functionality of such optional component. Vizient reserves the right to terminate or discontinue any optional components at any time without notice.
 - 1.5 **Member Data.** Member acknowledges Services rely solely on timely receipt of complete, accurate, and relevant Member data, including clinical data, operational data, and spend-related data (including, but not limited to, purchase orders, item master information, vendor master information, receipts, invoices and utilization data) (collectively, "Member Data") and Member will submit all required Member Data on a monthly basis and as may otherwise be requested by Vizient from time

Exhibit A

to time. Member Data also includes all data submitted to Medisolv for CM Services (individually, "CM Data" and collectively as, Member Data). Vizient has the right to use Member Data submitted in connection with any other Vizient services to which Member subscribes. Member's failure to provide Member Data may limit Vizient's ability to provide all or part of the Services. Vizient reserves the right to terminate this SOW immediately if Member fails to comply with this section.

2. Materials, Licenses, and Member Obligations.

2.1 "Materials" means all data, databases, or property owned, licensed, leased, or developed by, or on behalf of, Vizient and provided to or accessed by Member, including all reports generated with the use of Services, pursuant to the terms of this SOW, including, without limitation, Program Data, Program Content, and Derivative Works (as defined below).

- A. "Program Data" means all data, programs, databases, resources, and property accessed by or provided to Member as part of the Services, including all subsequent copies, reproductions, modifications, updates, reports, literary works, and other works of authorship including, but not limited to, clinical and operational databases, clinical performance data, resource utilization data, spend data, and other data provided hereunder.
- B. "Program Content" means all Services components, including software, hardware, storage media, functionality, manuals, products, processes, calculations, algorithms, reports, user interfaces, know-how, techniques, design or submission specifications, or any other web-based application or platform or technical information made available to Member in providing access to Services, including usage and access data and information contained in websites accessed as part of the Services.
- C. "Derivative Works" means all deliverables created by Vizient, including deliverables created by Vizient with the use of Member Data, and used for analysis purposes, to create Program Data, or made available to other Services subscribers in connection with the Services.

2.2 Licenses.

- A. Ownership. Vizient owns all Materials, Program Data, Derivative Works, and all other documentation and information not specifically granted to Member hereunder. Member owns all Member Data, as submitted by Member, subject to the license and right of use expressly granted to Vizient.
- B. Member License. Member hereby grants Vizient a royalty-free, non-exclusive, and perpetual license to access, incorporate, create, display, transmit, reproduce, and otherwise use Member Data to create Materials as necessary to provide the Services and for use by other subscribing Vizient members as part of the Services. Vizient will aggregate Member Data and apply any Services specific processing, including, but not limited to, applying risk and cost adjustment modifiers to create Materials pursuant to Vizient's standards, processes, schedules, data privacy and security, and internet security policies.
- C. Vizient License. Vizient hereby grants Member the non-exclusive right to access and use Services, including, but not limited to, website or storage media, user manuals, or Materials, solely for Member's own internal purposes, during the Term and in accordance with the terms and conditions of this SOW.
- D. License Reservations. Vizient reserves all rights not specifically granted to Member hereunder, including all rights, title and interest, and all derivative works thereof, including all related intellectual property rights. Except as expressly provided herein or otherwise upon Vizient's express written consent, Member will not, nor will it permit, any third party to use, receive, copy, market, sell, distribute, license, sublicense, lease, timeshare, rent, transfer, disclose, display, view, translate, modify, improve, adapt, disassemble, decompile, or reverse engineer Materials, Derivative Works, or Program Data, or any portions thereof; nor will Member create, use, or permit third parties to access or use Materials to create derivative works, improvements, products, reports, or other documentation, without Vizient's express written consent.
- E. License Limitations. Member agrees Services are contingent on the express condition Member will: i) treat all Materials, as defined in this SOW and at all stages of creation or completion, as Vizient's intellectual property and

Exhibit A

Confidential Information (as defined in the Master Agreement); ii) use the Services for Member's internal use only; and iii) immediately notify Vizient of any unauthorized use of Services.

2.3 Member Obligations.

- A. **General.** Member will: i) comply with the terms and conditions of this SOW; ii) complete all survey or intake tools; iii) submit complete, accurate, and relevant Member Data through appropriate and secure data feeds and in accordance with Vizient's data submission standards, processes, schedules, data security, and internet security policies for all Services; and iv) comply with Vizient's security and privacy procedures and maintain associated physical, technical, and administrative safeguards as needed to ensure Materials are accessed by authorized personnel only and will remain de-identified in accordance with 45 CFR Part 164.514(b), as amended.
- B. **Access.** Member will not alter, modify, remove, obscure, or cover any trademark, copyright notices, or other legends or proprietary notices placed on or embedded by Vizient in the Materials, Program Data, Derivative Works, or other documentation or modify or copy any of the foregoing in any digital or electronic form without the express written permission of Vizient. Member will reproduce all such notices and legends on and in any and all backup copies of all Materials created by Member as permitted herein. In addition, Member will not attempt, nor allow or request others to attempt, to circumvent any technological measures implemented by Vizient to protect its Materials and copyrightable property. Furthermore, Member will not permit access to anyone other than through i) terminals located on Member's business premises or ii) through a Member owned virtual private network ("VPN") accessed with Member-owned and secured equipment, which may be within Member's employee's home office(s).
- C. **Internal Use Only.** Member will not, nor will it permit, any other person, entity, or party to: i) identify or re-identify, or attempt to identify or re-identify, any specific institution, physician, patient, or individual in the Materials; or ii) link any other data elements to de-identified data sets within Program Data without obtaining an expert determination that all such data sets have been statistically de-identified and will remain de-identified pursuant to 45 CFR Part 164.514(b), as amended. Notwithstanding the foregoing, Member will only use Confidential Information that is wholly or partially identifiable for internal use only and will not use any Materials or Confidential Information in any form outside Member's institution, unless it meets all requirements in this SOW and is masked, blinded, or otherwise protected to preclude the identification of all institutions, providers, and patients. Member understands Vizient shares non-PHI Materials with other subscribers, and may do so on a hospital-specific basis, in accordance with Services standards and guidelines, and subject to contractual obligations of confidentiality with the other subscribers (see also Publication Rights below).
- D. **Data Sharing Among Covered Affiliates.** Member may use, present and share the Materials with other Covered Facilities of Member that subscribe to the Services, subject to the terms and conditions of this SOW, including the obligations to comply with HIPAA described above.
- E. **External Third-Party Disclosure; Provision of Reports to Third Parties.** Member may disclose Member Data in reports or documents created or developed by Member using the Materials, if the Member Data relates to Member, based on information contained in the Vizient databases (but may not grant access to the actual databases) on a need-to-know basis with certain unrelated third-party *financial, legal and operational advisors, including consultants, provided that such third parties have executed an agreement that requires them to comply with restrictions as to use, confidentiality and ownership of the Materials.* Specifically, Member agrees that with respect to Member Data: all personnel and external third parties to whom they provide access to Member Data, which includes expert determination de-identified data sets will be properly informed of the data use conditions set forth in this SOW.
- F. **Publication Rights.** Member may publish a review, analysis, or conduct research based on Program Data ("Publication") subject to Member's compliance of the following restrictions: i) no institution or group of institutions may be identified or identifiable; ii) Member will not compare data or other performance information with any identifiable institution or identifiable group of institutions; iii) Member will, if applicable, only use Program Data, including data generated based on or with the use of Program Data or arising from the Services provided hereunder, by aggregating such data with at least 5 other institutions; and iv) Member will obtain Vizient's prior written consent for any Publication containing Materials, including Program Data, and such Publication will include the following statement: "***The***

Exhibit A

information contained in this article was based in part on data accessed as part of Vizient's Clinical Data Base subscription services."

- G. **Disclaimer.** ALL SERVICES, MATERIALS, PROGRAM DATA, DERIVATIVE WORKS, OR ANY OTHER INFORMATION OR DATA PROVIDED HEREUNDER ARE PROVIDED "AS IS" AND WITHOUT ANY WARRANTY, EXPRESS OR IMPLIED, AS TO THE VALIDITY OF ANY MATERIALS, DATA OR OTHER INFORMATION PROVIDED OR ACCESSED HEREUNDER, OR OF ITS APPROPRIATENESS FOR USE IN ANY MANNER, AND THE PARTIES EXPRESSLY EXCLUDE FROM THIS SOW ALL WARRANTIES OR MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ALL OTHER WARRANTIES ARISING BY LAW, STATUTE, USAGE OF TRADE, OR COURSE OF DEALING. MEMBER ACKNOWLEDGES AND AGREES ANY INFORMATION, MATERIALS, DATA, OR OTHER DOCUMENTATION AVAILABLE HEREUNDER IS NOT A SUBSTITUTE FOR MEMBER'S INDEPENDENT PROFESSIONAL JUDGMENT AND MEMBER ASSUMES ANY AND ALL RISKS ASSOCIATED WITH THE ACCURACY, USE, AND RELIANCE ON THE SERVICES, MATERIALS, OR OTHER DOCUMENTATION PROVIDED HEREUNDER.

 - H. **Covered Facilities.** Member may share Materials with Covered Facilities for Covered Facilities internal purposes only. Member represents and warrants it the right and legal authority to enter into this SOW on behalf of the Covered Facilities and has obtained all necessary and required consents and authorizations or approvals as dictated by applicable laws, rules, regulations, or policies necessary to share Materials, including Program Data, with Covered Facilities.
3. **Intentionally Omitted.**
4. **Effect of Termination.** Upon any termination of this SOW: i) Member will return all Materials to Vizient; and ii) all rights and licenses granted to Member hereunder will immediately terminate, together with Member's access to Services. Member's obligations and any licenses granted to Vizient hereunder will survive any termination of this SOW indefinitely.
5. **Sunset.** Vizient reserves the right to sunset, discontinue, or outsource any element of the Services, as well as merge one or more elements of Services into another product upon reasonable notice to Member.
6. **Service Fees and Invoicing.**
- 6.1 **Service Fees.** Vizient will provide the Services described herein to Member for an annual service fee of **\$249,557** ("Service Fees"). Vizient will increase Service Fees by 3% on each anniversary of the Effective Date, as described in Section 3 of the Agreement. Member acknowledges and agrees Service Fees are for the Covered Facilities set forth in **Exhibit A** as of the Effective Date. Any requests to add additional facilities after the Effective Date will result in additional Service Fees as mutually agreed to by the Parties in an amendment to this SOW and Vizient has no obligation to provide Services to any facility not set forth in this SOW.

 - 6.2 **Reimbursable Expenses.** Member acknowledges and agrees Services-related expenses for on-site services and support (e.g. additional training, member presentations, and data acquisition for added facilities) such as travel, meals, lodging, and other administrative costs, such as postage, copying, and overnight mailing, ("Reimbursable Expenses") are in addition to Service Fees, and the Parties shall mutually agree to such expenses in advance.

 - 6.3 **Invoicing and Payment.** Vizient will invoice annual Service Fees, in full, on each anniversary of the Effective Date. Vizient will invoice Reimbursable Expenses, as incurred, on a monthly basis. Member will pay all invoiced balances within 30 days of the invoice date.

Invoices will be addressed to:

Name/Title/Dept.:	Riverside University Health Systems-Medical Center (Accounts Payable Department)
Address:	AP@ruhealth.org
	14375 Nason Street, 2 nd Floor, Suite 209

Exhibit A

	Moreno Valley, CA 92555
Member Contact Information	
Name/Title:	Angela Simpkins
Phone:	(951) 486-4684
Email:	a.simpkins@ruhealth.org

If Member requires specific information (i.e., purchase order number) to be included in each invoice, Member will select the appropriate box below and provide the required information **at the time Member executes this SOW**, and annually (or as required) thereafter:

- Purchase Order Number _____
- Contract Identification Number _____
- Other Information _____

6.4 Member Statement Offset Option. If adequate funds are available, Member may elect to have Service Fees and/or Reimbursable Expenses offset from Member's available cash distributions. If Member intends to elect this option, Member will request, complete, and return the Offset Authorization Form via email to MSD@vizientinc.com.

Attachment I

Covered Facilities

Vizient MID	Covered Facility	Medicare ID	Core Measures Y/N	Joint Commission ID
797038	County of Riverside	050292	Y	

Attachment II

Medisolv Product Subscription Agreement

This Medisolv Product Subscription Agreement (the "Agreement") is entered into by and between County of Riverside, a political subdivision of the State of California, (herein referred to as "County" or "Client") on behalf of Riverside University Health System (herein referred to as "RUHS") and Medisolv, Inc., a Maryland corporation ("Medisolv"), for the Medisolv ENCOR abstraction software ("Medisolv Software") as of January 1, 2023 ("Effective Date").

1. SOFTWARE SUBSCRIPTION.

1.1. *Definitions.* Capitalized terms used in this Section 1 but not otherwise defined shall have the following meanings:

- (a) "*Documentation*" means the user guides, operating manuals, and specifications, whether in print or machine-readable media, and all materials supplied by Medisolv or its agents to Client or otherwise made generally available to clients regarding the Medisolv Software or the provision of services. Documentation specifically includes all technical information and responses prepared by Medisolv to any request for information or request for proposals issued by Client. Documentation shall be updated and provided to Client at such time as such updates are generally made available to Medisolv's clients.
- (b) "*Third Party Product*" means application software products provided by third party vendors, including operating system and application software to which the Medisolv Software interfaces and which provides certain functionality essential to the operation of the Medisolv Software.
- (c) "*Intellectual Property Rights*" means all copyrights, trademarks, service marks, trade secrets, patents, patent applications, moral rights, and other intellectual property and proprietary rights.
- (d) "*Medisolv Software*" means the ENCOR abstraction software, related implementation, and data transmission/submission services. Medisolv Software may include Third Party Products that are licensed to Medisolv and sub-licensed to Client hereunder. Medisolv Software shall also include any fixes, patches, modifications, enhancements, or upgrades to such software that are made generally available to subscribers to the Medisolv ENCOR abstraction software. All such fixes, patches, modifications, enhancements, or upgrades will be provided by Medisolv to Client as part of its subscription for the Medisolv Software at no additional charge.
- (e) "*Support Services*" means the services described on Exhibit 2 (Support Service Terms).
- (f) "*Vizient Demographic Data Files Format*" means patient data files submitted by clients to Medisolv according to the required Vizient file format specifications, specifically the inpatient demographic data (Base Data) format in the Vizient IPPS Upload Utility Manual Version 1.1 and the Outpatient demographic data (Base Data) in the Vizient OPSS Upload Utility Manual Version 11.0a updated by Medisolv as needed, at mutually agreed upon regular intervals for the proper functioning of the Medisolv Software.

1.2. *Provision of Software and Services.* Medisolv hereby grants Client the right to access and use the Medisolv Software and Documentation during the Term of this Agreement. Medisolv will make the Medisolv Software and Documentation available to and provide the Medisolv Software and Documentation to Client pursuant to this Agreement during the Term. As part of Client's subscription to the Medisolv Software, Medisolv will provide to Client at no additional charge, installation, training, implementation, and/or any other services related to the Medisolv Software. Data extraction from Client data systems by Medisolv for use in the Medisolv Software is not included under this Agreement, and Client will be required to provide patient data files to Medisolv as specified in the formats of the Vizient Demographic Data Files.

1.3. *Restrictions on Use.* Client acknowledges that the Medisolv Software and Documentation, and all worldwide Intellectual Property Rights therein, are the exclusive property of Medisolv or third parties from whom Medisolv licenses Third Party Products that are included as part of the Medisolv Software. Accordingly, Client agrees not to (i) modify, adapt, alter, translate, or create derivative works from the Medisolv Software; (ii) merge the Medisolv Software with other software; (iii) sublicense, lease, rent, loan, or otherwise transfer the Medisolv Software to any third party, (iv) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the Medisolv Software; (v) use the Medisolv Software to provide services for third parties or to otherwise operate a service bureau; or (vi) otherwise use or copy the Medisolv Software, except as expressly allowed hereunder. All rights in and to the Medisolv Software not expressly granted to Client in this Agreement are reserved by Medisolv or third parties from whom Medisolv licenses Third Party Products that are included as part of the Medisolv Software, and all implied licenses are disclaimed.

Attachment II

Client will not remove, alter, or obscure any proprietary notices (including copyright notices) of Medisolv or third-party vendors on the Medisolv Software or the Documentation.

- 1.4. *Third Party Products.* If any Medisolv Software contains embedded or installed proprietary software that is licensed to Medisolv by third parties, then during the Term of this Agreement, Medisolv grants to Client, effective upon completion of installation of the Medisolv Software, a non-exclusive, non-transferable, worldwide sublicense to use each item of third-party software.

2. IMPLEMENTATION OF MEDISOLV SOFTWARE; SUPPORT SERVICES.

- 2.1. *Installation.* Medisolv shall be responsible for implementing the Medisolv Software in accordance with the dates and/or time limits in this Agreement.
- 2.2. *Support Services.* Medisolv will provide the Support Services as part of Client's subscription to the Medisolv Software.
- 2.3. *Service Availability.* Medisolv Software provided under this Agreement shall be available with a minimum uptime threshold of 95%, excluding scheduled maintenance windows. Uptime availability will be defined and measured by the ability of an end-user to login and perform essential application functions within the subscribed product(s). Scheduled maintenance is defined as any planned maintenance which is identified, communicated, and planned prior to downtime, broken down into the following two categorizations:

Normally Scheduled Maintenance: To be communicated to end-users via any of: E-Mail, direct messaging, application notification, and/or written communication. Normally scheduled maintenance, to the best of Medisolv's ability, will occur during off-hours (evening and weekend hours). Such maintenance is anticipated to occur no more than once per month, for no longer than 4 hours per event.

Emergency Scheduled Maintenance: To be communicated to end-users via any of: E-Mail, direct messaging, and/or application notification. Emergency scheduled maintenance is an extremely rare occurrence and is only invoked in the case of a serious cyber-security incident which puts Client, company, and/or partner data, privacy, and/or security at significant risk. In such cases, Medisolv will immediately communicate the need for downtime, and will take systems down until the cyber-security incident or risk is completely alleviated and normal operations can resume.

2.4. *Backup and Recovery of Data.*

Medisolv will perform regular backups, for the purposes of disaster recovery, business continuity, and safety purposes. Backups will include full database backups, transaction log backups, and file-storage (e.g. BLOB) backups as necessary based on subscribed application(s). Backups and recovery are measured and enforced via RTO/RPO metrics, and Medisolv enforces the following minimum metric thresholds:

RPO (Recovery Point Objective): 24 hours (physical hours)

RTO (Recovery Time Objective): 40 hours (business hours)

Disaster recovery is tested on an annual basis and consists of the ability of Medisolv to restore client data (based on RPO) to a separate system (either new installation within existing infrastructure environment, or new installation within equivalent infrastructure environment in physically separate location) within the allotted time (based on RTO).

3. WARRANTIES.

- 3.1. *Warranty of Title.* Medisolv warrants that it owns and/or has the right to license the Medisolv Software and Documentation to Client as granted herein without the consent of any third party. Medisolv will not grant any rights or licenses to any intellectual property or technology that would conflict with Medisolv's obligations under this Agreement.
- 3.2. *Warranty of Performance.* Medisolv warrants and represents that (i) the Medisolv Software as delivered and accepted by Client will (a) perform in accordance with the Documentation, (b) will provide the data abstraction as described in Exhibit 1, and (c) will provide the data submission in attached Exhibit 1 and that meets the requirements established by CMS, The Joint Commission (TJC), Mass Health, and under Get With The Guidelines specifications, (ii) Medisolv will not reduce or eliminate functionality in the Medisolv Software, unless such functionality is considered redundant or obsolete by Medisolv, and provided such changes would not interfere with successful abstraction and timely reporting of required quality measures data, and (iii) the Medisolv Software shall be updated in a timely fashion for all future updates to measure specifications according to deadlines required by the respective measure stewards and/or program sponsors. Medisolv's liability for failure to perform in accordance with these warranty-established requirements is limited to repairing or replacing the Medisolv Software and re- submission of data as required.

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- 3.3. **Illicit Code.** Medisolv warrants and represents that: (i) unless authorized in writing by Client; or (ii) necessary to perform valid duties for Client under this Agreement, any Medisolv Software provided to Client by Medisolv for use by Medisolv or Client shall:
- (a) not replicate, transmit, or activate itself without control of a person operating computing equipment on which it resides;
 - (b) not alter, damage, or erase any data or computer programs without control of a person operating the computing equipment on which it resides;
 - (c) contain no node lock, whether implemented by electronic, mechanical, or other means, which restricts or may restrict use or access to any programs or data, based on frequency or duration of use or other limiting criteria ("Illicit Code"). If any Medisolv Software contains Illicit Code, Medisolv shall, via a document specific to this provision, notify Client in writing and receive a signed acknowledgement of receipt from Client. Such notification shall specifically inform Client of the full extent and nature of the Illicit Code and provide Client with instructions for overriding such Illicit Code in emergencies; and
 - (d) not contain any "back door," "drop dead device," "time bomb," "Trojan horse," "virus," or "worm" (as such terms are commonly understood in the software industry) or any other code designed or intended to have, or capable of performing, any of the following functions: (1) disrupting, disabling, deactivating, harming, or otherwise impeding in any manner the operation of, or providing unauthorized access to, a computer system or network or other device without the user's consent; or (2) modifying, damaging, deleting or destroying any data or file, or sending data or files to unauthorized parties, without the user's consent.
- 3.4. **Support Services.** Medisolv warrants and represents that Support Services for Medisolv Software shall be available from Medisolv for not less than five (5) years from the Effective Date, as long as Vizient pays Medisolv for providing the Medisolv Software to Client pursuant to the agreement between Medisolv and Vizient dated April 1, 2019. In the event Medisolv's relationship with Vizient terminates we will enter into a separate agreement with the client for providing Core Measures at a price which is equivalent to the then-prevailing market price for those Medisolv products and services.
- 3.5. **Warranty of Services.** Medisolv warrants and represents that services performed by Medisolv or by a permitted subcontractor or agent of Medisolv shall be performed in a timely, professional manner, consistent with the highest practices in the industry and in a diligent and a workmanlike manner, and according to mutually agreed timelines.
- 3.6. **Additional Warranties.** Medisolv further represents, warrants, and covenants that (i) it will at all times comply with applicable laws in providing the Medisolv Software (including the services provided as a part of the Medisolv Software solution) to Client, including, but not limited to, Federal and state laws regulating the privacy and/or security of PI, PII, and PHI (under HIPAA), (ii) it has and will maintain in full force and effect all licenses required to provide the Medisolv Software to Client and for the Medisolv Software to perform the functions and Medisolv to provide the services as described in the Documentation and Exhibit 1, including Medisolv meeting and continuing to meet all requirements for measure collection and transmission of performance measures data to The Joint Commission to CMS, and all necessary requirements to be qualified to submit measures under Get With The Guidelines and Mass Health, (iii) it will maintain industry standard, HIPAA, and state privacy/security law compliant security practices for all Client data whether in rest or in motion, with respect to the handling, receipt, use, and transmission of Client data, and (iv) the Medisolv Software and Documentation does not infringe upon any United States or foreign copyright, patent, trade secret, or other proprietary right, or misappropriate any trade secret, of any third party.
- 3.7. **Geographic Limitations on Data.** Medisolv warrants and represents that in its provision of Medisolv Software and Support Services to Client, Protected Health Information as such is defined in HIPAA and confidential information will at all times be physically stored in the United States; however, to the extent permitted by agreements (including Business Associate Agreements), Protected Health Information may be accessed remotely by Medisolv employees outside of the United States for support and maintenance purposes, as needed.
- 3.8. **Client Reps.** Client represents and warrants to Medisolv that (i) it has all requisite power and authority to enter into and perform its obligations under this Agreement; (ii) the execution, delivery, and performance of this Agreement is within its power and has been duly authorized by all necessary actions; (iii) to its best knowledge, Client will comply with all applicable laws, statutes, regulations, ordinances, and other rules in using the Medisolv Software; and (iv) any and all information provided by Client to Medisolv is truthful and accurate.
- 3.9. **Disclaimer of Warranties.** MEDISOLV DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND; EITHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY,. SOME JURISDICTIONS DO NOT ALLOW THE WAIVER OR EXCLUSION OF SOME WARRANTIES SO THEY MAY NOT APPLY TO CLIENT. IF THIS EXCLUSION IS HELD TO BE UNENFORCEABLE BY A COURT OF COMPETENT JURISDICTION, THEN ALL EXPRESS, IMPLIED, AND STATUTORY WARRANTIES SHALL BE LIMITED IN

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DURATION TO A PERIOD OF THIRTY (30) DAYS FROM THE ACCEPTANCE DATE, AND NO SUCH WARRANTIES SHALL APPLY AFTER THAT PERIOD.

3.10. INDEMNIFICATION. Medisolv will defend Client, its affiliates, and its and their end users (collectively, the "Indemnitees"), at Medisolv's expense, against any and all claims, demands, suits, and proceedings ("Claims") made or brought against Client or other Indemnitee by a third party alleging: (i) that the Medisolv Software or Documentation, or the use of the Medisolv Software or Documentation, infringes any patent, copyright, or trademark of a third party or misappropriates such third party's trade secrets; or (ii) bodily injury (including death) or damage to or loss of property resulting from or arising out of the intentional or negligent act or omission of Medisolv, its agents, subcontractors, or employees; or (iii) a breach by Medisolv of Sections 3.6, 3.7, or 5. Further, Medisolv will indemnify and hold Client and the other Indemnitees harmless against and any all liabilities, losses, obligations, risks, damages, settlements, fines, penalties, awards, costs, and expenses (including reasonable attorneys' fees) incurred or suffered by Client in connection with such Claims. Promptly upon receiving notice of a Claim, Client will (a) give Medisolv prompt written notice of the Claim; (b) give Medisolv sole control of the defense and settlement of the Claim, which Medisolv shall undertake using counsel reasonably acceptable to Customer (provided that Medisolv may not settle or defend any claim unless it unconditionally releases Client and the other Indemnitees of all liability); and (c) provide to Medisolv, at Medisolv's cost, all reasonable assistance in the defense or settlement of such Claim.

4. LIMITATION OF LIABILITY.

4.1. EXCEPT FOR (A) MEDISOLV'S INDEMNIFICATION OBLIGATIONS OR (B) EITHER PARTY'S BREACH OF SECTION 5, OR GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR VIOLATION OF APPLICABLE LAW (INCLUDING BUT NOT LIMITED TO FEDERAL AND STATE LAWS REGULATING THE PRIVACY AND/OR SECURITY OF PI, PII, AND PHI (UNDER HIPAA)), IN NO EVENT SHALL EITHER PARTY BE RESPONSIBLE FOR LOST PROFITS, LOSS OF BUSINESS, LOST SAVINGS, OR OTHER CONSEQUENTIAL, SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, OR PUNITIVE DAMAGES, EVEN IF ADVISED OF SUCH POSSIBILITY.

4.2. EXCEPT FOR (A) MEDISOLV'S INDEMNIFICATION OBLIGATIONS OR (B) EITHER PARTY'S BREACH OF SECTION 5, OR GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR VIOLATION OF APPLICABLE LAW (INCLUDING BUT NOT LIMITED TO FEDERAL AND STATE LAWS REGULATING THE PRIVACY AND/OR SECURITY OF PI, PII, AND PHI (UNDER HIPAA)), NEITHER PARTY'S TOTAL LIABILITY UNDER THIS AGREEMENT, WHETHER IN CONTRACT OR IN TORT (INCLUDING, WITHOUT LIMITATION, BREACH OF WARRANTY, NEGLIGENCE, AND STRICT LIABILITY IN TORT) SHALL EXCEED THREE (3) TIMES THE TOTAL DOLLAR AMOUNTS PAID OR PAYABLE TO MEDISOLV UNDER THIS AGREEMENT OR BY VIZIENT TO MEDISOLV FOR PROVIDING THE MEDISOLV SOFTWARE TO CLIENT PURSUANT TO THE AGREEMENT BETWEEN MEDISOLV AND VIZIENT DATED APRIL 1, 2019.

5. CONFIDENTIALITY; OWNERSHIP OF DATA; DATA BREACH.

5.1. Medisolv agrees that it shall not disclose or verify to any third party any Client data which it learned or had access to during the course of its performance of this Agreement, without the prior written consent of Client. This obligation shall survive the cancellation or other termination of this Agreement. The parties agree that any information furnished to one by the other that is marked "confidential" or "proprietary" or that reasonably should be understood to be confidential given the nature of the information or the circumstances of disclosure, a party's initiatives, business plans or intellectual property, and employee and medical staff information, constitutes the sole and exclusive proprietary information of the providing party ("Confidential Information").

"Confidential Information" shall also include any information concerning a disclosing party (whether prepared by a disclosing party or its representatives or otherwise and irrespective of the form of communication (i.e., whether written or oral)) which is furnished to a receiving party or to its representatives now or in the future by or on behalf of a disclosing party that is marked "confidential" or "proprietary" or that reasonably should be understood to be confidential given the nature of the information or the circumstances of disclosure including, without limitation, any business, technical (including but not limited to patented or patent-pending information), marketing, financial, patient, Client, vendor, employee, manufacturing, marketing, sales, research and development, or other information which is communicated by or on behalf of a disclosing party to a receiving party orally, in writing, or other physical or electronic form. "Confidential Information" shall also be deemed to include the existence of and content of this Agreement, as well as any notes, analyses, compilations, studies, forecasts, interpretations, or other documents prepared by a receiving party or its representatives that contain, in whole or in part, the information furnished to such receiving party or its representatives pursuant hereto. Each party agrees:

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- (i) not to disclose any such Confidential Information;
 - (ii) not to use any such Confidential Information for the benefit of itself or any other person or entity except as expressly provided in this Agreement;
 - (iii) to keep all Confidential Information in strict confidence; and
 - (iv) to safeguard all Confidential Information with reasonable security measures that are at least equivalent to the measures that it uses to safeguard its own proprietary or Confidential Information. All Confidential Information obtained by the receiving party, directly or indirectly, from the disclosing party is the exclusive property of the disclosing party, and the receiving party agrees to promptly return or destroy all Confidential Information including any copies, notes or summaries made thereof which the receiving party may have made, may have access to, or may receive or possess to the disclosing party upon the earlier of a request by the disclosing party, the termination of this Agreement, or the completion of the discussions and/or business relationship. The receiving party shall not retain any copies or summaries of the Confidential Information unless expressly approved in writing by the disclosing party.
- 5.2. The provisions of this Section 5.1 shall not apply with respect to any information the receiving party can prove (a) was rightfully in the receiving party's possession as a matter of record or known by it without restriction prior to disclosure, (b) is independently developed by those of the receiving party's personnel who did not have access to the Confidential Information as a matter of record, (c) is rightfully obtained from a third party who is not prohibited from transmitting the information by a contractual, legal, or fiduciary obligation, or (d) is or (through no improper action or inaction by the receiving party or its employees, agents, officers, directors and/or subcontractors) becomes generally available to the public without license or other restrictions. Additionally, notwithstanding anything else in this Section 5, sharing with Vizient, Inc. including patient data shall be governed by Client's agreement with Vizient. A party may make disclosures of Confidential Information required by court order, provided such party promptly notifies the other party of the disclosure requirement and cooperates efforts to resist or narrow the disclosure and to obtain an order or other reliable assurance that confidential treatment will be afforded such Confidential Information
- 5.3. Medisolv acknowledges that it will not acquire any rights in any of Client's data except for use by Medisolv in aggregate statistical analyses or use in "cleansed" or "de-identified" form, for the purpose of comparative benchmarking across its client base (Client data includes patient information or information that relates to patient information) and in accordance with the agreement between Vizient and Medisolv dated April 1, 2019.
- 5.4. In the event of an unauthorized use or disclosure by Medisolv, its employees, agents, or subcontractors of individually identifiable information held by Client ("Personal Information"), Medisolv will immediately give written notice to Client and, subject to the consent of Client following such notice, Medisolv shall take the following action with respect to such unauthorized use or disclosure: (i) promptly communicate the nature of the unauthorized use or disclosure to those persons whose Personal Information was or likely was used or disclosed in an unauthorized fashion ("Affected Individuals") via written correspondence approved in advance by Client's General Counsel; (ii) if the unauthorized use or disclosure of Personal Information could lead to identity theft or related financial risk to the individual subject(s) of such Personal Information, purchase identity theft monitoring service from a major credit reporting service for each affected Individual offered such service by Client, for a period of time mutually agreed to by Client and Medisolv, but not less than one (1) year; (iii) comply with any and all laws, regulations, governmental orders, or other governmental requirements applicable to such unauthorized use or disclosure of Personal Information; and (iv) take all action commercially reasonable to mitigate any damages realized by Client relating to the unauthorized use or disclosure of Personal Information.
6. INSURANCE. Throughout the Term of this Agreement, Medisolv shall maintain in force, at a minimum, the insurance coverage described below:
- 6.1. Medisolv shall maintain, at its sole cost and expense, insurance coverage in accordance with this Section. Medisolv shall provide to Client's Risk Management department an ACORD insurance certificate prior to or as of the Effective Date and annually thereafter, and otherwise within ten (10) business days following Client's request, evidencing all required coverage, with coverage underwritten by a U.S. licensed insurance carrier with an A.M. Best Company rating of no less than "A-VII". The commercial general liability, data privacy, and security insurance/cyber liability, commercial automobile liability and umbrella liability policies shall name Client, and Client's subsidiaries, and affiliates, as their interests may appear, as an additional insured. In addition, the commercial general liability, worker's compensation/employer's liability, and commercial automobile liability policies shall include a waiver of subrogation in favor of Client, Client's subsidiaries and affiliates. The insurance required by this Section shall not be cancelled or materially amended without providing thirty (30) days prior written notice to Client. The insurance coverage required

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under this Section shall not limit Medisolv's liability under this Agreement, nor shall such requirements be considered the ultimate amount or types of insurance Medisolv should carry.

- 6.2. **Basis of Coverage.** Medisolv should endeavor to obtain insurance coverage on occurrence basis forms. Coverage may be provided on a claims-made basis, but Medisolv must (prior to the effective date of termination of Medisolv's then-current insurance coverage and at its sole expense) either: (a) procure replacement policies for the same coverage for at least three years past the expiration or earlier termination of this Agreement; or (b) purchase three years' extended reporting coverage in the amounts required in this Section for all claims arising during the Term.
- 6.3. **Commercial General Liability Insurance.** Medisolv shall maintain commercial general liability insurance for bodily injury and property damage to third parties, including premises/operations, products-completed operations, independent contractors, contractual liability, and personal/advertising injury in the following minimum amounts:
 - \$1 million each occurrence;
 - \$2 million general aggregate;
 - \$2 million products/completed operations aggregate; and
 - \$1 million personal and advertising injury.This policy must be primary to any coverage maintained by Client, must be non-contributory, and must include Additional Insured Broad Form Vendors coverage pursuant to ISO Endorsement CG2015 or its equivalent.
- 6.4. **Workers' Compensation/Employer's Liability Insurance.** Medisolv shall maintain workers' compensation coverage as required by statute, which (unless otherwise agreed to in writing by Client) must be in the form of a workers' compensation insurance policy. Medisolv must maintain employer's liability insurance in an amount not less than: (i) \$1 million per accident; (ii) \$1 million for disease policy limit; and (iii) \$1 million disease coverage per employee.
- 6.5. **Commercial Automobile Liability Insurance.** Medisolv shall maintain primary commercial automobile liability insurance for bodily injury and property damage to third parties arising from the ownership, maintenance, or use of an owned, non-owned, or hired vehicle in an amount not less than \$1 million combined single limit.
- 6.6. **Umbrella Liability Insurance.** Medisolv shall maintain umbrella/excess coverages with excess limits of not less than \$2 million per occurrence, and \$2 million in the aggregate, which such coverage is in addition to the coverages described in Sections 6.3, and 6.5 above.
- 6.7. **Data Privacy and Security Insurance / Cyber Liability Insurance.** If, in connection with Medisolv's provision of products or services under this Agreement, Medisolv will be creating, receiving, maintaining, transmitting, analyzing, or storing protected health information ("PHI"), employee records, personally identifiable information, or confidential data, Medisolv agrees to maintain privacy and security liability insurance (or its equivalent, sometimes referred to as "Cyber/Data Network Security" insurance) covering liabilities resulting from or arising from acts, errors, or omissions, in connection with the products or services provided under this Agreement, which are associated with any breach or loss of any PHI or personally identifiable information. Such insurance shall provide coverage not less than \$10 million per claim and \$10 million aggregate.
- 6.8. **Professional Liability Insurance.** If, in connection with Medisolv's provision of products or services under this Agreement, Medisolv provides or performs professional services, Medisolv shall maintain professional liability insurance covering negligent acts and errors and/or omissions arising out of the rendering of or failure to render professional services under this Agreement, whether committed or alleged to have been committed by Medisolv or by its employees, contractors, or others for whom Medisolv is legally responsible, with minimum limits of \$5 million per claim and \$5 million aggregate. The professional liability insurance required by this Section may be satisfied pursuant to a blended Technology Errors & Omissions policy, which may include data privacy and security insurance/cyber liability insurance.
- 6.9. **Subcontractor Insurance Coverage.** Medisolv shall require all subcontractors it uses in connection with this Agreement to secure and maintain insurance in the amounts and types, and otherwise meeting all of the requirements, set forth in this Section, as if Medisolv performed the work or provided the service performed or provided by the subcontractor. Medisolv shall cause each subcontractor to provide to Client an ACORD insurance certificate prior to or as of the Effective Date and annually thereafter, and otherwise within ten (10) business days following Client's request.
- 6.10. **Self-Insurance.** Medisolv may provide self-insurance meeting all of the minimum requirements and limits set forth in this Section; provided, however, that if Medisolv desires to provide self-insurance, Medisolv shall provide to Client, prior to or as of the Effective Date and annually thereafter, a letter of self-insurance reasonably satisfactory to Client and, if

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requested by Client, an independent, third party actuarial firm attestation report documenting the financial soundness and viability of Medisolv's self-insurance program. .

7. ASSIGNMENT. Neither party may assign its rights or obligations under this Agreement, either in whole or in part, without the prior written consent of the other party, not to be unreasonably withheld; except that either party may assign this Agreement to any entity controlling, controlled by, or under common control with that party, or to any successor to such party by reason of acquisition, merger, or reorganization.
8. GOVERNMENT REQUIREMENTS
 - 8.1. Omnibus Reconciliation Act of 1980. To the extent that Section 952 of the Omnibus Reconciliation Act of 1980 (the "Act") and the regulations promulgated thereunder are applicable to this Agreement, Medisolv and the organizations related to it, if any, performing any of the duties pursuant to this Agreement valued at Ten Thousand Dollars (\$10,000) or more in any twelve (12)-month period shall, until four (4) years after the furnishing of Services pursuant to this Agreement, comply with requests by the Comptroller General, the Secretary of the Department of Health and Human Services, and their duly authorized representatives for access (in accordance with Section 952 of the Act) to any contract or agreement between Medisolv and Client for Services and to any contract or agreement between Medisolv and such related organizations, as well as the books, documents and records of Medisolv and its related organizations, if any, which are necessary to verify the cost of the Services provided. Medisolv shall promptly advise Client of such request, and shall promptly provide to Client copies of any documents so provided. Neither party shall be deemed to have waived any attorney-client or work-product privilege by virtue of this Section.
 - 8.2. Exclusion from Federal Health Care Programs. Medisolv represents and warrants that neither it, nor any of its employees or other contracted staff (collectively referred to in this Section as "employees") has been or is about to be excluded from participation in any Federal Health Care Program (as defined herein). Medisolv agrees to notify Client within five (5) business days of Medisolv's receipt of notice of intent to exclude or actual notice of exclusion from any such Federal Health Care Program. The listing of Medisolv or any of its employees on the Office of Inspector General's exclusion list (OIG website), the General Services Administration's Lists of Parties Excluded from Federal Procurement and Non-procurement Programs (GSA website) for excluded individuals or entities, any state Medicaid exclusion list, or the Office of Foreign Assets Control's (OFAC's) blocked list shall constitute "exclusion" for purposes of this Section. In the event that Medisolv or any of its employees is excluded from any Federal Health Care Program or placed on the OFAC's blocked list, it shall be a material breach, and this Agreement shall immediately terminate without penalty to Client, unless Client elects in writing to continue this Agreement. For the purpose of this Section, the term "Federal Health Care Program" means the Medicare program, the Medicaid program, TRICARE, any health care program of the Department of Veterans Affairs, the Maternal and Child Health Services Block Grant program, any state social services block grant program, any state children's health insurance program, or any similar program.
9. TERM AND TERMINATION. The term of this Agreement shall commence on the Effective Date, and shall continue until terminated in accordance with the terms and conditions herein (the "Term"). Each party shall have the right to terminate this Agreement by written notice to the party if the other party has materially breached any obligation herein and such breach remains uncured for a period of thirty (30) days after written notice of such breach is sent to the other party. Client may terminate Support Services with or without cause upon ninety (90) days written notice to Medisolv. The rights and obligations of such provisions that by their nature survive termination shall continue to bind the parties after termination of this Agreement. If Client terminates its subscription for the Vizient Clinical DataBase, this Agreement will automatically terminate upon termination of the Vizient Clinical DataBase subscription. Upon any termination of this Agreement, Medisolv will continue to provide the Medisolv Software to Client for all reporting periods that relate to the periods up to and including the date of termination of this Agreement. Upon Termination and at Client's request, Medisolv shall, within 90 days, return client data in a mutually agreed upon format and shall certify that it or its data hosting partner has deleted all Client data within 30 days of its return to Client.
10. EXPORT RESTRICTIONS. This Agreement is expressly made subject to any applicable laws, regulations, orders, or other restrictions on the export of the technology or information about the Medisolv Software which may be imposed from time to time. Client shall not export the Medisolv Software, information about the Medisolv Software, or any product containing the Medisolv Software without complying with such laws, regulations, orders, or other restrictions.

The Medisolv Software shall not be exported or re-exported (i) to Cuba, Iran, Iraq, North Korea, Rwanda, Sudan, and Syria and any and all other persons and entities prohibited under the United States Export Administration Regulations, as amended from time to time, nor (ii) to any person or entity on the United States Department of the Treasury's Office of Foreign Asset Control's Sanctions Programs, including, without limitation, the list of Specially Designated Nationals and Blocked Persons, as amended from time to time.

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11. LICENSE TO U.S. GOVERNMENT. The Medisolv Software is a “commercial item” as that term is defined at 48 CFR §2.101 consisting of “commercial computer software” and “commercial computer software documentation” as such terms are used in 48 CFR §12.212 or 48 CFR §227.7202, as applicable; and the Medisolv Software is licensed to the United States Government end users only as a commercial item and with only those rights as are granted to all other end users pursuant to the terms and conditions herein.

12. GENERAL PROVISIONS.

12.1. Complete Agreement. This Agreement, together with all exhibits, appendices, or other attachments, which are incorporated herein by reference, is the sole and entire agreement between the parties relating to the subject matter hereof. This Agreement supersedes all prior understandings, representations, agreements, and documentation relating to such subject matter. In the event of a conflict between the provisions of the main body of this Agreement and any attached exhibits, appendices, or other materials, this Agreement shall take precedence. Modifications and amendments to this Agreement, including any exhibit or appendix hereto, shall be enforceable only if they are in writing and are signed by authorized representatives of both parties.

12.2. Waiver and Severability. No term or provision of this Agreement shall be deemed waived, and no breach excused unless such waiver or consent is in writing and signed by the party claimed to have waived or consented.

If any provision of this Agreement is held invalid, void, or unenforceable under any applicable statute or rule of law, it shall to that extent be deemed omitted, and the balance of this Agreement shall be enforceable in accordance with its remaining terms.

12.3. Applicable Law. The laws of the State of California, without respect to its rules on conflicts of laws and without application of the Uniform Computer Information Transactions Act, shall govern any dispute or controversy between the parties relating to or arising out of this Agreement or any amendment or modification thereof. All proceedings relating to or arising out of the subject matter hereof shall be maintained exclusively in the courts situated in Riverside County, California, and Medisolv hereby consents to personal jurisdiction and venue therein and hereby waives any right to object to personal jurisdiction or venue therein.

12.4. Notices. Notices hereunder shall be deemed effective at the following times when sent in writing to the address set forth above each party’s respective signature: (i) one business day after being sent by Federal Express or other nationally recognized overnight delivery services, with fees prepaid, for next day, signature required delivery, or (ii) upon confirmed, signature required receipt if sent by any other means.

12.5. Independent Contractor. Medisolv and Client are independent contractors in all relationships and actions under and contemplated by this Agreement. Except as expressly set forth herein, this Agreement shall not be construed to create any employment, partnership, joint venture, or agency relationship between the parties or to authorize Medisolv to enter into any commitment or agreement binding Client, including, but not limited to, the offering or extension by Medisolv of any representation, warranty, guarantee, or other commitment on behalf of Client.

12.6. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Each person signing below represents and warrants that they are duly authorized to bind their respective entities by their signature below.

[Signatures on next page]

Attachment II


County of Riverside
480 Lemon St.
Riverside, CA 92501

Medisolv, Inc.
10960 Grantchester Way
Suite 520
Columbia, MD 21044

Acceptance

Acceptance

BY: Israel Gomez
Israel Gomez (Feb 21, 2023 08:41 PST)

BY: 

PRINTED: Israel Gomez

PRINTED: Bryan Hoke

TITLE: Procurement Contract Specialist

TITLE: Chief Growth Officer

DATE: Feb 21, 2023

DATE: Feb 28, 2023

APPROVED AS TO FORM:
Minh C. Tran
County Counsel

BY: Esen Sainz

PRINTED: Esen Sainz

DATE: Feb 14, 2023

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Exhibit 1 To Medisolv Product Subscription Agreement

- ENCOR Abstraction software shall support case abstraction of the following supported measures:
- CMS IQR Chart abstracted measures
- CMS OQR Chart abstracted measures
- CMS IPFQR (Inpatient Psychiatric Facility Quality Reporting) measures
- TJC ORYX Chart abstracted measures
- Get With The Guidelines Stroke Registry and Heart Failure abstracted measures (additional fees apply)
 - First Measure - \$3,200 Annually per CCN
 - Second Measure - \$2,600 Annually per CCN
- Mass Health quality reporting measure set (additional fees apply)
 - Mass Health - \$11,600 Annually per CCN

- Standard implementation includes receipt of a standard data file created by the client in a format specified by Medisolv and uploaded to the Medisolv secure data center in Microsoft Azure.

- Medisolv shall provide remote training via virtual session
 - Vizient Client agrees to notify CMS and/or The Joint Commission that it has terminated services with any existing core measure services provider and designate Medisolv as its new vendor. Vizient Client will require its existing service provider to complete all corrections prior to a date to be coordinated with Medisolv within 30 days of the effective date of this Agreement. Vizient Client will commence its use of ENCOR at the start of the identified quarter for all subscribed measures and will not be permitted to split the period between two vendors.
- Medisolv shall submit quarterly patient data for the required measures to CMS and/or TJC
- Medisolv shall submit quarterly patient data to Vizient Inc. for analytics and inclusion in the CDB product.
- Any work performed by the Medisolv support organization as part of Work Orders not covered under standard implementation and submission services included in this Agreement shall be billed on a time and materials basis, at rates mutually agreed to in such Work Order. Medisolv shall obtain Client approval through Work Orders prior to commencement of such work. Medisolv shall invoice Client monthly for all services performed on a time and materials basis.
- On-site time presence of Medisolv staff is not anticipated and not included in the CDB subscription fee. On-site training is available only if requested by Client for specialized training or Work Orders will be charged a minimum of eight (8) hours per service call plus travel expenses, to be reasonable and within Medisolv's current travel policy guidelines and preapproved by the Client as detailed in Exhibit 2, Section 2.2.

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Exhibit 2 Support Service Terms To Medisolv Product Subscription Agreement

1. GENERAL SUPPORT SERVICES DESCRIPTION

The Support Services performed are subject to all terms and conditions of this Agreement, unless otherwise set forth herein. Support Services include a two-tier support process as follows:

1.1. *Tier 1 Support.* “Tier 1 Support” will be provided by Medisolv’s designated technical support team (“Tier 1 Support Team”). Tier 1 Support is provided by the Medisolv Clinical Consultant assigned to Client. The Medisolv Clinical consultant will generally assist with questions regarding product functionality (including formalized training), product performance, issue resolution (excluding issues qualifying as “Tier 2” issue), abstraction guidelines and any regulatory requirements including submission deadlines.

- (a) *Communication Methods.* Tier 1 Support issues shall be reported to the Tier Support Team by the designated help desk contacts and shall be communicated by email at EncorSupport@medisolv.com, telephone (443.539.0505 x221).
- (b) *Availability.* The Tier 1 Support Team will be available during Normal Business Hours. For purposes of this Agreement, “Normal Business Hours” shall mean Monday through Friday (excluding New Year’s Day, Martin Luther King Jr. Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day, the day after Thanksgiving and Christmas Day), 8:00 a.m. to 5:00 p.m. Eastern Time. A Medisolv technician is on call for emergency coverage outside Normal Business Hours. Medisolv shall provide a response time of 24 business hours from the time the issue is reported with contact via phone or e-mail. Medisolv Software shall have an uptime availability as outlined in Section 2.3 of this Agreement.

Tier 1 Support tickets can be opened with the following information: title, Medisolv product, ticket type (bug, enhancement, question), priority, description, optional upload of supporting attachment.

1.2. *Tier 2 Support.* “Tier 2 Support” will be provided by Medisolv’s designated technical support team (“Tier 2 Support Team”) and shall apply after Tier 1 Support has had the opportunity to resolve the pending issue. Tier 2 support is provided by the Medisolv Engineering department and typically includes worksheet logic and data issues.

- (a) *Communication Methods.* All Tier 2 Support issues shall be initiated by a Tier 2 Support Team member within 24 hours of a Tier 1 Support issue not being able to be resolved.
- (b) *Escalation to Tier 2 Support and Applicable Response Times.* The following escalation procedures shall apply to all Tier 2 Support issues:
 - (i) For change/new feature requests, the Tier 2 Support Team will log in such request for consideration in the next major release of the Medisolv Software.
 - (ii) For Tier 2 Support issues that do not stop the Client from using the Medisolv Software, the Tier 2 Support Team will record the issue and the Tier 2 Support Team will act as a resource for the Tier 2 Support Team until resolution is accomplished.
 - (iii) For issues that do stop the Client from using the Medisolv Software, the Tier 2 Support Team will record the issue, and such issue will obtain “priority” status by Engineering for its development tasks. Medisolv shall provide a response time of eight business hours from the time the issue is reported. For calls that occur before 8:00 a.m. or after 5:00 p.m. Eastern Time, an on-call customer support representative will be available to log or document calls for the Tier 1 and Tier 2 support team if they cannot be immediately resolved.

2. TERMS OF SUPPORT

2.1. Medisolv shall provide support for the Medisolv Software after implementation has been completed and accepted with the Documentation provided by Medisolv. Medisolv shall also provide Maintenance Releases and Upgrade Releases for the Medisolv Software, along with updated Documentation, as appropriate. The following is relevant to the Support Services:

- (a) *Maintenance Releases* consists of multiple patches and includes minor enhancements and/or Error corrections to the Medisolv Software (i.e. 1.1).

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- (b) *Upgrade Releases* may consist of Maintenance Releases or minor enhancements and are based on subsequent versions of the Medisolv Software when and if generally available to Clients, but excludes major new functionality released in subsequent versions, and excludes new modules, utilities, or other add-on software products.
 - (c) *Error* means any failure of the Medisolv Software to conform in any material respect to the then current functional specifications for the Medisolv Software, which Medisolv agrees to resolve within 24 hours to the best of its ability. However, any nonconformity resulting from a Client's alteration, or damage of the Medisolv Software, or the Client's integrating the Medisolv Software with any other software not supplied or identified as compatible by Medisolv, will not be considered an Error.
 - (d) *Current versions* are the most recently released versions of the Medisolv Software.
 - (e) *Supported Versions* are subject to all the services described in this Agreement for a period of 24 months after they are released. Supported Versions are at least one earlier release from the current version of the Medisolv Software.
 - (f) *Sunset Versions* are not subject to all the services described in these Support Services terms and are considered as no longer supported. Sunset Versions include any versions of the Medisolv Software that are not Supported Versions or Current Versions. Technical support for Sunset Versions can be extended on either a 1- or 2-year basis, pricing of which will be determined by mutual consent between Client and Medisolv.
- 2.2. End user personnel training for the Medisolv Software, inclusive of training materials and web-enabled training sessions, is included in this Agreement. Onsite member training as needed/requested by Client is not included in this Agreement, but will be provided for an extra fee of \$5,000 per eight hour day training session (each eight hour session is comprised of two Medisolv trainers), plus standard travel and accommodation reimbursement. Through a separate Work Order, Client can request services or software provided by Medisolv, which services or software are outside the scope of this Agreement or not included in the Support Fees. These services or software will be provided upon mutual written agreement of the parties and may include:
- (a) Custom programming for Ad hoc reports used in the Medisolv Software.
 - (b) Support services requested beyond the support hours as described in these Support Services terms.
- 2.3. Medisolv reserves the right to immediately terminate Support Services if any of the following occur:
- (a) The Medisolv Software is not used in accordance with the Documentation.
 - (b) The Medisolv Software has been subject to any alteration or modification made by Client or a third party that is not authorized by Medisolv, except to the extent such modification or alteration is contemplated by the Documentation or the Agreement.
 - (c) Changes made by Client or a third party to the Medisolv Software in its operating environment that are not supported by the Medisolv Software as outlined in the functional specifications for the Medisolv Software.
 - (d) Client's misuse or damage of Medisolv Software, or Client's combination or merging of the Medisolv Software with any software not supplied or identified as compatible by Medisolv.
 - (e) Termination of this Agreement both with or without cause between Client and Medisolv.
- 2.4. Support Services to be provided by Medisolv do not include:
- (a) repair, replacement, correction, or adjustment of any malfunction caused by: (i) modification of the Medisolv Software by anyone other than Medisolv or a party authorized by Medisolv;
 - (b) New Medisolv products providing functionality beyond ENCOR Abstraction measures and related services are not covered under this Agreement; and
 - (c) system administration services including: (i) network and Client hardware maintenance; (ii) Windows Server operating system and Unix System Administration.
3. Remote Access. Remote access to any of Client's systems for maintenance and support of Medisolv Software and for any other purpose allowed by this Agreement is subject to compliance with the Client's remote access and other security requirements. Medisolv's access may require prior certification by Client that Medisolv complies with Client's security policies and standards. Client may modify these security requirements and Medisolv must comply with the most recent version of Client's security requirements. Medisolv must ensure that each of its personnel having access to any part of Client's computer system: (i) is assigned a separate log-in ID by Client and uses only that ID when logging on Client's system; (ii) logs-off Client's system

Attachment II

immediately upon completion of each session of service; (iii) does not allow other individuals to access Client's computer system; and (iv) keeps strictly confidential the log-in ID and all other information that enables access. Medisolv must promptly notify Client upon termination of employment or reassignment of any of its personnel with access to Client's computer system.

If Client revises the requirements for access to its computer system, then Client must notify Medisolv of the changed or additional requirements and Medisolv must comply with them as a prerequisite to further access. Client may require each individual who is to be allowed access to Client's computer system to acknowledge the individual's responsibilities in connection with the access.

Attachment II

Data Authorization Form

Permission to Access Hospital Data

We, the participant(s) named below (“Participant”), give Vizient, Inc. (“Vizient”) permission to receive from Medisolv, Inc. (“Medisolv”), and for Medisolv to transmit to Vizient, our hospital data utilized in Medisolv’s ENCOR-A hospital quality measures abstraction solution products (“Medisolv Products”) in which we participate, and for Vizient to conduct additional analyses on the data, and use our data in Vizient programs (“Vizient Products”) in which we participate. If applicable, Participant also authorizes Vizient, to transmit hospital data to Medisolv for use by Medisolv in connection with Medisolv Products in which Participant is enrolled, including but not limited, to core measures submissions for The Joint Commission, the Centers for Medicare/Medicaid, and, if applicable, Participant’s ancillary data transmission needs (Get With the Guidelines, and/or Mass Health). We understand that the reports generated by Vizient become the sole property of Vizient. This permission covers any patient-level, patient-identified hospital data collected from the effective date for reporting periods commencing in 2019 and going forward. Any Protected Health Information, as defined under the rules promulgated under the Health Insurance and Accountability Act of 1996, as amended (“HIPAA”), that is provided to Vizient is subject to the existing Business Associate Agreement between us and Vizient. This permission extends so long as Participant is participating in Vizient Products.

CLIENT

Israel Gomez
Israel Gomez (Feb 21, 2023 09:41 PST)

Authorized Signature

Israel Gomez

Printed Name

Procurement Contract Specialist

Procurement Contracts Specialist

Feb 21, 2023

Date

Participating Facilities:

County of Riverside

Attachment I

HIPAA Business Associate Agreement
Agreement to Contract

Between the County of Riverside and Medisolv, Inc.

This HIPAA Business Associate Agreement (the "Agreement") supplements, and is made part of the Underlying Agreement between the County of Riverside ("County") and Contractor and shall be effective as of the date the Underlying Agreement 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 Agreement 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:

- I. **Definitions.** Terms used, but not otherwise defined, in this Agreement 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 Agreement, 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 Agreement, 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 Agreement 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 County 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 Agreement 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 Agreement 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 Agreement, 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 Agreement.
- 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 Agreement.
- 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 Agreement 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 Agreement 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 Agreement.
 - 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 Agreement.
 - E. Report to County any use or disclosure of PHI and/or ePHI not provided for by this Agreement 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 Agreement.
 - G. Make available to County or the Secretary, in the time and manner designated by County or Secretary, Contractor's internal practices, books and records relating to the use, disclosure and privacy protection of PHI received from County, or created or received by Contractor on behalf of County, for purposes of determining, investigating or auditing Contractor's and/or County's compliance with the Privacy Rule.
 - H. Request, use or disclose only the minimum amount of PHI necessary to accomplish the intended purpose of the request, use or disclosure in accordance with 42 USC §17935(b) and 45 CFR §164.502(b)(1).
 - I. Comply with requirements of satisfactory assurances under 45 CFR §164.512 relating to notice or qualified protective order in response to a third party's subpoena, discovery request, or other lawful process for the disclosure of PHI, which Contractor shall promptly notify County upon Contractor's receipt of such request from a third party.
 - J. Not require an individual to provide patient authorization for use or disclosure of PHI as a condition for treatment, payment, enrollment in any health plan (including the health plan administered by County), or eligibility of benefits, unless otherwise excepted under 45 CFR §164.508(b)(4) and authorized in writing by County.
 - K. Use appropriate administrative, technical and physical safeguards to prevent inappropriate use, disclosure, or access of PHI and/or ePHI.
 - L. Obtain and maintain knowledge of applicable laws and regulations related to HIPAA and HITECH, as may be amended from time to time.
 - M. Comply with the requirements of the Privacy Rule that apply to the County to the extent Contractor is to carry out County's obligations under the Privacy Rule.
 - N. Take reasonable steps to cure or end any pattern of activity or practice of its subcontractor of which Contractor becomes aware that constitute a material breach or violation of the subcontractor's obligations under the business associate contract with Contractor, and if such steps are unsuccessful, Contractor agrees to terminate its contract with the subcontractor if feasible.
6. **Access to PHI, Amendment and Disclosure Accounting.** Contractor agrees to:
- A. **Access to PHI, including ePHI.** Provide access to PHI, including ePHI if maintained electronically, in a designated record set to County or an individual as directed by County, within five (5) days of request from County, to satisfy the requirements of 45 CFR §164.524.

- B. **Amendment of PHI.** Make PHI available for amendment and incorporate amendments to PHI in a designated record set County directs or agrees to at the request of an individual, within fifteen (15) days of receiving a written request from County, in accordance with 45 CFR §164.526.
- C. **Accounting of disclosures of PHI and electronic health record.** Assist County to fulfill its obligations to provide accounting of disclosures of PHI under 45 CFR §164.528 and, where applicable, electronic health records under 42 USC §17935(c) if Contractor uses or maintains electronic health records. Contractor shall:
- 1) Document such disclosures of PHI and/or electronic health records, and information related to such disclosures, as would be required for County to respond to a request by an individual for an accounting of disclosures of PHI and/or electronic health record in accordance with 45 CFR §164.528.
 - 2) Within fifteen (15) days of receiving a written request from County, provide to County or any individual as directed by County information collected in accordance with this section to permit County to respond to a request by an individual for an accounting of disclosures of PHI and/or electronic health record.
 - 3) Make available for County information required by this Section 6.C for six (6) years preceding the individual's request for accounting of disclosures of PHI, and for three (3) years preceding the individual's request for accounting of disclosures of electronic health record.
7. **Security of ePHI.** In the event County discloses ePHI to Contractor or Contractor needs to create, receive, maintain, transmit or have access to County ePHI, in accordance with 42 USC §17931 and 45 CFR §164.314(a)(2)(i), and §164.306, Contractor shall:
- A. Comply with the applicable requirements of the Security Rule, and implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of ePHI that Contractor creates, receives, maintains, or transmits on behalf of County in accordance with 45 CFR §164.308, §164.310, and §164.312;
 - B. Comply with each of the requirements of 45 CFR §164.316 relating to the implementation of policies, procedures and documentation requirements with respect to ePHI;
 - C. Protect against any reasonably anticipated threats or hazards to the security or integrity of ePHI;
 - D. Protect against any reasonably anticipated uses or disclosures of ePHI that are not permitted or required under the Privacy Rule;
 - E. Ensure compliance with the Security Rule by Contractor's workforce;
 - F. In accordance with 45 CFR §164.308(b)(2), require that any subcontractors that create, receive, maintain, transmit, or access ePHI on behalf of Contractor agree through contract to the same restrictions and requirements contained in this Agreement and comply with the applicable requirements of the Security Rule;
 - G. Report to County any security incident of which Contractor becomes aware, including breaches of unsecured PHI as required by 45 CFR §164.410; and,
 - H. Comply with any additional security requirements that are applicable to covered entities in Title 42 (Public Health and Welfare) of the United States Code, as may be amended from time to time, including but not limited to HITECH.
8. **Breach of Unsecured PHI.** In the case of breach of unsecured PHI, Contractor shall comply with the applicable provisions of 42 USC §17932 and 45 CFR Part 164, Subpart D, including but not limited to 45 CFR §164.410.
- A. **Discovery and notification.** Following the discovery of a breach of unsecured PHI, Contractor shall notify County in writing of such breach without unreasonable delay and in no case later than 60 calendar days after discovery of a breach, except as provided in 45 CFR §164.412.

- 1) **Breaches treated as discovered.** A breach is treated as discovered by Contractor as of the first day on which such breach is known to Contractor or, by exercising reasonable diligence, would have been known to Contractor, which includes any person, other than the person committing the breach, who is an employee, officer, or other agent of Contractor (determined in accordance with the federal common law of agency).
 - 2) **Content of notification.** The written notification to County relating to breach of unsecured PHI shall include, to the extent possible, the following information if known (or can be reasonably obtained) by Contractor:
 - a) The identification of each individual whose unsecured PHI has been, or is reasonably believed by Contractor to have been accessed, acquired, used or disclosed during the breach;
 - b) A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known;
 - c) A description of the types of unsecured PHI involved in the breach, such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved;
 - d) Any steps individuals should take to protect themselves from potential harm resulting from the breach;
 - e) A brief description of what Contractor is doing to investigate the breach, to mitigate harm to individuals, and to protect against any further breaches; and,
 - f) Contact procedures for individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.
- B. **Cooperation.** With respect to any breach of unsecured PHI reported by Contractor, Contractor shall cooperate with County and shall provide County with any information requested by County to enable County to fulfill in a timely manner its own reporting and notification obligations, including but not limited to providing notice to individuals, prominent media outlets and the Secretary in accordance with 42 USC §17932 and 45 CFR §164.404, §164.406 and §164.408.
- C. **Breach log.** To the extent breach of unsecured PHI involves less than 500 individuals, Contractor shall maintain a log or other documentation of such breaches and provide such log or other documentation on an annual basis to County not later than fifteen (15) days after the end of each calendar year for submission to the Secretary.
- D. **Delay of notification authorized by law enforcement.** If Contractor delays notification of breach of unsecured PHI pursuant to a law enforcement official's statement that required notification, notice or posting would impede a criminal investigation or cause damage to national security, Contractor shall maintain documentation sufficient to demonstrate its compliance with the requirements of 45 CFR §164.412.
- E. **Payment of costs.** With respect to any breach of unsecured PHI caused solely by the Contractor's failure to comply with one or more of its obligations under this Agreement 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 Agreement.
- 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 Agreement, 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 Agreement. 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 Agreement 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 Agreement.
- 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 Agreement, this indemnification shall only apply to the subject issues included within this Agreement.

10. **Term.** This Agreement 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 Agreement.
11. **Termination.**
- A. **Termination for Breach of Contract.** A breach of any provision of this Agreement by either party shall constitute a material breach of the Underlying Agreement and will provide grounds for terminating this Agreement 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 Agreement, effective immediately, if the other party breaches a material provision of this Agreement.
 - 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 Agreement.
 - 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 Agreement, 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 Agreement 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 Agreement, 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 Agreement 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 Agreement shall survive the termination or expiration of this Agreement.
- D. **Regulatory and Statutory References.** A reference in this Agreement 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 Agreement shall prevail over any provisions in the Underlying Agreement that conflict or appear inconsistent with any provision in this Agreement.
- F. **Interpretation of Agreement.**

- 1) This Agreement 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 Agreement 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 Agreement 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

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this Agreement.

COUNTY OF RIVERSIDE, a political subdivision of the State of California

APPROVED AS TO FORM:
Susannah Oh
County Counsel

By: *Susannah Oh, PCS*

Dated: 1/6/2020

MEDISOLV, INC.

By: *[Signature]*
Name: Robert Lee
Title: Security and Privacy Officer

Dated: 9/5/19

Appendix II

Example Template

MUTUAL NONDISCLOSURE AGREEMENT

THIS MUTUAL NONDISCLOSURE AGREEMENT (this "Agreement") is entered into on [Click here to enter a date.](#) (the "Effective Date") by and between *Vizient, Inc.* ("Vizient") and *INSERT, Inc.* ("Recipient") for the purpose of permitting Recipient to receive disclosure of Vizient's confidential and/or proprietary information for purposes set forth in Exhibit A at the request of *INSERT* ("Member"), who shall not provide Recipient with its access information to Clinical Data Base, such as username or password. Vizient, Recipient, and Member are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

WHEREAS, Vizient and Member have entered into an agreement for Vizient to provide services ("Vizient Services") to Member and such agreement precludes Member from disclosing Vizient's Confidential Information, as defined below, to third parties; and

WHEREAS, Member has retained Recipient to provide consulting services for Member's organization and in connection therewith, Vizient's Confidential Information may be revealed to Recipient; and

WHEREAS, as a condition to disclosing Vizient's Confidential Information to the Recipient for the purposes of providing consulting services to Member, the Recipient agrees to hold Vizient's Confidential Information in strict confidence; and

NOW THEREFORE, subject to the mutual promises and conditions set forth herein, and for good and valuable consideration, the sufficiency of which the Parties hereby acknowledge, the Parties agree as follows:

1. **Confidential Information.** "Confidential Information" means nonpublic technical or business information, including but not limited to, Clinical Data Base trade secrets, source code, software, list of products and/or services and corresponding pricing, supplier pricing, supply contract terms, member data potential savings benefits, ideas, designs, drawings, recommendations, technical specifications, employee information, business models, know-how, strategies, designs, reports, data, financial information, corporate client information, as well as information materially developed therefrom that:
 - a. is disclosed by one Party or any of its subsidiaries, affiliates, attorneys, consultants or contractors (collectively, the "Disclosing Party") to the other Party, and/or any of its subsidiaries, affiliates, attorneys, consultants or contractors (collectively, the "Receiving Party"); and
 - b. is marked as being confidential at the time of disclosure, or, if disclosed orally or visually or in other intangible form, is designated as being confidential at the time of disclosure, or is of such nature that a reasonable person in like circumstances would understand the information to be confidential and/or proprietary.
2. **Use of Confidential Information.** Receiving Party shall use Confidential Information only for the purpose contemplated hereunder and will not disclose any Confidential Information or the nature or substance thereof to any third party; provided, however, Receiving Party may disclose such Confidential Information to its directors, officers, employees, agents and advisors, and/or its affiliates or subsidiaries (collectively, "Representatives") who have a legitimate need to know for the purpose set forth herein. Receiving Party agrees to prevent the unauthorized disclosure or use of Confidential Information with the same degree of care used to protect its own confidential information, but in no event less than a reasonable standard of care. This section shall survive the termination and/or expiration of this Agreement.
3. **Exclusions.** Confidential Information does not include information that: (i) was in Recipient's possession before receipt and obtained through public resources; (ii) is or becomes a matter of public knowledge through no fault

Appendix II

of the Recipient; (iii) is rightfully received by Recipient from a third party without a duty of confidentiality; (iv) is required by applicable law, provided that Recipient will provide advance notice to, and cooperate with, the Disclosing Party in any efforts to prevent such disclosure; or (iv) is disclosed by Recipient with Disclosing Party's prior written approval.

4. **Legal Obligation to Disclose.** In the event that Recipient is required by applicable law, regulation and/or court order to disclose Confidential Information, Recipient will notify Disclosing Party promptly so that Disclosing Party may seek a protective order or other appropriate remedy. In the event that no such protective order or other remedy is obtained, or that Disclosing Party does not waive compliance with the terms of this Agreement, Recipient will furnish only that portion of Confidential Information which Recipient believes in good faith, after consulting with counsel, it is legally required to disclose and will reasonably cooperate, with any efforts by Disclosing Party to obtain confidential treatment of the Confidential Information.
5. **Term and Survival.** The term of this Agreement shall commence on the Effective Date and shall continue in full force and effect for six (6) months ("Term"); provided, however, either Party may terminate this Agreement at any time by providing written notice to all Parties. Notwithstanding the foregoing, any expiration or termination of a Vizient Service during the Term of this Agreement will automatically terminate Recipient's access to such Vizient Service and Recipient will continue to receive access to the remaining active Vizient Services, if any, during the remaining Term of this Agreement unless otherwise terminated by a Party hereunder. The expiration or termination of all Vizient Services during the Term of this Agreement will automatically terminate this Agreement. The Parties may extend this Agreement upon mutual notice at least ten (10) days prior to the expiration of the Term. *Notwithstanding the foregoing, Recipient's non-use obligations will survive the termination and/or expiration of this Agreement perpetually.*
6. **Inspection.** Recipient shall keep, maintain and preserve complete and accurate records as are necessary to establish and verify Recipient's compliance with this Agreement. All such records, including databases, shall be available for inspection and audit by Vizient representatives at any time during the Term and for five (5) years thereafter, but only during reasonable business hours and upon reasonable notice. Vizient agrees that its routine audits shall not be conducted more frequently than once in any consecutive twelve (12) month period, subject to Vizient's right to conduct special audits whenever it deems it to be necessary. The exercise by Vizient of the right to inspect and audit Recipient's records is without prejudice to any other or additional rights or remedies of the Parties.
7. **No Warranty.** Each Party shall be solely responsible for the performance of its Representatives hereunder, including without limitation, ensuring that such Representatives comply with the requirements of this Agreement arising from any failure of its Representatives to comply with such requirements. Recipient acknowledges that neither Disclosing Party nor any of their Representatives make any express or implied representation or warranty regarding the Confidential Information, including, without limitation, any representation or warranty as to the completeness or accuracy of the Confidential Information.
8. **Remedies.** The Parties acknowledge and agree that the Confidential Information disclosed hereunder is valuable and any breach of this Agreement will result in irreparable injury to Disclosing Party for which monetary damages alone would be inadequate. Therefore, the Parties agree that in the event of a breach or threatened breach of confidentiality, Disclosing Party shall be entitled to specific performance and/or injunctive relief as a remedy for any such breach and/or anticipated breach without the necessity of posting bond. The foregoing relief shall be in addition to, and not in lieu of, all other remedies available at law or equity.
9. **Ownership.** The Disclosing Party shall retain title to all tangible forms of the Confidential Information such as written documentation delivered pursuant to this Agreement and all copies thereof. The Recipient shall not copy or reproduce in whole or in part, any Confidential Information without written authorization of the Disclosing Party, except as reasonably required to accomplish the Purpose.
10. **No Agreement.** The Parties hereby acknowledge and agree that neither this Agreement nor any discussions or disclosures governed by this Agreement constitute a commitment to enter into a formal/contractual business relationship.

Appendix II

11. **Assignment.** Neither Party shall assign this Agreement or any of its rights or delegate any of its obligations hereunder without the prior written consent of the other Party, except that either Party may assign this Agreement without consent to any entity in connection with any merger, consolidation, asset purchase or other reorganization involving such Party.
12. **Notice.** Any notice hereunder shall be made in writing and shall be deemed sufficient upon delivery, when delivered personally or by overnight courier or sent by facsimile and addressed to such Party's address as set forth below:

If to Vizient:

Vizient, Inc.
Attn: General Counsel
290 East John Carpenter Fwy.
Irving, Texas 75062

If to Recipient:

INSERT

If to Member:

INSERT

13. **Intentionally Omitted.**
14. **No Waiver.** The failure of either Party to enforce its rights hereunder this Agreement at any time shall not be construed as a waiver of such rights.
15. **Entire Agreement.** This is the complete agreement between the Parties regarding the subject matter hereof and supersedes all prior oral or written agreements, commitments, or understandings, and may be changed only by a written agreement executed by authorized representatives of the Parties.
16. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be considered an original, and all of which together shall constitute one instrument. Facsimile and scanned signatures shall be deemed to be original signatures for purposes of executing this Agreement and any amendments hereto.

[Signatures on next page]

Appendix II

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective duly authorized signatories as of the Effective Date.

Vizient:

Vizient, Inc.

By: _____

Printed Name: _____

Title: _____

Date: _____

Recipient:

INSERT

By: _____

Printed Name: _____

Title: _____

Date: _____

Member:

Requested and approved by:

INSERT

By: _____

Printed Name: _____

Title: _____

Date: _____

Appendix II

**EXHIBIT A
TO
AGREEMENT FOR VIZIENT TO DISCLOSE CONFIDENTIAL INFORMATION**

1. Planned date of the initial disclosure: **[Insert Date]**
2. Recipient individual(s) receiving the Information or with access to the Information:

[Name] [Email]
[Name] [Email]
3. Information will be used for the sole purpose of: Program data sharing of Member data. (“Limited Purpose”).
4. **Recipient shall notify Vizient immediately if it becomes aware that it has access to Vizient’s supplier contracts with whom Member does not have a relationship or from whom Member is not permitted to purchase goods or services and at such time Recipient shall cease its use of Clinical Data Base for this Agreement until such time as Vizient has mitigated and limited Recipient’s access to its Clinical Data Base in accordance with the terms and for the purpose agreed to herein. Recipient shall not use this information for any other purpose including but not limited to moving or encouraging Member to move its contracts from Vizient contracts to non-Vizient contracts.**
5. **Recipient may only access Clinical Data Base and use the information therein for so long as this Agreement is in effect. Recipient may only access Member’s active Clinical Data Base and any expiration or termination of Member’s subscription to Clinical Data Base during the Term of this Agreement will automatically terminate Recipient’s access to Clinical Data Base.**

**ALL COPIES OF VIZIENT INFORMATION ARE PROPERTY OF VIZIENT AND
MUST BE RETURNED OR DESTROYED**



Date: December 1, 2022

From: Jennifer Cruikshank, Chief Executive Officer

To: Board of Supervisors/Purchasing Agent

Via: Angela Simpkins, (951) 486-4684, a.simpkins@ruthealth.org

Subject: Single Source Procurement; Request for Clinical Data Base Subscription Services effective January 1, 2023, through December 31, 2025, with two one-year renewal options through December 31, 2027, for a total amount of \$1,324,932.

1. **Supplier being requested:** Vizient, Inc.

2. **Vendor ID:** 201276

3. **Single Source** **Sole Source**
(Single Source - is a purchase of a commodity or service without obtaining competitive bids although more than one source is available)

(Sole Source - is a purchase of a commodity or service that is proprietary or no other vendor is qualified or willing to meet the county specified requirements)

4. **Have you previously requested and received approval for a sole or single source request for this vendor for your department?** *(If yes, please provide the approved sole or single source number).*

Yes **No**

SSJ# 20-128, period of performance January 1, 2020 – December 31, 2022

4a. **Was the request approved for a different project?**

Yes **No**

5. **Supply/Service being requested:**

Riverside University Health System-Medical Center (RUHS-MC) is requesting to continue the subscription to Clinical Data Base (CDB) with Vizient, Inc., for three years, effective 01/01/2023 thorough 12/31/2025, with two one-year renewal options through 12/31/2027, for a total amount of \$1,324,932, which includes a free membership with Medisolv, Inc. for the Core Measurement Reporting Services (CMR Services).



6. Unique features of the supply/service being requested from this supplier.

Vizient, Inc. is the sole Group Purchasing Organization (GPO) currently under contract with RUHS-MC. In addition to the discounts and competitively bid opportunities available to the County through the Vizient Group Purchasing Master Agreement, Vizient also offers additional services such as those covered in the proposed Agreement.

RUHS-MC Quality and Patient Safety Departments utilizes the Vizient Data Base and analytics software solutions to maintain, track and trend all quality and patient safety performances reported to regulatory agencies and 3rd party payors across all service lines. These services provide deeper insights to identify performance and clinical quality measures that impacts patient safety and value care that RUHS-MC provides as a healthcare organization. Examples of these service solutions include but not limited to the following:

- Hospital performance on the patient safety indicators which is part of the Leapfrog Safety Grade Measures
- Outcome measure, affecting reimbursement, reports on hospital length of stays, mortality (deaths), and rate of readmissions
- Data abstraction on measures reported to CMS and The Joint Commission, these measures include our sepsis performance as well as performances on elective deliveries
- Performance measures on CMS Deficit Reduction Act (DRA) to improve performance on Hospital Acquired Conditions (HACs) which is part of our Leapfrog performance measures as well as CMS Star Rating measures.

7. Reasons why my department requires these unique features from the vendor and what benefit will accrue to the county:

RUHS-MC relies on the Vizient Clinical Data Base to manage and monitor all quality and patient safety performance under:

- (a) California Code of Regulations (Title 22) on governance to provide adequacy and quality of care rendered to patients.
 - i. Internal Reports to the Performance Improvement and Patient Safety Committee which is reported to the Board of Supervisors
- (b) CMS requirement to participate in quality measures (e.g., Core measures, CMS star rating metrics)
- (c) The Joint Commission
 - i. Maintain Sepsis and Stroke Certification and all other TJC certifications
- (d) Leapfrog reports
 - i. Surgical volumes
 - ii. Patient Safety Indicators

Failure to access the stored data can severely hinder RUHS's ability to provide all required elements governed by these agencies as well as for our own internal monitoring.



8. Period of Performance: From: 01/01/2023 to 12/31/2027
(total number of years)

Is this an annually renewable contract? No Yes
 Is this a fixed-term agreement: No Yes

(A fixed-term agreement is set for a specific amount of time; it is not renewed annually. Ensure multi-year fixed-term agreements include a cancellation, non-appropriation of funds, or refund clause. If there is no clause(s) to that effect, then the agreement must be submitted to the Board for approval. No exemptions shall apply.)

9. Identify all costs for this requested purchase. In addition, please include any single or sole source amounts previously approved and related to this project and vendor in the section designated below for current and future fiscal years. You do not need to include previous fiscal year amounts. 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. (Note: ongoing costs may include but are not limited to subscriptions, licenses, maintenance, support, etc.)

Description:	FY22/23	FY23/24	FY24/25	FY25/26	FY26/27	Total
One-time Costs:	\$249,557	\$257,043	\$264,755	\$272,698	\$280,879	\$1,324,932

Note: Insert additional rows as needed

10. Price Reasonableness: *(Explain why this price is reasonable or cost effective – were you provided government discounted pricing? Is this rate/fee comparable to industry standards?)*

Vizient is honoring the 3% discount from the current agreement and will extend it to this new agreement.

RUHS-MC has used and continue to use this specific service under Vizient’s Group Purchasing Organization (GPO). Switching to another vendor would result in an installation of a totally new system, not just a change in the software management, resulting in additional expenses.

11. Projected Board of Supervisor Date (if applicable): January 13, 2023
(Draft Form 11s, service agreement and or quotes must accompany the sole source request for Purchasing Agent approval.)



Jennifer Cruikshank

Jennifer Cruikshank

Feb 21, 2023

Department Head Signature
(or designee)

Print Name

Date

The section below is to be completed by the Purchasing Agent or designee.

Purchasing Department Comments:

Approve

Approve with Condition/s

Disapprove

Condition/s:

Not to exceed:

One-time \$ _____

Annual Amount \$ _____ / per fiscal year through _____ (date)

(If Annual Amount Varies each FY)

FY 2223 : \$ 249,557

FY 2324 : \$ 257,043

FY 2425 : \$ 264,755

FY 2526 : \$ 272,698

FY 2627 : \$ 280,879

Suzanna Hinckley, Assistant Director

12/6/2022

23-099

Purchasing Agent

Date

Approval Number
(Reference on Purchasing Documents)

Signature: Angela Simpkins
Angela Simpkins (Feb 21, 2023 09:56 PST)

Email: a.simpkins@ruhealth.org

Signature: JM
Jonell Morris (Feb 21, 2023 12:50 PST)

Email: j.morris@ruhealth.org